

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-40610
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 10, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

PABLO VILLARREAL,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:16-CR-1425-1

Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Pablo Villarreal appeals his concurrent sentences of 24 months in prison imposed following his guilty-plea conviction of one count of conspiring to transport and attempt to transport aliens within the United States, 8 U.S.C. § 1324(a)(1)(A)(ii) and (v)(I), and two counts of transporting and attempting to transport aliens for the purpose of commercial advantage and private financial gain, § 1324(a)(1)(A)(ii) and (v)(II). According to Villarreal, the district court

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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erred by increasing his Sentencing Guidelines offense level by two levels for using a special skill, specifically, his commercial driver's license, "in a manner that significantly facilitated the commission or concealment of the offense." U.S.S.G. § 3B1.3.

We review the district court's application of § 3B1.3 for clear error. *United States v. Pruett*, 681 F.3d 232, 248 (5th Cir. 2012). We consider, first, if Villarreal possessed a special skill, and, second, if he used that skill in a manner that significantly facilitated his commission or concealment of the offense. *See id.*

Villarreal's challenge on the first question is unavailing as "[w]e have held that the ability to drive a tractor trailer truck as evidenced by the possession of a commercial driver's license constitutes a special skill for purposes of § 3B1.3." *United States v. Villafranca*, 844 F.3d 199, 199 (5th Cir. 2016), *cert. denied*, 137 S. Ct. 1393 (2017); *see United States v. Treft*, 447 F.3d 421, 425 (5th Cir. 2006). As to the second question, Villarreal argues that a commercial tractor trailer was unnecessary to commit the offense because he was transporting only four aliens and they were found on top of his cargo and not hidden in any manner. The record shows, however, that Villarreal approached the checkpoint as a commercial truck driver carrying a legitimate commercial load. The district court's conclusion that Villarreal, therefore, used his special skill as a licensed commercial truck driver to commit and conceal the offense is plausible in light of this record. *See United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008).

The decision of the district court is AFFIRMED.