

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

No. 18-41190
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
August 28, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAMIAN GARCIA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:18-CR-871-1

Before WIENER, HAYNES, and COSTA, Circuit Judges.

PER CURIAM:*

Damian Garcia pleaded guilty to one count of conspiracy to transport illegal aliens, during which a death resulted, and he received a sentence of 80 months in prison. In his sole argument on appeal, he contends that the district court erred in imposing a four-level enhancement under U.S.S.G. § 2L1.1(b)(4) based on a determination that one alien was an unaccompanied minor. Garcia maintains that the alien had an incentive to report his age as 15 rather than

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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18 so that he would not be prosecuted for illegal entry and that the Government's failure to corroborate the information obtained from the alien rendered the presentence report (PSR) unreliable.

Because Garcia preserved his argument, we review the district court's interpretation of the Guidelines de novo and its factual findings for clear error. *See United States v. Fernandez*, 770 F.3d 340, 342 (5th Cir. 2014). "A district court may rely on uncorroborated hearsay testimony in making factual findings at sentencing, as long as the hearsay evidence carries sufficient indicia of reliability." *United States v. Golden*, 17 F.3d 735, 736 (5th Cir. 1994). The record makes clear that the information was ascertained through the investigation by law enforcement and immigration agents, which is generally considered reliable. *See United States v. Fuentes*, 775 F.3d 213, 220 (5th Cir. 2014). In the absence of rebuttal evidence from Garcia indicating that the alien's age and birth date were "untrue, inaccurate[,] or unreliable," he has not shown that the district court clearly erred in its reliance on the PSR. *United States v. Harris*, 702 F.3d 226, 230 (5th Cir. 2012) (internal quotation marks and citation omitted). Accordingly, the judgment of the district court is AFFIRMED.