

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-10439  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CAROLYN MARIE WILLIAMS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:94-CR-225-1-X  
- - - - -

October 22, 1998

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:\*

Carolyn Marie Williams appeals her conviction by guilty plea of interfering with commerce by robbery, aiding and abetting, and using a firearm during a crime of violence. Williams contends that the Hobbs Act, 18 U.S.C. § 1951, is unconstitutional as applied to her case because the \$128 taken from Subway and the \$220 taken from Little Caesar's did not substantially affect interstate commerce. Williams argues against the "aggregation" and "depletion-of-assets" theories of effects on interstate commerce and contends that our prior caselaw holding against her position was wrongly decided and should be overruled. Williams

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

seeks to distinguish the facts of her case from previously decided cases essentially because far less money was taken in her case than was taken in the other cases. Williams contends that the constitutional violation in her case rendered district court without jurisdiction over the Hobbs Act violations; rendered her indictment under the Hobbs Act insufficient; and required the reversal of her firearms convictions because she could not be prosecuted for the underlying Hobbs Act violations in federal court.

Williams did not raise the contentions she urges on appeal in the district court. Accordingly, our review is for plain error. *United States v. Calverley*, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc)).

The Hobbs Act does not facially violate the Commerce Clause. *United States v. Robinson*, 119 F.3d 1205, 1213 (5th Cir. 1997), *cert. denied*, 118 S. Ct. 1104 (1998). A particular robbery need not have a substantial effect on interstate commerce to violate the Hobbs Act. *Id.* at 1215.

One panel of this court may not overrule another panel. *United States v. Taylor*, 933 F.2d 307, 313 (5th Cir. 1991). Williams's contention that *Robinson* and this court's other cases rejecting her position should be overruled therefore is unavailing.

Williams's appeal is without arguable merit and is frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Williams's appeal therefore is dismissed as frivolous.

APPEAL DISMISSED. 5TH CIR. R. 42.2.