

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

September 7, 2021

Lyle W. Cayce  
Clerk

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No. 20-10902  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

KASSIE BOND CARPENTER,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:19-CR-240-1

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Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges.*

PER CURIAM:\*

Kassie Bond Carpenter appeals her guilty plea conviction and sentence for obstruction of justice. In her appellate brief, she initially argued that (1) the district court erred in failing to recognize that it had the discretion to forgo imposing a term of supervised release; and (2) 18 U.S.C. § 3147 is

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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unconstitutional in view of *Alleyne v. United States*, 570 U.S. 99 (2013). She subsequently filed a motion for partial dismissal of her appeal as to the first issue. She acknowledges that the plain error standard of review is applicable to her second issue and that she cannot show clear or obvious error because there is no controlling authority supporting her argument that § 3147 is unconstitutional under *Alleyne*.

The Government has filed a motion for summary affirmance. Because Carpenter has conceded that she cannot show plain error, the Government argues that summary affirmance is appropriate.

This court's summary affirmance procedure is generally reserved for cases in which the parties concede that the issues are foreclosed by circuit precedent, and the Government has identified no controlling authority foreclosing Carpenter's appeal. *See United States v. Houston*, 625 F.3d 871, 873 n.2 (5th Cir. 2010) (noting the denial of summary affirmance where an issue was not foreclosed). However, because Carpenter concedes that there is no controlling authority supporting her argument that § 3147 is unconstitutional under *Alleyne* and that she cannot demonstrate a clear or obvious error, she has not shown plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009); *see also United States v. Fields*, 777 F.3d 799, 802 (5th Cir. 2015). The Government's motion for summary affirmance and its alternative motion for an extension of time to file a brief are DENIED. Carpenter's motion for partial dismissal of the appeal is GRANTED. In all other respects, the district court's judgment is AFFIRMED.