

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 23, 2021

Lyle W. Cayce
Clerk

No. 21-40057
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MARIA VARGAS-LUNA,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:19-CR-2111-2

Before DAVIS, STEWART, and DENNIS, *Circuit Judges.*

PER CURIAM:*

Appealing the judgment in a criminal case, Maria Vargas-Luna challenges her within-guidelines sentence of 108 months of imprisonment for conspiring to possess with intent to distribute five kilograms or more of cocaine. As the sole issue on appeal, Vargas-Luna contends that the sentence

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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violates her Sixth Amendment rights because its reasonableness depends upon facts found by the district court that were not admitted by her or proven to a jury beyond a reasonable doubt. She concedes that her argument is foreclosed and moves for summary disposition.

Vargas-Luna is correct that the issue is foreclosed. *See United States v. Hernandez*, 633 F.3d 370, 373-74 (5th Cir. 2011). Thus, summary disposition is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.