

United States Court of Appeals for the Fifth Circuit

No. 22-50553
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 9, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CARLOS AVILA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:21-CR-49-8

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Carlos Avila pleaded guilty to conspiracy to possess at least 50 grams of methamphetamine with intent to distribute and was sentenced to 200 months of imprisonment and five years of supervised release. On appeal, he challenges the district court's application of the two-level enhancement pursuant to U.S.S.G. § 2D1.1(b)(5) for importation of methamphetamine,

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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arguing that there was no evidence to show that he knew the methamphetamine was imported. The Government has moved for summary affirmance or, alternatively, an extension of time to file a brief.

As Avila acknowledges, his argument is foreclosed by *United States v. Serfass*, 684 F.3d 548, 552 (5th Cir. 2012), which held that the § 2D1.1(b)(5) enhancement applies “regardless of whether the defendant had knowledge of [the drug] importation.” Accordingly, the Government’s motion for summary affirmance is GRANTED, the Government’s alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.