

United States Court of Appeals for the Fifth Circuit

No. 25-51005
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 21, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LUIS RAMON CASTANEDA-CASTILLO,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:24-CR-5-1

Before WILLETT, DUNCAN, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Luis Ramon Castaneda-Castillo pleaded guilty to smuggling goods from the United States in December 2023. *See* 18 U.S.C. § 554. He argues that, in calculating his base offense level under U.S.S.G. § 2M5.2, the district court should have held him accountable for only the firearm involved in his

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

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offense of conviction. He says the firearms from a November 2022 smuggling incident should not count as relevant conduct. We disagree.

Castaneda-Castillo first argues that the November 2022 incident cannot qualify as relevant conduct because he was never arrested or charged for it. As we have held, a defendant “need not have been convicted of, or even charged with, . . . other offenses for them to be considered relevant conduct for sentencing purposes.” *United States v. Rhine*, 583 F.3d 878, 885 (5th Cir. 2009); *see United States v. Solis*, 299 F.3d 420, 461–62 (5th Cir. 2002).

He next argues that the Government failed to prove by a preponderance of the evidence that the November 2022 conduct occurred. That argument fares no better. *See United States v. Mitchell*, 709 F.3d 436, 442 n.14 (5th Cir. 2013) (“Preponderance means that it is more likely than not.”). The presentence report (PSR) supplied a sufficient evidentiary basis: its factual allegations were unrebutted. *See United States v. Harris*, 702 F.3d 226, 230 (5th Cir. 2012) (“Generally, a PSR bears sufficient indicia of reliability to be considered as evidence by the sentencing judge in making factual determinations.”). That evidence suffices.

That leaves whether the November 2022 incident was part of the same course of conduct as the offense of conviction. *See Rhine*, 583 F.3d at 886–88; U.S.S.G. § 1B1.3 & comment. n.5(B)(ii). In assessing the similarity factor, this court asks “whether there are distinctive similarities between the offense of conviction and the remote conduct that signal that they are part of a course of conduct rather than isolated, unrelated events.” *United States v. Lopez*, 70 F.4th 325, 330 (5th Cir. 2023). The two incidents were about thirteen months apart, so temporal proximity is not especially strong. But their similarity is distinctive: in both, Castaneda-Castillo drove a pickup truck hauling the same cargo trailer, concealed firearms, parts, and ammunition

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inside, and attempted to cross a Texas Border Patrol checkpoint. The district court could reasonably view those details as signaling a course of conduct rather than two isolated events that merely happened to involve firearms.

At minimum, Castaneda-Castillo has not shown a clear or obvious error. *See Puckett*, 556 U.S. at 135 (holding that plain-error review requires a clear or obvious error that affects a defendant's substantial rights). The judgment is AFFIRMED.