

United States Court of Appeals for the Fifth Circuit

No. 24-50404
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 6, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

KELSEY LYNN WILKERSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:22-CR-445-2

Before ELROD, *Chief Judge*, and HAYNES, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Kelsey Lynn Wilkerson pleaded guilty to one count of conspiring to transport illegal aliens within the United States in violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I), and she was sentenced to a within-Guidelines sentence of 27 months' imprisonment. On appeal, Wilkerson asserts that the district court erred in: (1) applying the U.S.S.G. § 2L1.1(b)(6) enhancement

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

No. 24-50404

for an offense that involves “intentionally or recklessly creating a substantial risk of death or serious bodily injury to another person”; and (2) declining to apply an offense level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1.

The district court did not clearly err in applying the § 2L1.1(b)(6) enhancement. *See United States v. Garza*, 541 F.3d 290, 292 (5th Cir. 2008). Applying the relevant conduct principles of U.S.S.G. § 1B1.3(a), it is plausible in light of the record as a whole that the reckless conduct of Wilkerson’s co-conspirators—transporting aliens in a vehicle’s trunk—was reasonably foreseeable to her given her knowing participation in the conspiracy to transport illegal aliens in their vehicles. *See Garza*, 541 F.3d at 293–94; *United States v. De Jesus-Ojeda*, 515 F.3d 434, 442–43 (5th Cir. 2008).

Furthermore, the district court’s determination that Wilkerson failed to clearly accept responsibility for her offense is not “without foundation” in the record. *United States v. Lord*, 915 F.3d 1009, 1017 (5th Cir. 2019); *see United States v. Medina-Anicacio*, 325 F.3d 638, 648 (5th Cir. 2003). Accordingly, the district court did not err in declining to apply the § 3E1.1 adjustment for acceptance of responsibility. *See Lord*, 915 F.3d at 1017, 1020.

AFFIRMED.