

United States Court of Appeals for the Fifth Circuit

No. 24-50432
CONSOLIDATED WITH
No. 24-50439

United States Court of Appeals
Fifth Circuit

FILED

May 2, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ELEUTERIO ZUBIA-MELENDEZ,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC Nos. 4:23-CR-488-1,
4:16-CR-422-1

Before WIENER, HO, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Eleuterio Zubia-Melendez appeals his guilty plea conviction for aiding and abetting the transportation of illegal aliens for financial gain, as well as the order revoking the term of supervised release he was serving at the time of the offense. The appeals have been consolidated for our review.

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

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c/w No. 24-50439

For the first time on appeal, Zubia-Melendez argues that in light of our recent decision in *United States v. Smith*, 110 F.4th 817 (5th Cir. 2024), absent individualized suspicion or specific criminal activity, the use of license plate readers at an unmanned border patrol checkpoint to flag his vehicle as that of a potential smuggler constituted an illegal search that violated the Fourth Amendment and, thus, evidence obtained as a result of a subsequent traffic stop should be suppressed as fruit of the poisonous tree. The Government has filed a motion to dismiss the appeals, asserting that Zubia-Melendez's valid unconditional guilty plea waived these issues.

We conclude that Zubia-Melendez's voluntary and unconditional guilty plea waived his Fourth Amendment claims in both appeals. *See United States v. Cothran*, 302 F.3d 279, 286 (5th Cir. 2002). Zubia-Melendez's various challenges to the waiver are unavailing. *See Class v. United States*, 583 U.S. 174, 182 (2018). Therefore, we do not reach the merits of his Fourth Amendment claims. *See United States v. Broussard*, 882 F.3d 104, 109 (5th Cir. 2018).

Accordingly, the Government's motion to dismiss is GRANTED, and the appeals are DISMISSED.