

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-10457
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
March 26, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANTHONY RAY WELCH,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:17-CR-198-3

Before KING, SOUTHWICK, and DUNCAN, Circuit Judges.

PER CURIAM:*

Anthony Ray Welch appeals the 235-month prison term imposed following his guilty plea to conspiracy to possess with intent to distribute 500 grams or more of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. Welch challenges the district court's assessment of the two-level enhancement of U.S.S.G. § 2D1.1(b)(5) for the importation of methamphetamine, arguing that the Guideline requires mens rea and that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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there was no evidence he knew any methamphetamine was imported. The Government moved for summary affirmance in lieu of filing an appellate brief or, alternatively, an extension of time to file a brief.

As Welch concedes, his sole argument on appeal is foreclosed by *United States v. Serfass*, 684 F.3d 548, 552 (5th Cir. 2012), which held that the Section 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 as moot, and the judgment of the district court is AFFIRMED.