

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

United States Court of Appeals
Fifth Circuit

FILED

April 8, 2009

No. 08-50304
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

APRIL WORMLY,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
No. 5:07-CR-533-ALL

Before SMITH, STEWART, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

April Wormly pleaded guilty of violating 18 U.S.C. § 1038(a)(1) by making telephone calls stating that there was a bomb on an aircraft. She contends the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

district court erred in failing to order a competency examination *sua sponte* and in failing to convene a competency hearing. A review of the record reveals that the district court did not abuse its discretion in failing to conduct a more searching competence inquiry. *See United States v. Messervey*, 317 F.3d 457, 463 (5th Cir. 2002); *United States v. Davis*, 61 F.3d 291, 304 (5th Cir. 1995); *United States v. Williams*, 819 F.2d 605, 607 (5th Cir. 1987); *United States v. Horovitz*, 584 F.2d 682, 683 n.3 (5th Cir. 1978).

Wormly avers that the district court erred in imposing sentence without the benefit of a formal presentence investigation report. In her plea agreement, Wormly waived the right to assert this issue on appeal. *See United States v. Melancon*, 972 F.2d 566, 567-68 (5th Cir. 1992).

AFFIRMED.