

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

United States Court of Appeals
Fifth Circuit

F I L E D

October 12, 2010

No. 09-31133
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

TERRI LYNN FIELDS,

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:08-CR-228-3

Before WIENER, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Terri Lynn Fields appeals her 27-month sentence imposed after she pleaded guilty to one count of conspiracy to transport illegal aliens. Fields contends the district court should *not* have applied a nine-level enhancement under § 2L1.1(b)(2)(C) of the sentencing guidelines, based on finding the conspiracy involved transporting more than 100 unlawful aliens.

Because Fields failed to object on this basis in district court, we review only for plain error. *See United States v. Mondragon-Santiago*, 564 F.3d 357,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

361 (5th Cir.), *cert. denied*, 130 S. Ct. 192 (2009). To show reversible plain error, Fields must show a clear or obvious error that affects her substantial rights. *Puckett v. United States*, 129 S. Ct. 1423, 1429 (2009). Even then, this court has discretion to correct such an error; generally, we will do so only if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

In general, a finding of fact can never constitute plain error. *See United States v. Lee*, 368 F. App'x 548, 552 (5th Cir. 2010) (citing *United States v. Lopez*, 923 F.2d 47, 50 (5th Cir. 1991)). In any event, this challenge on appeal will be considered a challenge to the basis for the finding at issue. In that regard, the district court adopted the presentence investigation report's (PSR) calculation that the conspiracy involved transporting at least 162 unlawful aliens, a figure based on admissions by Fields and statements and testimony by her co-conspirators. The district court was entitled to rely upon this because it bore "some indicia of reliability". *United States v. Scher*, 601 F.3d 408, 413 (5th Cir. 2010). Fields has failed to produce rebuttal evidence to demonstrate the information in the PSR inaccurate or materially untrue, *see id.*, and thus has shown no error, *see Puckett*, 129 S. Ct. at 1429.

AFFIRMED.