

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1556

United States of America,

Appellee,

v.

Gonzalo Castillo-Torrecilla,

Appellant.

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Appeal from the United States
District Court for the
Southern District of Iowa.

[UNPUBLISHED]

Submitted: October 7, 2004
Filed: October 19, 2004

Before MURPHY, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Gonzalo Castillo-Torrecilla appeals the sentence the district court¹ imposed after he pleaded guilty to knowingly transporting illegal aliens within the United States for financial gain, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii), (A)(v)(II), and (B)(i). At sentencing, over Castillo-Torrecilla's objection, the district court imposed an enhancement under U.S.S.G. § 2L1.1(b)(5) (offense-level enhancement for intentionally or recklessly creating substantial risk of death or serious bodily injury to another person), based on its finding that Castillo-Torrecilla had transported 18

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

persons, including himself, in a vehicle suited to seat 9-10. The court sentenced Castillo-Torrecilla to 21 months imprisonment and 3 years supervised release. On appeal, Castillo-Torrecilla challenges the enhancement.

We find the district court did not clearly err in imposing the section 2L1.1(b)(5) enhancement. See United States v. Kanatzar, 370 F.3d 810, 814 (8th Cir. 2004) (standard of review); United States v. Flores-Flores, 356 F.3d 861, 863 (8th Cir. 2004) (upholding § 2L1.1(b)(5) enhancement based on overcrowded vehicle); United States v. Ortiz, 242 F.3d 1078, 1079 (8th Cir. 2001) (per curiam) (same).

Accordingly, we affirm. Castillo-Torrecilla's motion to file a supplemental brief in light of Blakely v. Washington, 124 S. Ct. 2531 (2004), is denied.
