

December 5, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-40391  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL ALAN SMARR,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:04-CR-901-ALL  
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Before DAVIS, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Michael Alan Smarr appeals his conviction for transporting illegal aliens for the purpose of commercial advantage or private financial gain in violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and (a)(1)(B)(I). Smarr argues that the evidence was insufficient to support his conviction because the evidence did not establish that he committed the offense for the purpose of commercial advantage or private financial gain. We conclude that the evidence was sufficient to establish that Smarr participated in an illegal alien smuggling operation and that members of the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

operation received sums of money to help the illegal aliens enter the United States illegally and travel within the United States. The evidence was sufficient to support Smarr's conviction. See United States v. Nolasco-Rosas, 286 F.3d 762, 765 (5th Cir. 2002); United States v. Moser, 123 F.3d 813, 819 (5th Cir. 1997).

AFFIRMED.