

April 20, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-41379  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MINERVA RUBIO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:05-CR-231-ALL  
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Before GARWOOD, DeMOSS and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Minerva Rubio pleaded guilty to one count of identity theft, in violation of 18 U.S.C. § 1028(a)(7) and (b)(1)(D). She argues that the district court erroneously calculated her sentencing guideline range by applying a two-level enhancement pursuant to U.S.S.G. § 2B1.1(b)(9) for the use of sophisticated means. Rubio's offense included a repetitive scheme, access and use of multiple credit and bank accounts, repetitive misrepresentations in person and telephonically to obtain goods and services, the concealment of criminal activity by accessing bank and credit

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

accounts and misdirecting mail, and the creation, copying, and transmission of false identification. Viewed in its entirety, the scheme involved sophisticated means even if some of aspects of Rubio's offense were not sophisticated, and the district court did not clearly err. See United States v. Clements, 73 F.3d 1330, 1340 (5th Cir. 1996).

AFFIRMED.