

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-4189**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SULEIMAN ZAKARIA,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (1:10-cr-00043-WDQ-1)

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Submitted: February 8, 2012

Decided: March 15, 2012

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Before DUNCAN, AGEE, and DAVIS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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James Wyda, Federal Public Defender, Martin G. Bahl, Staff Attorney, Baltimore, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Peter M. Nothstein, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Suleiman Zakaria appeals his 120-month sentence following his jury conviction of one count of importation of heroin, in violation of 21 U.S.C. § 952(a) (2006), and one count of possession with intent to distribute heroin, in violation of 21 U.S.C. § 841(a)(1) (2006). The convictions stemmed from Zakaria's apprehension following the discovery of heroin in his suitcase upon his return to the United States from Ghana. On appeal, Zakaria argues that the district court abused its discretion in excluding the expert testimony of a psychologist showing that Zakaria was of below-average intelligence, and that such individuals are more reliant on others to complete everyday tasks such as packing. Finding no reversible error, we affirm.

We review the district court's exclusion of evidence for an abuse of discretion. United States v. Myers, 589 F.3d 117, 123 (4th Cir. 2009). "A trial court's exercise of such discretion is entitled to substantial deference and will be upheld so long as it is not arbitrary or irrational." Id. (internal quotation marks and citations omitted). In addition, a district court's evidentiary rulings are subject to review for harmless error under Federal Rule of Criminal Procedure 52. United States v. Abu Ali, 528 F.3d 210, 231 (4th Cir. 2008) ("Evidence erroneously admitted will be deemed harmless if a reviewing court is able to say, with fair assurance, . . . that

the judgment was not substantially swayed by the error." (internal quotation marks omitted)).

We conclude that the district court's ruling was not arbitrary and irrational. Further, any error in excluding the testimony in question was harmless. Notwithstanding Zakaria's able presentation of his defense through a witness who knew him and testified to her knowledge of his limitations, the jury found him guilty. Having reviewed the record, we conclude that the jury's verdict would not have been substantially affected by the admission of the testimony. Accordingly, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED