

July 11, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50625
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARLOW SZODOC SMITH,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
No. 7:05-CR-201-ALL

Before DAVIS, SMITH, and OWEN, Circuit Judges.

PER CURIAM:*

Marlow Smith argues that the evidence is insufficient to support his conviction of misdemeanor possession of cocaine base. Smith argues that the evidence merely shows that he was present at a known crack house when authorities executed a search warrant and that it fails to establish that he actually or constructively pos-

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

essed cocaine base found in the house. Our review of the evidence shows that a rational juror could have concluded that Smith constructively possessed cocaine base by exercising control over rocks of cocaine base found during the execution of the search warrant. United States v. Ornelas-Rodriguez, 12 F.3d 1339, 1346 (5th Cir. 1994); United States v. Jaramillo, 42 F.3d 920, 923 (5th Cir. 1995). We will not disturb that determination. United States v. Runyan, 290 F.3d 223, 240 (5th Cir. 2002).

AFFIRMED.