

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-10130  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OSVALDO SANCHEZ GARCIA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
(3:00-CR-83-11-H)

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October 15, 2001

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Oswaldo Sanchez Garcia appeals his convictions for conspiracy to possess, and possession, with intent to distribute narcotics, see 18 U.S.C. § 2, 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), 846, asserting that the evidence was insufficient.

Because Garcia did not renew his motion for judgment of acquittal at the close of all the evidence, we need only determine whether there was a "manifest miscarriage of justice", which "would exist only if the record is devoid of evidence pointing to guilt". *United States v. Hinojosa*, 958 F.2d 624, 628 (5th Cir. 1992)

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(quoting **United States v. Robles-Pantoja**, 887 F.2d 1250, 1254 (5th Cir. 1989)).

The trial testimony indicated that Garcia's coconspirators left him alone in a hotel room with a large quantity of cocaine. See **United States v. Garcia-Flores**, 246 F.3d 451, 455 (5th Cir. 2001); **United States v. Arzola-Amaya**, 867 F.2d 1504, 1512-13 (5th Cir. 1989), *cert. denied*, 493 U.S. 933 (1989). He was present in the hotel room and witnessed his coconspirators test the cocaine supply and turn it into crack. Garcia was present during negotiations for a drug deal. Moreover, a jury reasonably could have concluded from the testimony of Leopoldo Camacho Perez that Garcia participated in the negotiation process. See **United States v. Dean**, 59 F.3d 1479, 1488-89 (5th Cir. 1995), *cert. denied*, 516 U.S. 1064 (1996), *and cert. denied*, 516 U.S. 1082 (1996). Finally, an Agent from the Drug Enforcement Agency testified that secretly recorded telephone conversations indicated that Garcia was the source of the cocaine supply.

In short, the record is not devoid of evidence pointing to guilt; far from it. In fact, the evidence was adequate to support Garcia's conviction. See **United States v. Gonzales**, 121 F.3d 928, 935-36 (5th Cir. 1997), *cert. denied*, 522 U.S. 1063 (1998), *and cert. denied*, 522 U.S. 1131 (1998); **United States v. Pena-Rodriguez**, 110 F.3d 1120, 1123-24 (5th Cir. 1997), *cert. denied*, 522 U.S. 819 (1997).

**AFFIRMED**