

May 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60839
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDRICK JOHNSON; BRIAN JOHNSON,

Defendants-Appellants.

Appeals from the United States District Court
for the Northern District of Mississippi
USDC No. 2:02-CR-126-1-D

Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Fredrick and Brian Johnson appeal their convictions for aiding and abetting the retaliation against a witness. See 18 U.S.C. §§ 2, 1513(b)(2). They contend that the evidence was insufficient to support a finding that they acted with an intent to retaliate, and Brian Johnson argues that his inculpatory oral statement should have been suppressed.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We hold that the evidence supports the jury's finding beyond a reasonable doubt that the Johnsons acted with an intent to retaliate, particularly in light of Brian Johnson's inculpatory oral statement to that effect. See United States v. Maggitt, 784 F.2d 590, 593-594 (5th Cir. 1986).

We reject Brian Johnson's claim that his statement should have been suppressed based on his contention that it was unreliable. The issue of his oral statement's reliability was ultimately a question for the jury, which was free to find the Government's witnesses' testimony on this issue credible. See United States v. Bermea, 30 F.3d 1539, 1552 (5th Cir. 1994).

AFFIRMED.