

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

July 26, 2010

Lyle W. Cayce
Clerk

No. 09-40777

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FLOR MARIA JIMENEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 5:08-CR-1864-2

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Flor Jimenez was found guilty by a jury of two counts of transportation of an illegal alien within the United States for private financial gain by means of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

a motor vehicle. She was sentenced to 28 months of imprisonment and three years of supervised release on each count, to be served concurrently. She argues that the government did not provide sufficient evidence in its case-in-chief to support her conviction, because it did not prove that she was driving the truck transporting illegal aliens.

If a defendant moves for acquittal at the end of the government's case-in-chief and then, as Jimenez did, presents evidence on her behalf during her case-in-chief, this court will consider the entire record in determining the sufficiency of the evidence. *United States v. Alarcon*, 261 F.3d 416, 421 (5th Cir. 2001). Because Jimenez renewed her motion for acquittal at the close of all evidence, we review the sufficiency *de novo*. *Id.*

Regardless whether the government proved during its case-in-chief that Jimenez was the driver of the truck, Jimenez testified during her case-in-chief that she was. Any rational trier of fact could have found that that evidence established beyond a reasonable doubt that Jimenez was the driver, so she has not shown that the evidence was insufficient to support her conviction. *See Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979).

AFFIRMED.