

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40109

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANGEL ALFREDO CORDOVA,

Defendant-Appellant.

Appeal from the United States District Court
For the Eastern District of Texas
USDC No. 1:99-CR-108-2

October 12, 2000

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Angel Alfredo Cordova appeals his conviction following a jury trial for conspiracy to possess with intent to distribute marijuana. Cordova contends that the evidence was in equipoise, equally supporting either an inference of scienter or an inference that Cordova was deceived by his co-defendant. Cordova does not, on appeal, identify affirmative evidence that he was unaware of the presence of drugs, but rather alleges that the government introduced no evidence probative of scienter.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

An officer testified that Cordova appeared to be acting as a decoy driver, speeding up and violating traffic laws to distract attention away from the vehicle carrying the drugs. If credited by the jury, this testimony would suggest that Cordova was aware that illegal drugs were being transported. We therefore cannot say that Cordova's conviction works a manifest miscarriage of justice, which is our standard of review since Cordova failed either to renew his motion for acquittal at the close of evidence or to file a post-verdict motion. United States v. Laury, 49 F.3d 145, 151 (5th Cir. 1995).

AFFIRMED.