

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40384
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE D. CUELLAR,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-99-CR-224-ALL
- - - - -

April 6, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Jose D. Cuellar appeals his conviction of possession of approximately 1600 pounds of marijuana with intent to distribute, in violation of 21 U.S.C. § 841(a)(1).

Cuellar contends that the evidence was insufficient to support the knowledge element of his convictions, in that the marijuana was concealed in trailer portion of his tractor-trailer and that another man had had access to the trailer the day before he was arrested. The evidence was not insufficient to support

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cuellar's conviction. See United States v. El-Zoubi, 993 F.2d 442, 445 (5th Cir. 1993); United States v. Cano-Guel, 167 F.3d 900, 904 (5th Cir. 1999). Cuellar was the owner of the tractor and was the lessee of the trailer. The stories he told Border Patrol agents and a drug-enforcement officer were somewhat conflicting. Cuellar's general version of the events was implausible: It required the jury to believe that an unknown drug-trafficker had somehow placed \$1.3 million worth of marijuana into his trailer, without having an idea of where Cuellar might be taking it. The jury was authorized to find that Cuellar knew about the marijuana. See United States v. Jones, 185 F.3d 459, 464 (5th Cir. 1999) (constructive possession of drugs may be shown by control of vehicle in which drugs are concealed), cert. denied, 121 S. Ct. 125 (2000).

AFFIRMED.