

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-41458  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS ARMANDO CANO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-00-CR-243-1

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October 31, 2001

Before POLITZ, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:\*

Jesus Armando Cano appeals his conviction for transporting aliens within the United States, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii) & (a)(1)(A)(v)(II). Cano contends that (1) the evidence in his case was insufficient to support his conviction, (2) the district court erred by failing to reduce his base offense level by

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

three levels because he did not profit from transporting aliens, and (3) his conviction violates Apprendi v. New Jersey.<sup>1</sup>

The standard of review of the sufficiency of evidence to support a conviction is whether any reasonable trier of fact could have found that the evidence established the essential elements of the crime beyond a reasonable doubt.<sup>2</sup> The evidence presented at Cano's trial was sufficient to establish that he participated in transporting illegal aliens.

Cano has failed to establish that the district court erred in finding that the offense was committed for profit, and he has failed to carry his burden of showing that he lacked a profit motive.<sup>3</sup>

Finally, Cano maintains that his sentence violates Apprendi. Apprendi is inapplicable in Cano's case.<sup>4</sup>

**AFFIRMED.**

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<sup>1</sup>530 U.S. 466 (2000).

<sup>2</sup>United States v. Ortega Reyna, 148 F.3d 540 (5th Cir. 1998).

<sup>3</sup>United States v. Cuellar-Flores, 891 F.2d 92 (5th Cir. 1989).

<sup>4</sup>United States v. Doggett, 230 F.3d 160 (5th Cir. 2000), cert. denied, 121 S. Ct. 1152 (2001); United States v. Keith, 230 F.3d 784 (5th Cir. 2000), cert. denied, 121 S. Ct. 1163 (2001).