

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10200
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD GENE RHOADES,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:00-CR-226-1-Y

November 29, 2001

Before DeMOSS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:*

Donald Gene Rhoades appeals from his jury conviction for conspiracy to manufacture over 50 grams of methamphetamine.

Rhoades argues that there is no evidence of an agreement between him and any person to manufacture methamphetamine. He also argues that there was insufficient evidence that he intended to manufacture more than 50 grams of methamphetamine. We have reviewed the trial testimony and hold that the jury could have rationally concluded beyond a reasonable doubt that Rhoades was aware of Larry Robinson's intention to manufacture methamphetamine;

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that, with this knowledge, he attempted to procure a necessary ingredient for Robinson to make the drugs; and that the conspiracy intended to produce more than 50 grams of methamphetamine. United States v. Gonzales, 79 F.3d 413, 423 (5th Cir. 1996).

Rhoades also challenges the calculation of his offense level based his intent to manufacture more than 50 grams of methamphetamine. The district court's determination of drug quantity need be supported by only a preponderance of the evidence. United States v. Gaytan, 74 F.3d 545, 558 (5th Cir. 1996). As discussed above, the evidence supports the jury's finding, based on the much stricter reasonable doubt standard, that Rhoades intended to manufacture more than 50 grams of drugs. Accordingly, the judgment of the district court is AFFIRMED.