

August 6, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40566
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE LUIS ESCAMILLA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-93-CR-151-9

Before DAVIS, BARKSDALE, and DENNIS, Circuit Judges.

PER CURIAM:*

Jose Luis Escamilla appeals his convictions for conspiracy to possess over 100 kilograms of marijuana with intent to distribute and for possession of approximate 186.3 kilograms of marijuana with intent to distribute. He asserts that the prosecutor asked a series of rhetorical questions which tended to bolster the credibility of the government witness and to indicate to the jury that the fact Escamilla had been indicted constituted evidence of his guilt. He contends that the prosecutor's reference to the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

success of the confidential informants constituted improper bolstering. Escamilla also maintains that the prosecutor attempted to shift the burden of proof to the defense.

We have reviewed the record, the evidence, and the closing arguments of the parties. Escamilla has not established that the challenged statements constituted improper remarks that either prejudiced his substantive rights or constituted plain error. United States v. Munoz, 150 F.3d 401, 414-15 (5th Cir. 1998); United States v. Washington, 44 F.3d 1271, 1278 (5th Cir. 1995). Consequently, the conviction is AFFIRMED.