

May 12, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-41570  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARTIN MATA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:03-CR-966-01  
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Before REAVLEY, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:\*

Following a jury trial, Martin Mata was convicted of one count of transporting an illegal alien within the United States to obtain financial gain. The district court sentenced him to serve 48 months in prison and a three-year term of supervised release. Mata now appeals his conviction.

Mata contends that the evidence adduced at trial is insufficient to support his conviction. He argues that the evidence was insufficient to identify him as the driver of a van

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that was carrying several illegal aliens. The standard of review for this issue is "whether any reasonable trier of fact could have found that the evidence established the essential elements of the crime beyond a reasonable doubt." United States v. Ortega Reyna, 148 F.3d 540, 543 (5th Cir. 1998).

The evidence was sufficient to support Mata's conviction. A reasonable person could conclude that Mata was driving the van based on agents' testimony. Further, another witness squarely identified Mata as the driver of the van. Mata has not shown that the evidence adduced at trial was insufficient to support his conviction.

Mata also argues that counsel rendered ineffective assistance for not moving to suppress the red shirt that he was wearing when he was arrested. We decline to consider this claim in this direct appeal. See United States v. Gibson, 55 F.3d 173, 179 (5th Cir. 1995).

Mata has shown no reversible error in the judgment of the district court. Accordingly, that judgment is AFFIRMED.