

F I L E D

December 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50686
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS LORENZO MONTOYA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-02-CR-1827-ALL

Before JONES, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Jesus Lorenzo Montoya appeals his conviction for importation of marijuana and possession of marijuana with intent to distribute. Montoya argues that the evidence fails to show that he knew that a large quantity of marijuana was hidden in his van. He contends that the evidence shows only he acted negligently in agreeing to drive the van across the border, and not that he knowingly possessed or imported marijuana. He also contends that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the trial court erred by instructing the jury on deliberate ignorance.

The trial evidence was sufficient to allow a rational jury to find that Montoya knew that there was marijuana hidden under the floor of the van. United States v. Del Aquila-Reyes, 722 F.2d 155, 157 (5th Cir. 1983); United States v. Cano-Guel, 167 F.3d 900, 905 (5th Cir. 1999). Under the facts of the case, we find no error in the trial court's decision to give a deliberate ignorance instruction. United States v. Saucedo-Munoz, 307 F.3d 344, 348-49 (5th Cir. 2002).

AFFIRMED.