

March 9, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50661
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LIBRADO GALLEGOS-ALVARADO,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:04-CR-1637-1

Before JONES, Chief Judge, and SMITH and GARZA, Circuit Judges.

PER CURIAM:*

Librado Gallegos-Alvarado (Gallegos) appeals his conviction following a bench trial for conspiracy to possess and possession with intent to distribute more than 100 kilograms of marijuana, in violation of 21 U.S.C. §§ 846, 841(a)(1). Gallegos argues that the evidence was insufficient to connect him with the marijuana or to other persons observed fleeing from the location where the marijuana was discovered.

Gallegos was found hiding in the brush after sensors alerted

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S. Border Patrol agents to activity near the border. There was no other sensor activity in the immediate vicinity. Upon investigating the activity, agents observed suspicious bundles on the ground and saw a total of seven persons, five of whom fled back across the border. The bundles turned out to be seven burlap sacks fashioned with burlap straps containing over 400 pounds of marijuana. Gallegos was observed in close proximity to one of the sacks. He was also found to have burlap fibers embedded in his shirt, although there were no strap marks visible on his body. Gallegos fled when approached by Border Patrol agents and physically resisted arrest. He also gave the agents an alias. Viewing the evidence as a whole and in the light most favorable to the verdict, we conclude that the evidence was sufficient to support the conviction. See United States v. Shelton, 325 F.3d 553, 557 (5th Cir. 2003); United States v. Rojas-Martinez, 968 F.2d 415, 420-21 (5th Cir. 1992).

AFFIRMED.