

March 16, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50890
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LAVERN A. SMITH,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:04-CR-228-ALL

Before BARKSDALE, STEWART, and CLEMENT, Circuit Judges.

PER CURIAM:*

Lavern Smith challenges the sufficiency of the evidence supporting her conviction. Smith was convicted under the Assimilative Crimes Act, 18 U.S.C. § 13, for being intoxicated while operating a motor vehicle in a public place within the confines of Fort Sam Houston in San Antonio, Texas.

We review the evidence to determine whether the finding of guilt made by the trier of fact is supported by substantial evidence. United States v. Ybarra, 70 F.3d 362, 364 (5th Cir.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1995). Evidence is sufficient if "any rational trier of fact could have found that the evidence established guilt beyond a reasonable doubt." United States v. Shelton, 325 F.3d 553, 557 (5th Cir. 2003). We view all evidence in the light most favorable to the Government and defer to all reasonable inferences drawn by the trier of fact. Ybarra, 70 F.3d at 364.

The evidence established that Smith had been drinking and that she had been driving. Officers at the scene testified that Smith's breath smelled of alcohol, that her eyes were glossy, and that she did not speak in a normal volume. Smith failed all three field sobriety tests that were administered at the scene. The evidence, viewed in the light most favorable to the Government, was sufficient to convict Smith of being drunk while driving on Fort Sam Houston. See Ybarra, 70 F.3d at 364.

AFFIRMED.