

June 28, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50733
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GUSTAVO MARTINEZ-VASQUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:05-CR-681-ALL

Before JOLLY, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Gustavo Martinez-Vasquez appeals from his jury-trial conviction of conspiracy to possess with the intent to distribute more than 100 kilograms of marijuana and possession with the intent to distribute more than 100 kilograms of marijuana. He argues that the evidence was insufficient to support the jury's finding that the he knew that the car in which he was traveling as a passenger contained marijuana. Martinez-Vasquez preserved this issue for de novo review. See United States v. Peñaloza-Duarte, 473 F.3d 575, 579 (5th Cir. 2006).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

In addition to hearing testimony that Martinez-Vasquez attempted to evade arrest once the car stopped, the jury heard testimony that (1) Martinez-Vasquez possessed a phone book containing the names and numbers of other subjects of the investigation; (2) Martinez-Vasquez helped to load the boxes of marijuana into the car; and (3) the car had a strong odor of marijuana. Viewing this evidence in the light most favorable to the verdict, a rational jury could have found Martinez-Vasquez's knowledge of the marijuana beyond a reasonable doubt. See United States v. Mireles, 471 F.3d 551, 555-56 (5th Cir. 2006); United States v. Flores, 564 F.2d 717, 718-19 (5th Cir. 1977).

AFFIRMED.