

July 20, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 07-30005
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KEVIN LEE JOHNSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:06-CR-50005-2

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Kevin Lee Johnson appeals his jury conviction and concurrent 300-month sentences for conspiracy to distribute cocaine base and distribution of cocaine base. Johnson contends that the evidence introduced at trial was insufficient to establish his guilt beyond a reasonable doubt as to either count.

We review de novo the district court's denial of a judgment of acquittal and apply the same standard as in a general review of the sufficiency of the evidence. See United States v. Payne, 99 F.3d 1273, 1278 (5th Cir. 1996). We must determine "whether

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

viewing the evidence and the inferences therefrom 'in a light most favorable to the jury's guilty verdicts, a rational trier of fact could have found [Johnson] guilty beyond a reasonable doubt.'" Id. (citation omitted). "[A] guilty verdict may be supported only by the uncorroborated testimony of a coconspirator, even if the witness is interested due to a plea bargain of promise of leniency, unless the testimony is incredible or insubstantial on its face." Id. (citation omitted).

The evidence established that Johnson conspired with Clinton Kinsey to distribute crack cocaine to an undercover police officer with the Bossier City Police Department. The evidence proved Johnson's knowledge of the offenses, his intent to participate in the conspiracy, and that Johnson committed acts in furtherance of the conspiracy. The evidence further proved that Johnson distributed crack cocaine. Therefore, Johnson's insufficiency-of-the-evidence claim is unavailing. See id.

The judgment of the district court is AFFIRMED.