

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

June 23, 2009

Charles R. Fulbruge III  
Clerk

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No. 08-50522  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MA MAYELA SWINDELL

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:07-CR-2873-2

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Before DAVIS, GARZA, and PRADO, Circuit Judges.

PER CURIAM:\*

Ma Mayela Swindell was convicted by a jury of one count of importation of marijuana and one count of possession of marijuana with intent to distribute and was sentenced to concurrent 21-month terms of imprisonment. Swindell was the passenger in a vehicle that was stopped at the Ysleta port of entry in El Paso, Texas. Law enforcement agents discovered bundles of marijuana hidden in the airbag and heater areas of the vehicle.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Swindell argues that the evidence was insufficient to support her convictions. She contends that the Government did not meet its burden to prove that she knowingly possessed the marijuana concealed in the hidden compartment of the vehicle. The jury heard evidence that Swindell acted nervous at the time of the traffic stop. Additionally, the jury heard evidence that Swindell attempted to distract law enforcement officers conducting a search of the vehicle; attempted to interrupt questioning of the driver of the vehicle, Francisco Lopez-Montes de Oca (Lopez); and avoided answering questions. Additionally, Lopez testified that Swindell was present during meetings discussing the shipment of marijuana. In view of Swindell's attempts at distraction and Lopez's testimony establishing Swindell's knowledge, and considering the reasonable inferences drawn from the evidence in the light most favorable to the verdict, a rational trier of fact could have found that the evidence established the elements of the offense beyond a reasonable doubt. *See United States v. Lopez-Moreno*, 420 F.3d 420, 437-38 (5th Cir. 2005); *United States v. Delagarza-Villarreal*, 141 F.3d 133, 139 (5th Cir. 1997); *United States v. Diaz-Carreon*, 915 F.2d 951, 954 (5th Cir. 1990). The judgment of the district court is thus AFFIRMED.