

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-8539  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BEATRIZ GRISELDA LOPEZ-GARCIA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-92-CR-177-All  
- - - - -

March 17, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

Beatriz Griselda Lopez-Garcia challenges her conviction on the ground that the Government failed to sufficiently prove her guilty knowledge. Her challenge has no merit.

The standard for evaluating the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the verdict, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781,

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

2789, 61 L.Ed.2d 560 (1979). In viewing the evidence in the light most favorable to the verdict, this Court affords the Government the benefit of all reasonable inferences and credibility choices. United States v. Nixon, 816 F.2d 1022, 1029 (5th Cir. 1987), cert. denied, 484 U.S. 1026 (1988).

To sustain a conviction for importation of marijuana under 21 U.S.C. § 952, the Government must prove only that the defendant knowingly played a role in bringing marijuana from a foreign country into the United States. United States v. Diaz-Carreon, 915 F.2d 951, 953 (5th Cir. 1990). To sustain a conviction for possession of marijuana with the intent to distribute under 21 U.S.C. § 841, the Government must prove that the defendant knowingly possessed the marijuana. Id. In proving either offense, the Government is required to present sufficient evidence of the defendant's "guilty knowledge." Id.

Knowledge of the presence of contraband often may be inferred from the exercise of control over a vehicle in which the illegal substance is hidden. Diaz-Carreon, 915 F.2d at 954. When a controlled substance is concealed in a hidden compartment that is not readily visible or accessible to the defendant, however, control of the vehicle does not support an inference of guilty knowledge. Id. In these circumstances, this Court requires additional evidence indicating "consciousness of guilt" on the part of the defendant. Id. Evidence that may adequately demonstrate a defendant's consciousness of guilt includes (1) nervousness, (2) inconsistent statements to Customs officials, and (3) an implausible story. Diaz-Carreon, 915 F.2d at 954-55.

Lopez-Garcia demonstrated the following behavior at the checkpoint: Her hand was shaking when she showed her passport; she avoided eye contact; and she was evasive and hesitant when answering Agent Silva's questions. Lopez-Garcia initially told inspectors that she was entering the United States to go visiting; however, she later stated that she was going to McDonald's for a hamburger and afterward intended to take the car to a mall to return it to friends whose names she did not know. Lopez-Garcia initially stated that it was not her car and that she was not familiar with the owner, but that she did own the car at one time. She testified at trial that the owner of the car was named "Graciela Ortiz or Ortega."

It is the sole province of the trier of fact to weigh the evidence and the credibility of witnesses. United States v. Ayala, 887 F.2d 62, 67 (5th Cir. 1989). After hearing Lopez-Garcia's story and testimony from Customs agents, the jury rejected Lopez-Garcia's protestations of innocence. The evidence is sufficient to support the conviction.

The conviction is affirmed. ~~THE UNITED STATES COURT OF APPEALS~~

FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN SOLIS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas

USDC No. CR-L-89-281-02

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Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*\*

Juan Solis argues that there was insufficient evidence to  
revoke his supervised release. He is incorrect.

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that have no precedential value and merely decide particular  
cases on the basis of well-settled principles of law imposes  
needless expense on the public and burdens on the legal  
profession." Pursuant to that Rule, the Court has determined  
that this opinion should not be published.

A district court's determination regarding the revocation of supervised release is protected by the "clearly erroneous" rule. United States v. Montez, 952 F.2d 854, 859 (5th Cir. 1992). The Government was required to prove by a preponderance of the evidence that Solis violated the terms of his release. 18 U.S.C. § 3583(e)(3). Proof of a controlled substance offense may be based upon circumstantial evidence. United States v. Smith, 978 F.2d 181, 182 (5th Cir. 1992).

Solis's connection to the marijuana was sufficiently established by the probation documents found in the trunk of the automobile and the identification made by Ermelinda Barron and Deborah Vargas.

At the revocation hearing, Solis testified that he and Barron had exchanged vehicles because the Buick did not run well. The district court found Solis's explanation of the events leading to his arrest to be implausible. Questions of credibility are not for this Court. United States v. Davis, 752 F.2d 963, 968 (5th Cir. 1985).

The presence of Solis's probation documents, his arrival at the checkpoint as foretold by Barron, and Vargas's confession amass to meet the "preponderance of the evidence" requirement of 18 U.S.C. § 3583(e)(3).

The decision of the district court is AFFIRMED.