IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 92-9101

Summary Calendar

United States of America,

Plaintiff-Appellee,

versus

George Munoz,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:92-CR-102-A-1)

(November 16, 1993)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:[*]

A jury convicted George Munoz of two offenses arising from an attempted marijuana sale.[1] Munoz contends that limits on cross-examination denied him the right to confront a key witness and that

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

[1]The first was conspiracy to possess with intent to deliver marijuana. 21 U.S.C. § 846. The second was possession with intent to distribute over 100 kilograms of marijuana. 21 U.S.C. § 841(a)(1).

the trial judge's conduct denied him a fair trial. We reject both arguments and affirm his convictions.

Our review of Munoz's Sixth Amendment argument recognizes the wide latitude the Confrontation Clause gives trial judges to impose reasonable limits on cross-examination. United States v. Tansley, 986 F.2d 880, 886 (5th Cir. 1993). Munoz first complains that the Court limited testimony from a key government witness, John Lunt, about how Lunt's informant had brought Munoz into the marijuana deal. Munoz argues this testimony would have helped establish a defense of entrapment. The record reveals that Munoz asked many other questions from which he could argue entrapment, including questions about financial incentives given to Munoz, the informant's compensation and motivations, and the way the informant persuaded Munoz to travel to the site of the deal. Limiting a repetitive question did not exceed the discretion allowed the judge by the Confrontation Clause. See United States v. Maceo, 947 F.2d 1191, 1200 (5th Cir. 1991), cert. denied, 112 S.Ct. 1510 (1992).

Munoz next complains that he could not discredit the Lunt's testimony by showing he did not adequately supervise his informant. The record shows that Munoz had adequate opportunity to test the reliability of Lunt's previous testimony by asking him about his personal experience with this informant and the nature of the supervision on informants. Those questions gave Munoz a constitutionally adequate basis for jury argument about Lunt's credibility. See United States v. Summers, 598 F.2d 450, 459-60 (5th Cir. 1979).

Munoz finally claims that he could not show bias by asking Lunt if his pursuit of Munoz arose from his inability to build a case against a "big player." Prior to the "big player" question, Munoz asked questions establishing that Lunt participated in a larger investigation in which Munoz figured only as a secondary target. This limitation also fell within the court's discretion.

Munoz alternatively argues that these interventions into the Lunt cross-examination predisposed the jury toward finding him guilty. We find no unconstitutional blurring of the role of judge and prosecutor. See United States v. Davis, 752 F.2d 963, 974 (5th Cir. 1985). The judge properly intervened in the Lunt cross-examination, as he did in both sides' examinations throughout the trial, to maintain the trial's progress. See United Sates v. Borchardt, 698 F.2d 697, 700 (5th Cir. 1993); United States v. Carpenter, 776 F.2d 1291, 1294 (5th Cir. 1985). His jury instruction cured any jury misconceptions about his actions.[2] See United States v. Westbo, 746 F.2d 1022, 1027 (5th Cir. 1984).

AFFIRMED

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[2]The instruction provided:

> Also, do not assume from anything I may have done or said during the trial that I have any opinion concerning any of the issues in this case. Except for the instructions to you on the law, you should disregard anything I have said during the trial in arriving at your own findings as to the facts.

See United States v. Westbo, 746 F.2d 1022, 1027 n.5 (5th Cir. 1984),