

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 93-7092  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HECTOR CASTILLO-VILLARREAL,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CR C-92-199-1

- - - - -  
August 19, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Castillo argues that the evidence was insufficient to support the jury's finding that he knowingly possessed marijuana. "The standard of review in challenges to the sufficiency of the evidence is whether, taken in the light most favorable to the government, any rational trier of fact could have found the essential elements of the offense charged beyond a reasonable doubt." United States v. Molina-Iguado, 894 F.2d 1452, 1457 (5th Cir.), cert. denied, 498 U.S. 831 (1990).

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

A conviction for possession of marihuana with intent to distribute requires proof that the defendant had knowing possession of the illegal substance with intent to distribute it. United States v. Diaz-Carreon, 915 F.2d 951, 953 (5th Cir. 1990). Possession of a controlled substance may be either actual or constructive. United States v. Morales, 854 F.2d 65, 67 (5th Cir. 1988). Constructive possession may be established by a showing of dominion, control, or ownership over the vehicle in which the contraband was concealed; however, because the marihuana was hidden, merely linking Castillo to the trailer is not sufficient to prove that he knew the vehicle contained the controlled substance. United States v. Greenwood, 974 F.2d 1449, 1456 (5th Cir. 1992), cert. denied, 113 S.Ct. 2354 (1993). There must be additional evidence to prove the element of knowledge. Id. "The general rule in this circuit is that knowledge can be inferred from control over the vehicle in which the drugs are hidden if there exists other circumstantial evidence that is suspicious in nature or demonstrates guilty knowledge." United States v. Garza, 990 F.2d 171, 174 (5th Cir. 1993) (internal quotation and citation omitted).

The circumstantial evidence supports the jury's finding of guilty knowledge. Castillo, the driver of a vehicle containing a large amount of contraband, exhibited extreme nervousness and gave an implausible account of his actions when questioned by Agent Slowinski. His story with respect to prior deliveries of legitimate cargo was inconsistent with information contained in his log books. Furthermore, federal agents were never able to

locate the trucking company for which Castillo claimed to work. Thus, reviewing the evidence as a whole, there was sufficient evidence to allow the jury to find guilt beyond a reasonable doubt. See Garza, 990 F.2d at 174-76.

The conviction is AFFIRMED.