

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 93-7548

(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALMA DE LEON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(CR-L-93-53)

(May 3, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Alma De Leon's contends on appeal that insufficient evidence supported her conviction of possession with intent to distribute more than 100 kilograms of marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A). "In deciding the sufficiency of the evidence, we determine whether, viewing the evidence and the inferences that may be drawn from it in the light most favorable to the verdict, a rational jury could have found the essential

* Local Rule 47.5.1 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

elements of the offense[] beyond a reasonable doubt."¹ *United States v. Pruneda-Gonzalez*, 953 F.2d 190, 193 (5th Cir.), *cert. denied*, 112 S. Ct. 2952 (1992). "A conviction for possession of drugs with intent to distribute . . . requires the government to prove that the defendants knowingly possessed contraband with the intent to distribute it." *United States v. Shabazz*, 993 F.2d 431, 441 (5th Cir. 1993). "Ownership, dominion, or control over the contraband, or over the vehicle in which it was concealed, constitutes constructive possession." *Id.* "Knowledge of the presence of a controlled substance often may be inferred from the exercise of control over a vehicle in which the illegal substance is concealed." *United States v. Diaz-Carreon*, 915 F.2d 951, 954-55 (5th Cir. 1990). Where the contraband is hidden such that it is not clearly visible or readily accessible to the defendant, however, we have required additional evidence indicating knowledge. *See id.* The "[i]ntent to distribute a controlled substance may generally be inferred solely from possession of a large amount of the substance." *United States v. Prieto-Tejas*, 779 F.2d 1098, 1101 (5th Cir. 1986).

The evidence showed that De Leon was driving the car and had purchased insurance for it; that De Leon possessed the key to the trunk of the car and was able to open the trunk upon request; that De Leon made inconsistent statements to a customs agent;² and that

¹ De Leon properly preserved her sufficiency claim by moving for a judgment of acquittal at trial.

² According to the testimony of the customs agent who detained De Leon, she first stated that she was going to San

over 100 kilograms of marijuana were plainly visible inside the trunk of the car. From this evidence, a rational jury could have inferred that De Leon constructively possessed the car; that De Leon knowingly possessed the marijuana, which was found in a visible and accessible area of the car; that De Leon's inconsistent statements further demonstrated her guilty knowledge;³ and that based on the large quantity of marijuana found, that De Leon intended to distribute the marijuana. We therefore conclude that sufficient evidence supported her conviction.

Accordingly, we AFFIRM the judgment of the district court.

Antonio for knee surgery. See Record on Appeal vol. 2, at 17. De Leon later changed her story, stating that she was going to San Antonio so that she could "party" with her boyfriend. See *id.* at 40.

³ See *Diaz-Carreon*, 915 F.2d at 954-55 ("Perhaps the strongest evidence of a criminal defendant's guilty knowledge is inconsistent statements to [law enforcement] officials.").