

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60479
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TERRY PEREZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(M 93 CR 014 4)

August 7, 1995

Before JOLLY, JONES and STEWART, Circuit Judges.

PER CURIAM:*

Appellant Terry Perez was convicted of conspiracy with intent to possess marijuana with intent to distribute and was sentenced, inter alia, to 51 months imprisonment. He appeals, contending that the evidence was insufficient to support the verdict. We disagree and affirm.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Shorn of unnecessary factual details, the evidence showed that Perez agreed with Cruz, a government informant, to supply 500 pounds of marijuana at \$375 per pound, in the waning days of 1992. Perez directed Sanchez, from whom he had previously obtained the weed, to find the supplier known as "La Perra" and obtain the 500 pounds from him. Perez told Sanchez that he could tell Bocanegro, an associate, anything he had to tell Perez, and it would have the same effect. Perez had told Sanchez that Bocanegro would be in charge of the operation while Perez was busy getting a bank loan.

Thereafter, Bocanegro and Sanchez did all they could to obtain the 500 pounds to sell Cruz. Perez showed that he remained in control of the operation by telling Sanchez in a threatening manner that he must participate. Neither Perez nor Bocanegro ever suggested to Sanchez that they were not willing and able to deal with Cruz and his associates.

It is not enough to complain, as appellant does, that Sanchez testified that he was unwilling to participate and had no intention to participate in the transaction. After making this decision, Sanchez relented and continued to pursue La Perra as a source of supply. It is also not enough to assert that the testimony of informant Cruz and co-conspirator Sanchez who testified for the government was incredible or irreconcilable. The witnesses' credibility, as well as the ultimate question whether there existed a conspiracy in which Perez knowingly participated, were matters for the jury to resolve. On the record before us, there was sufficient evidence to convict.

AFFIRMED.