

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40298
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GABRIEL RESENDEZ-GARCIA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
(USDC No. M-94-CR-157-9)
- - - - -

February 9, 1996

Before WIENER, PARKER and DENNIS, Circuit Judges.

PER CURIAM:*

Appellant appeals his jury conviction for conspiracy to possess marijuana with intent to distribute and aiding and abetting possession with intent to distribute, complaining of insufficiency of the evidence, material variance between the evidence and the indictment, and prosecutorial misconduct. Our review of the record and the arguments and authorities convince us that no reversible error was committed. The evidence was not insufficient. See United States v. Ivey, 949 F.2d 759, 766 (5th Cir. 1991), cert.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

denied, 113 S. Ct. 64 (1992). There was no material variance between the evidence and the indictment. See United States v. Faulkner, 17 F.3d 745, 762 (5th Cir.), cert. denied, 115 S. Ct. 193 (1994). The prosecutor's questioning and statements did not rise to the level of plain error. See United States v. Brown, 887 F.2d 537, 542 (5th Cir. 1989).

AFFIRMED.