

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-41322
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ANDRES RODRIGUEZ-PENA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-97-CR-154-1
- - - - -

January 15, 1999

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

PER CURIAM:*

Jose Andres Rodriguez-Pena appeals his convictions for conspiracy to possess with intent to distribute cocaine, conspiracy to import cocaine into the United States, and aiding and abetting these two offenses. He asserts that the evidence was insufficient to establish his knowing participation in these crimes. The evidence was sufficient to prove beyond a reasonable doubt that Rodriguez-Pena knowingly conspired both to import cocaine and to possess the same with the intent to distribute. See United States v. Ortega Reyna, 148 F.3d 540, 544 (5th Cir.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

1998); United States v. Martinez-Moncivais, 14 F.3d 1030, 1034-35 (5th Cir. 1994). Similarly, the evidence was sufficient to establish that Rodriguez-Pena had aided and abetted these two offenses. See United States v. Pedroza, 78 F.3d 179, 184 (5th Cir. 1996); United States v. Casilla, 20 F.3d 600, 603 (5th Cir. 1994).

At the port of entry Rodriguez-Pena made contradictory and implausible statements about his operation of the cocaine-laden trailer. He appeared to be nervous. There was over \$10 million worth of cocaine in the trailer. The evidence linked him to others in the venture although he initially refused to name anyone. The evidence supported the convictions.

AFFIRMED