

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 99-40979
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICKEY EUGENE MILLER,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 2:97-CR-11-7

April 10, 2000

Before POLITZ, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Rickey Eugene Miller appeals his conviction for conspiracy to distribute crack cocaine, contending that the evidence was insufficient to support his conviction, that the district court erred by denying his motion for a new trial based on an alleged violation of **Brady v. Maryland**,² and that the court erred by denying his requested jury instruction.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

²373 U.S. 83 (1963).

Our review of the briefs of the parties and the record before the court persuades that no reversible error was committed at trial. Even discounting the evidence establishing that Miller conspired with Donna Porter during the controlled buy, the evidence introduced was sufficient to establish that Miller conspired with other persons not named in the indictment. Therefore, Miller's challenge to the sufficiency of the evidence and the denial of his motion for a new trial both fail.³ Miller's contention that the court erred by declining to give a buyer-seller jury instruction fails because the instruction requested was not supported by the required evidentiary foundation.⁴

The judgment appealed is AFFIRMED.

³**United States v. Villasenor**, 894 F.2d 1422 (5th Cir. 1990); **United States v. Kates**, 174 F.3d 580 (5th Cir. 1999).

⁴**United States v. Correa-Ventura**, 6 F.3d 1070 (5th Cir. 1993).