

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60744
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARMAND DWIGHT WILLIAMS, also known as Armoand Dwight
Williams, also known as Manuel Dwight Williams,

Defendant-Appellant.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 4:99-CR-2-1-WS
- - - - -

November 10, 2000

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Armand Dwight Williams appeals his conviction of sexual abuse, in violation of 18 U.S.C. § 2242(2)(A). Williams, a member of the Choctaw Indian tribe, had been accused of engaging in sexual intercourse with an adult Choctaw female, whom he knew at the time to be "incapable of appraising the nature of the conduct."

Williams contends that the evidence was insufficient to support his conviction, in that the conviction depended on the victim's testimony that she had been asleep throughout Williams'

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

actions of taking off her shorts and initiating sexual intercourse with her. Because Williams failed to move for a judgment of acquittal at the close of the evidence, this court reviews the sufficiency of the evidence only for plain error, meaning that the conviction will be reversed only to avoid a "manifest miscarriage of justice." See United States v. Parker, 133 F.3d 322, 328 (5th Cir.), cert. denied, 523 U.S. 1142 (1998). Because the evidence was sufficient to authorize the jury to determine that the victim testified truthfully when she maintained that she had been sleeping when she awoke to realize that Williams was sexually penetrating her, no manifest miscarriage of justice is apparent.

The conviction and sentence are AFFIRMED.