

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-51090  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DARLA KAY COCHRAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-00-CR-1672-ALL-EP  
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August 2, 2002

Before JONES, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Darla Kay Cochran appeals from her conviction of importing marijuana and possessing with intent to distribute marijuana. She contends that the prosecutor's remark during closing arguments that jurors were the "they" in the question "'why don't they do something about drug smuggling in our community?'" deprived her of a fair trial and violated the Due Process Clause. Cochran's contention is unconvincing. Even if it is assumed that the prosecutor's remark went beyond an appropriate appeal to act as

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the conscience of the community, the remark was not inflammatory; the jury's actions during deliberations indicated that it was focused on the evidence in the case; the district court instructed the jury that it must consider only the evidence and the remarks of counsel were not evidence; and the evidence against Cochran was strong. *United States v. Lankford*, 196 F.3d 563, 574 (5th Cir. 1999), *cert. denied*, 529 U.S. 1119 (2000).

**AFFIRMED.**