

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 11, 2008

No. 07-50949
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

GONZALO VIDAURRI

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:05-CR-680-3

Before REAVLEY, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Gonzalo Vidaurri has appealed his jury conviction of conspiracy to possess with intent to distribute cocaine, possession with intent to distribute cocaine, and aiding and abetting. Vidaurri contends that the evidence was insufficient to prove his guilt beyond a reasonable doubt. Vidaurri complains that he was convicted on the basis of circumstantial evidence only and that the Government did not prove that he knew of the cocaine distribution venture.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Vidaurri did not move the district court for a judgment of acquittal. Accordingly, his “challenge to evidence sufficiency is reviewed only for a manifest miscarriage of justice—the record must be devoid of evidence of guilt or the evidence must be so tenuous that a conviction is shocking.” *United States v. Avants*, 367 F.3d 433, 449 (5th Cir. 2004). Vidaurri’s post-arrest statements and the circumstances surrounding his arrest provide proof of his guilty knowledge and his participation in the conspiracy. See *United States v. Maltos*, 985 F.2d 743, 746 (5th Cir. 1992). The conviction is

AFFIRMED.