

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-50959  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CLAY OWEN BERGMAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-97-CR-281-ALL-EP  
- - - - -

August 25, 1999

Before JONES, BARKSDALE, and DENNIS, Circuit Judges.

PER CURIAM:\*

Clay Owen Bergman appeals from his conviction and resultant sentence for the manufacture of marijuana. He argues that the evidence was insufficient to support his conviction for manufacturing in excess of 100 marijuana plants, that the district court erred in the amount of drugs it attributed to him for sentencing purposes, and that the court's Allen charge was deficient. We have reviewed the record and find no reversible

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

error. Drug quantities are not an element of a § 841(a) offense;

drug quantities are relevant only at sentencing. See United States v. Watch, 7 F.3d 422, 426-27 (5th Cir. 1993). The evidence was sufficient to support Bergman's conviction for manufacturing marijuana. See United States v. Martinez, 975 F.2d 159, 160-61 (5th Cir. 1992). Further, the district court's determination that Bergman should be held responsible for 510 marijuana plants was not clearly erroneous. See United States v. Maseratti, 1 F.3d 330, 340 (5th Cir. 1993). Finally, the court's Allen charge was not deficient. See United States v. Winters, 105 F.3d 200, 203-04 (5th Cir. (1997). Accordingly, the judgment of the district court is AFFIRMED.

AFFIRMED.