

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4425

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RODNEY MORRIS JONES,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (1:05-cr-00506-JCC)

Submitted: October 20, 2006

Decided: November 28, 2006

Before NIEMEYER, KING, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Charles J. Swedish, SLOAN & SWEDISH, Vienna, Virginia, for Appellant. Chuck Rosenberg, United States Attorney, Dennis M. Fitzpatrick, Special Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

A jury convicted Rodney Morris Jones of possession with intent to distribute and conspiracy to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), 846 (2000). The district court sentenced Jones to concurrent 262-month sentences. Jones appealed, and challenges only his conspiracy conviction, alleging the evidence was insufficient to support it. Jones contends the Government failed to establish he agreed to participate in a crack cocaine distribution conspiracy from March 8, 2005 to April 29, 2005, as alleged in the indictment.

"[A]n appellate court's reversal of a conviction on grounds of insufficient evidence should be confined to cases where the prosecution's failure is clear." United States v. Jones, 735 F.2d 785, 791 (4th Cir. 1984). A jury's verdict must be upheld on appeal if there is substantial evidence in the record to support it. Glasser v. United States, 315 U.S. 60, 80 (1942). In determining whether the evidence in the record is substantial, we view the evidence in the light most favorable to the Government, and inquire whether there is evidence that a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of the defendant's guilt beyond a reasonable doubt. United States v. Burgos, 94 F.3d 849, 862 (4th Cir. 1996) (en banc). We do not review the credibility of the witnesses and assume that the jury resolved all contradictions in the testimony

in favor of the Government. United States v. Romer, 148 F.3d 359, 364 (4th Cir. 1998).

"To prove a conspiracy under 21 U.S.C. § 846, the government must prove (1) an agreement between two or more persons to engage in conduct that violates a federal drug law, (2) the defendant's knowledge of the conspiracy, and (3) the defendant's knowing and voluntary participation in the conspiracy." United States v. Strickland, 245 F.3d 368, 385 (4th Cir. 2001). After reviewing the evidence adduced at trial, we conclude that when the evidence is construed in the light most favorable to the Government, it is sufficient to support the jury's verdict. Accordingly, we affirm Jones' conspiracy conviction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED