

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4748

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES ALLEN FERGUS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (CR-04-243)

Submitted: January 23, 2006

Decided: March 6, 2006

Before LUTTIG, WILLIAMS, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert B. Rigney, PROTOGYROU & RIGNEY, P.L.C., Norfolk, Virginia, for Appellant. Paul J. McNulty, United States Attorney, Vince Gambale, Sherrie S. Capotosto, Assistant United States Attorneys, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James Allen Fergus appeals his conviction by a jury of conspiracy to distribute and possess with intent to distribute less than five grams of crack cocaine, in violation of 21 U.S.C. § 846 (2000). He contends that the district court erred by denying his motion for judgment of acquittal pursuant to Fed. R. Crim. P. 29. We affirm.

Fergus contends that the evidence did not support his conspiracy conviction. We review de novo the district court's denial of a Rule 29 motion. United States v. Alerre, 430 F.3d 681, 693 (4th Cir. 2005). Where, as here, the motion was based on a claim of insufficient evidence, "[t]he verdict of a jury must be sustained if there is substantial evidence, taking the view most favorable to the Government, to support it." Glasser v. United States, 315 U.S. 60, 80 (1942). We have reviewed the trial testimony in the joint appendix and are convinced that the evidence was sufficient to convict Fergus. See United States v. Strickland, 245 F.3d 368, 384-85 (4th Cir. 2001) (discussing elements of offense); United States v. Cardwell, ___ F.3d ___, ___, 2005 WL 3557390, at *8 (4th Cir. Dec. 30, 2005) ("It is no defense to a conspiracy charge that one's role in the conspiracy is minor.").

Accordingly, we affirm Fergus' 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