

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 18, 2008

No. 08-50205
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

LUIS MIGUEL MACIAS

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:07-CR-1666-ALL

Before REAVLEY, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Luis Miguel Macias appeals his conviction for assaulting a federal officer on account of the performance of his official duties in violation of 18 U.S.C. § 111. Macias does not dispute that he was the driver of a car that caused U.S. Customs and Border Protection Officer Ronald Kraft to lose control of his motorcycle or that Officer Kraft was injured in the resulting crash. Macias argues, however, that the evidence shows only that both men were negligent and that there is no evidence that Macias acted intentionally. Macias further argues

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that the evidence fails to show that he assaulted Officer Kraft on account of the performance of his official duties because there is no evidence that Macias was aware that Kraft was one of several Customs and Border Protection officers who searched Macias's vehicle earlier that night.

Our review of the evidence shows that a rational jury could have concluded that Macias intentionally assaulted Officer Kraft and that the assault occurred on account of the victim's performance of his official duties. See *United States v. Pruneda-Gonzalez*, 953 F.2d 190, 193 (5th Cir. 1992).

AFFIRMED.