

UNITED STATES COURT OF APPEALS

Filed 2/22/96

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,)	
)	
Plaintiff-Appellee,)	
)	No. 95-4133
v.)	(D.C. No. CIV-94-191)
)	(D. Utah)
LUIS GALVEZ-VALDOVINOS,)	
)	
Defendant-Appellant.)	

ORDER AND JUDGMENT¹

Before PORFILIO, MCKAY, and KELLY, Circuit Judges.

Because neither party has requested oral argument, we will consider this case on the briefs. The facts are well known to both sides and will not be set forth here in detail.

¹ This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

The defendant, Luis Galvez-Valdovinos, was convicted of the possession of methamphetamine with intent to distribute. The illegal substance was found by investigating officers hidden in a vehicle defendant was driving in the state of Utah. The only argument raised on appeal is one which defendant denominates as a challenge of the sufficiency of the evidence.

More particularly, however, the argument defendant presents is the jury should have believed his testimony rather than that of the government's witnesses. Although defendant had made statements to the investigating officers during the investigation, he contradicted those statements at trial. Accordingly, he argues: "His testimony concerning the circumstances surrounding his arrest and his explanations for his being present at a location where controlled substances were found should have created reasonable doubt in the minds of the jurors." This argument is fanciful.

On appeal, we do not judge the credibility of witnesses or the weight of their testimony. *United States v. Muldrow*, 19 F.3d 1332, 1339 (10th Cir.), *cert. denied*, 115 S. Ct. 175 (1994). While the argument advanced by defendant is appropriate before a jury, it is equally inappropriate on appeal. When a challenge to the sufficiency of the evidence is made, we judge that evidence and the inferences that can be drawn reasonably from that evidence in a light most favorable to the government to determine whether any rational fact-finder could find the defendant guilty beyond a reasonable doubt. *United States v. Pike*, 36 F.3d 1011, 1012 (10th Cir. 1994), *cert. denied*, 115 S. Ct. 1170 (1995).

Having applied that test to the record before us, we conclude there is more than ample evidence to support the verdict.

AFFIRMED.

ENTERED FOR THE COURT

JOHN C. PORFILIO
CIRCUIT JUDGE