

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 98-4867

LINDA JEAN WILLIAMS MARLOWE,

Defendant-Appellant.

NORML FOUNDATION,

Amicus Curiae.

Appeal from the United States District Court  
for the Western District of North Carolina, at Shelby.  
Lacy H. Thornburg, District Judge.  
(CR-98-87)

Submitted: March 31, 2000

Decided: April 20, 2000

Before NIEMEYER, LUTTIG, and MOTZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Brent Conner, BRENT CONNER LAW FIRM, Hendersonville,  
North Carolina, for Appellant. Mark T. Calloway, United States  
Attorney, Brian Lee Whisler, Assistant United States Attorney,  
OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North  
Carolina, for Appellee. Joseph A. Bondy, New York, New York, for  
Amicus Curiae.

Unpublished opinions are not binding precedent in this circuit.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

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## OPINION

### PER CURIAM:

Linda Jean Williams Marlowe appeals the judgment convicting her of conspiracy to possess with intent to distribute and import marijuana, possession with intent to distribute marijuana, conspiracy to import marijuana, and importing marijuana, in violation of 21 U.S.C.A. §§ 841, 846, 952, 963 (West 1999). On appeal, she argues that the district court erred by denying her motion under Fed. R. Crim. P. 17(b) for a subpoena of Dr. Eaton, her treating physician, and by denying her the opportunity to present a medical necessity defense. Her remaining claim of error is that the court erred in allowing the Government to cross-examine her regarding why she did not submit medical evidence to support her claim of allergies to prescription medication. Finding no error, we affirm.

We agree with the district court that Dr. Eaton's testimony regarding marijuana and a medical necessity defense could not go to disproving the essential elements of the offenses charged. We therefore affirm the court's orders denying Marlowe's motion under Fed. R. Crim. P. 17(b) and granting the Government's motion in limine on the reasoning of the district court. See J.A. 21-22, 41. We also find that the court did not abuse its discretion in allowing the Government to cross-examine Marlowe regarding the existence of medical records to support her testimony regarding her medical condition. See Alford v. United States, 282 U.S. 687, 694 (1931); United States v. Gravely, 840 F.2d 1156, 1163 (4th Cir. 1988).

We therefore affirm the judgment. 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