

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

August 30, 2007

Charles R. Fulbruge III  
Clerk

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No. 07-50003  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JONATHAN DAVIS

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:06-CR-63-ALL

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Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Defendant-Appellant Jonathan Davis appeals his guilty-plea conviction and sentence for possession of stolen ammunition and possession of a firearm with an obliterated or removed serial number, in violation of 18 U.S.C. § 922(j) and (k). The government has moved for summary affirmance. Alternatively, the Government seeks an extension of time to file a brief.

Davis asserts that the enactment of § 922(j) and (k) exceeded Congress's authority under the Commerce Clause because the subsections did not require

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

a significant effect on interstate commerce. He has not shown that these subsections violate the Commerce Clause. See *United States v. Luna*, 165 F.3d 316, 319-22 (5th Cir. 1999). Davis also contends that § 922(j) and (k) are unconstitutional as applied to him because his federal offenses arose from the same factual patterns as state charges for theft and unlawful appropriation. In light of his admission that the firearm and ammunition in question passed through interstate commerce, § 922(j) and (k) were constitutional as applied to him. See *id.* at 322.

Accordingly, the government's motion for summary affirmance is GRANTED, its alternative request for an extension of time is DENIED as unnecessary, and the decision of the district court is AFFIRMED.