

March 27, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 05-50725  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LARRY SEDBERRY,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:04-CR-197-1  
-----

Before HIGGINBOTHAM, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Larry Sedberry appeals from his jury-verdict conviction for being a felon in possession of a firearm. Sedberry contends that the evidence was insufficient to prove that he possessed a firearm. As Sedberry concedes he did not move for a judgment of acquittal at the end of the Government's case or at the close of all evidence.

When viewed in the light most favorable to the jury's verdict, the evidence shows that Sedberry knowingly possessed the

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

firearm. The arresting officer positively identified Sedberry as the person he observed in the gas station and also as the person he saw drop the handgun. The jury was free to accept as credible the testimony of the officer and to find Sedberry guilty of being a felon in possession of a firearm. See United States v. Lindell, 881 F.2d 1313, 1322 (5th Cir. 1989). Accordingly, Sedberry's conviction does not constitute a manifest miscarriage of justice. See United States v. Griffin, 324 F.3d 330, 356 (5th Cir. 2003).

AFFIRMED.