

November 9, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 06-20183  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANK LAFAYETTE BIRD, JR.,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:03-CR-163  
-----

Before BARKSDALE, DeMOSS, and PRADO, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Frank Lafayette Bird, Jr., raises arguments that are foreclosed by United States v. Bird, 401 F.3d 633, 634 (5th Cir.), cert. denied, 126 S. Ct. 150 (2005), which held that the Freedom of Access to Clinic Entrances Act is a valid exercise of Congress's authority under the Commerce Clause even after the Supreme Court's decision in United States v. Morrison, 529 U.S. 598 (2000), and by United States v. Matthews, 312 F.3d 652, 657 (5th Cir. 2002), which held that under the law of the case doctrine, an issue of fact or law

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

decided on appeal may not be reexamined by the appellate court on a subsequent appeal. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.