

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11092

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

STUART STUEBING,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:98-CR-36-G-1)

November 8, 1999

Before DAVIS, JONES and MAGILL, Circuit Judges¹.

PER CURIAM:**

We affirm the judgment of the district court for the following reasons: (1) the district court did not err in rejecting Stuebing's argument that the protective order was not in existence on February 14, 1998. Under Texas law, court orders are effective and binding when they are announced to the parties in open court. See Dunn v. Dunn, 439 S.W.2d 830, 832-33 (Tex. 1969).

(2) The defendant did not argue to the district court that 18 U.S.C. § 922(g)(8) is unconstitutional. The district court

¹ Circuit Judge of the Eighth Circuit, sitting by designation.

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

committed no plain error in failing to find the statute unconstitutional.

(3) The district court did not err in denying a mistrial because of remarks the prosecutor made in opening statements. The remarks related to evidence the prosecution expected and eventually did produce in open court that were relevant and probative of the defendant's receipt and possession of a firearm.

(4) We have considered Stuebing's remaining arguments and conclude that they have no merit.

The judgment of the district court is therefore AFFIRMED.

AFFIRMED.