

October 20, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-50137  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BETHANY MELLISSA MATLOCK,  
also known as Bethany Mellissa Stratford,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-03-CR-68-ALL  
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Before JOLLY, HIGGINBOTHAM, and SMITH, Circuit Judges.

PER CURIAM:\*

Bethany Mellissa Matlock appeals a jury conviction for drug trafficking and related firearms offenses. She contends that the evidence was insufficient to prove that she actively employed a firearm in relation to the drug-trafficking offense.

Contrary to Matlock's contentions, the Government was not required to prove active employment of the firearm, but only that it was possessed in furtherance of the drug-trafficking crime.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See 18 U.S.C. § 924(c)(1)(A); United States v. Ceballos-Torres, 218 F.3d 409, 413 & n.5 (5th Cir. 2000).

Because Matlock did not move for a judgment of acquittal, this court reviews the sufficiency of the evidence "only for a manifest miscarriage of justice--the record must be devoid of evidence of guilt or the evidence must be so tenuous that a conviction is shocking." United States v. Avants, 367 F.3d 433, 449 (5th Cir. 2004). The evidence showed that a loaded handgun was easily accessible in Matlock's small house where drugs and money were found and where persons were attempting to buy drugs. This evidence is sufficient to establish that Matlock possessed a firearm in furtherance of the drug-trafficking offense. See Ceballos-Torres, 218 F.3d at 414-15.

The judgment of the district court is

AFFIRMED.