

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-21003
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARVIN JAMES HOLMES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-221-1

August 23, 2001

Before KING, Chief Judge, and POLITZ and PARKER, Circuit Judges.

PER CURIAM:*

Marvin James Holmes appeals his guilty-plea conviction for being a felon in possession of a firearm possessed in and affecting interstate commerce, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). He contends that the factual basis to which he pleaded was insufficient to support the interstate commerce element of a § 922(g)(1) offense and that this court should reconsider its jurisprudence regarding the constitutionality of § 922(g)(1) in light of Jones v. United

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States, 529 U.S. 848 (2000), and United States v. Morrison, 529 U.S. 598 (2000).

"This court has repeatedly emphasized that the constitutionality of § 922(g)(1) is not open to question." See United States v. De Leon, 170 F.3d 494, 499 (5th Cir.), cert. denied, 528 U.S. 863 (1999). The cases cited by Holmes are distinguishable and do not affect this determination. Consequently, the judgment of the district court is AFFIRMED.