

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-21147  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GEORGE PATRICK CALHOON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-99-CR-111-1  
- - - - -

October 29, 2001

Before DUHÉ, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:<sup>1</sup>

George Patrick Calhoon appeals from his conviction following a jury trial for threatening with intent to impede, intimidate, and interfere with a federal official, Senator Phil Gramm, while engaging in the performance of his official duties, 18 U.S.C. § 115(a)(1)(B). We have reviewed the record, the briefs of the parties, and the applicable law, and we discern no reversible error.

Because the indictment here tracks the language of the statute, alleging all the elements of the crime, gives notice of

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<sup>1</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

the charges, and permits the defendant to raise double jeopardy, the district court did not err in denying Calhoon's motion to dismiss the indictment. See Hamling v. United States, 418 U.S. 87, 117 (1974).

Calhoon did not renew his motion for judgment of acquittal at the close of all the evidence so we review his claims of insufficiency of the evidence only for plain error. Calhoon's challenge to the sufficiency of the evidence fails under plain error review because the record is not devoid of evidence pointing to guilt nor is the evidence on a key element of the offense so tenuous that a conviction would be shocking. United States v. McCarty, 36 F.3d 1349, 1358 (5th Cir. 1994). On the contrary, the Government presented ample evidence establishing the context of Calhoon's voice mail to Senator Gramm and why it was viewed as a threat by the senator's staff. Calhoon's conviction is AFFIRMED.