

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20496
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MIROSLAV TOMAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-713-1

February 21, 2002

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Miroslav Toman appeals his conviction for possession of a firearm by a convicted felon, challenging the constitutionality of 18 U.S.C. § 922(g)(1) both on its face and as applied to him. He maintains that evidence of intrastate possession of firearms manufactured outside the state is insufficient to establish the nexus with interstate commerce needed to sustain his conviction. He contends that three Supreme Court decisions--Jones v. United States, 529 U.S. 848 (2000), United States v. Morrison, 529 U.S.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

598 (2000), and United States v. Lopez, 514 U.S. 549 (1995)--have cast doubt on § 922(g)(1)'s constitutionality. He further contends that § 922(g)(1) impermissibly "reaches beyond a discrete set of firearm possessions to include virtually all firearms possessed by felons." Toman acknowledges that his argument may be foreclosed by circuit precedent and, if so, states that he raises the issue to preserve it for possible Supreme Court review.

As Toman suspects, circuit precedent forecloses the issue. See United States v. Daugherty, 264 F.3d 513, 518 & n.12 (5th Cir. 2001). Accordingly, the district court's judgment is AFFIRMED.