

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 01-31347  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEON SCOTT,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 00-CR-125-ALL-D  
-----

July 18, 2002

Before REAVLEY, DAVIS and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Leon Scott appeals his conviction for possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1) and possession of an unregistered sawed-off shotgun in violation of 26 U.S.C. § 5861(d). He argues that the district court erred in refusing to instruct the jury concerning the affirmative defense of justification. He argues that he was justified in temporarily possessing a gun in an attempt to defend

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

himself because he believed that he faced a real and impending threat of physical bodily harm from Shedrick Williams and Terry Wilson. Scott has not shown that the district court abused its discretion in refusing to give the requested jury instruction. See United States v. Garcia Abrego, 141 F.3d 142, 153 (5th Cir. 1998). Scott did not meet his burden of proof to establish that he was entitled to the jury instruction. Scott did not show that he was under an imminent or impending threat causing apprehension of death or serious bodily injury or that there was no reasonable lawful alternative to committing the criminal act. See United States v. Posada-Rios, 158 F.3d 832, 873 (5th Cir. 1998). The record indicates that the victims were not armed with any weapons, that Scott was inside of his apartment, and that Scott could have remained inside of the apartment or called the police. Therefore, the district court did not abuse its discretion in finding that Scott was not entitled to the requested jury instruction. See id. at 873.

AFFIRMED.