

April 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-20677
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHESTER EDWARD NAGEL,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-818-ALL

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Chester Edward Nagel appeals his conviction under 18 U.S.C. §§ 922(g)(1) and 924(a)(2) for possession of a firearm by a convicted felon. He argues that his intrastate possession of a firearm that was manufactured outside the state was insufficient to establish the nexus with interstate commerce required by 18 U.S.C. § 922(g)(1). He acknowledges that his argument is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

foreclosed by Fifth Circuit precedent and states that he raises the issue to preserve it for possible Supreme Court review.

Nagel's argument has been rejected by this court in United States v. Cavazos, 288 F.3d 706, 712-13 (5th Cir.), cert. denied, 123 S. Ct. 253 (2002), and United States v. Daugherty, 264 F.3d 513, 518 & n.12 (5th Cir. 2001), cert. denied, 534 U.S. 1150 (2002). Because this circuit's precedent is still good law and one panel of this court cannot overrule another absent superceding Supreme Court or en banc authority, Nagel's argument is foreclosed. See United States v. Ruff, 984 F.2d 635, 640 (5th Cir. 1993). Accordingly, the district court's judgment is AFFIRMED.