

April 24, 2003

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 02-20714
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DEBRA ANDERSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-680-ALL

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Debra Anderson ("Anderson") appeals her conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and § 924(a)(2). Anderson argues that the district court erred in accepting her guilty plea because the factual basis was insufficient to establish the interstate commerce element of 18 U.S.C. § 922(g)(1). Anderson also contends that the enhancement provision in 18 U.S.C. § 924(e) 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

unconstitutional based on the holding in Apprendi v. New Jersey, 530 U.S. 466 (2000).

Anderson acknowledges that her arguments are foreclosed by circuit precedent. Nevertheless, Anderson seeks to preserve the issues for Supreme Court review. Because the factual basis indicated that the firearm Anderson possessed was not manufactured in Texas, Anderson's conviction was supported by the evidence. See United States v. Rawls, 85 F.3d 240, 242 (5th Cir. 1996). Anderson's contention that the enhancement provision in 18 U.S.C. § 924(e) is unconstitutional lacks merit because Apprendi did not overrule Almendarez-Torres v. United States, 523 U.S. 24 (1998). See Apprendi, 530 U.S. at 489-90; United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000). Consequently, Anderson's conviction and sentence are AFFIRMED.