

April 23, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-21031
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LAMARCUS BAILEY,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-02-CR-145-1
- - - - -

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Lamarcus Bailey appeals his guilty-plea conviction of possession of a firearm by a convicted felon, a violation of 18 U.S.C. § 922(g).

Bailey argues that the factual basis offered in support of his guilty plea was insufficient to support the interstate-commerce element of his offense, because it showed nothing more than his gun traveled across state lines at some point in the past. He concedes that this argument is foreclosed by circuit

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

precedent. See United States v. Daugherty, 264 F.3d 513, 518 & n.12 (5th Cir. 2001), cert. denied, 534 U.S. 1150 (2002). He raises the issue to preserve it for Supreme Court review. The judgment of the district court is AFFIRMED.

The Government has moved for a summary affirmance in lieu of filing an appellee's brief. In its motion, the Government asks that an appellee's brief not be required. The motion is GRANTED.

AFFIRMED; MOTION GRANTED.