

April 24, 2003

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 02-21042
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE LOUIS VELASQUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-271-1

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Jose Louis Velasquez entered a guilty plea to a charge of possession of a firearm by a felon and was sentenced to fifty-six months' imprisonment and three years' supervised release. Velasquez argues that 18 U.S.C. § 922(g)(1) is an unconstitutional exercise of Congress's power under the Commerce Clause because the regulated activity does not substantially

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

affect interstate commerce. Alternatively, he argues that the indictment and the factual basis for his plea were defective.

Velasquez raises his arguments solely to preserve them for possible Supreme Court review. As he acknowledges, his arguments are foreclosed by existing Fifth Circuit precedent. United States v. Daugherty, 264 F.3d 513, 518 (5th Cir. 2001), cert. denied, 534 U.S. 1150 (2002); United States v. Gresham, 118 F.3d 258, 264-65 (5th Cir. 1997); United States v. Fitzhugh, 984 F.2d 143, 145-46 (5th Cir. 1993). Accordingly, the judgment of the district court is AFFIRMED.

AFFIRMED.