

May 28, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 02-51094
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODNEY JOE NICHOLS, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-01-CR-471-1

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

PER CURIAM:*

Rodney Joe Nichols, Jr., pleaded guilty to one charge of possession of psuedoephedrine with intent to manufacture methamphetamine, and aiding and abetting same, and one charge of possession of a firearm during the commission of a drug trafficking crime. The district court sentenced him to a total of 123 months in prison and three years of supervised release.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Nichols argues for the first time on appeal that the Government failed to carry its evidentiary burden of proving that he possessed a weapon in connection with his drug offense. Nichols thus contends that the district court should not have sentenced him on the firearms charge because there was insufficient evidence to support this charge.

This argument is unavailing. A voluntary guilty plea waives all non-jurisdictional defects in a case and thus precludes consideration of a claim as to the insufficiency of the evidence. United States v. Hanyard, 762 F.2d 1226, 1229-30 (5th Cir. 1985). Nichols does not argue that his guilty plea was involuntary. See blue brief, passim. Accordingly, his claim that the evidence was insufficient to support his firearms conviction has been waived, and we will not consider it. The judgment of the district court is AFFIRMED.