

FILED

August 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11176
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PAUL WAYNE HOLT,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:01-CR-340-ALL-L

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

Paul Wayne Holt appeals following his guilty plea to using, carrying, and possessing a firearm during and in relation to a drug trafficking offense, in violation of 18 U.S.C. § 924(c)(1)(A) & (B), and to unlawful possession of a weapon by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). The Government argues that we lack appellate jurisdiction because Holt's notice of appeal failed to designate the final judgment as the order being appealed. We conclude that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

we have appellate jurisdiction. See United States v. Knowles, 29 F.3d 947, 949-50 (5th Cir. 1994).

Holt argues that the factual basis for his guilty plea was insufficient to support the interstate commerce element of the felon-in-possession offense because the parties stipulated only that the firearms had previously been shipped and transported in interstate commerce at some unspecified date. He acknowledges that his argument is foreclosed by Fifth Circuit precedent and states that he raises the claim to preserve it for possible Supreme Court review. Holt's claim is foreclosed by circuit precedent. See United States v. Cavazos, 288 F.3d 706, 712-13 (5th Cir.), cert. denied, 537 U.S. 910 (2002); United States v. Daugherty, 264 F.3d 513, 518 & n.12 (5th Cir. 2001).

Accordingly, the district court's judgment is AFFIRMED.