

April 20, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50593
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PATRICK DEBOUSE,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:03-CR-163-ALL

Before JONES, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Patrick Debose appeals his conviction following a jury trial for being a felon in possession of a firearm. Debose argues that the district court should have instructed the jury on transitory possession. Debose argues that the jury instruction he requested is supported by United States v. Panter, 688 F.2d 268, 269 (5th Cir. 1982).

Panter is inapposite, however, because Debose did not possess a firearm in self-defense. See id. at 272. Because the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

instruction Debose requested incorrectly stated the law and was without foundation in the evidence, the district court did not abuse its discretion when it declined to use it. See United States v. Tannehill, 49 F.3d 1049, 1057-58 (5th Cir. 1995); Panter, 688 F.2d at 269.

AFFIRMED.