

October 25, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-20690  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CRUZ JOEL GARCIA, JR.,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:05-CR-88-ALL  
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Before JOLLY, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Cruz Joel Garcia, Jr., appeals his guilty-plea conviction for possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1).

Garcia contends that § 922(g)(1) is unconstitutional on its face because it does not require a substantial effect on interstate or foreign commerce. Alternatively, he contends that the factual basis for his plea was insufficient because the mere movement of a firearm from one state or country to another at some undetermined time in the past does not constitute a

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

substantial effect on interstate or foreign commerce. Garcia raises these arguments solely to preserve them for possible Supreme Court review. As he acknowledges, they are foreclosed by existing Fifth Circuit precedent. See United States v. Guidry, 406 F.3d 314, 318-19 (5th Cir.), cert. denied, 126 S. Ct. 190 (2005); United States v. Daugherty, 264 F.3d 513, 518 (5th Cir. 2001).

AFFIRMED.