

February 14, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-20380  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DON WHITEHEAD,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:05-CR-380-ALL  
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Before BARKSDALE, GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Don Whitehead appeals his guilty-plea conviction for possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1). Whitehead 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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

does not constitute a substantial effect on interstate or foreign commerce.

Whitehead 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.