

July 16, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-51102
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARCO BUNDOC, JR.

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:06-CR-68-ALL

Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges.

PER CURIAM:*

Marco Bundoc, Jr., appeals the 120 month sentence imposed following his guilty plea conviction for possession of a firearm by a convicted felon. He argues that the district court erred in applying the U.S.S.G. § 2K2.1(b)(5) enhancement for possession of a firearm in connection with another felony offense. Bundoc contends that the Government failed to show a nexus between the possession of the firearm and the drug crimes. He also argues that the firearm could not have been used to facilitate the drug

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

crimes because it was unloaded and no ammunition was found in the residence.

Contrary to Bundoc's argument, the Government need not establish the nexus he asserts between the firearm and the drug offenses. See United States v. Condren, 18 F.3d 1190, 1199 (5th Cir. 1994).

Bundoc's argument that the evidence did not establish that the firearm could not have been used to facilitate the crimes is without merit. Although Bundoc's firearm was not loaded, its presence in proximity to the drugs shows that it could have been used as a theft deterrent and thus used to facilitate the crime. See United States v. Armstead, 114 F.3d 504, 511 (5th Cir. 1997).

Accordingly, the judgment of the district court is AFFIRMED.