

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

March 4, 2008

Charles R. Fulbruge III
Clerk

No. 07-40514
c/w 07-40515
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

VERMON KELLEY

Defendant-Appellant

Appeals from the United States District Court
for the Southern District of Texas
USDC Nos. 2:92-CR-140-1
USDC Nos. 2:06:cr-00782-1

Before JOLLY, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Vernon Kelley appeals his conviction and sentence for possession of a firearm by a felon and possession of six grams of cocaine base. Kelley also appeals the district court's revocation of his supervised release that had been imposed in connection with a prior conviction. Kelley argues that the district court erred in denying his motion to suppress a post-arrest statement that he

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

made to law enforcement officials regarding his possession of firearms because he was not Mirandized before he made the statement. See *Miranda v. Arizona*, 384 U.S. 436 (1966).

After Kelley was handcuffed and arrested and before he was Mirandized, Kelley told a police officer where firearms could be located in his residence in response to the officer's question. Because the officer's question was based on his concern about the safety of the officers on the scene and before the officers had completed a protective sweep of the residence, the district court did not err in denying Kelley's motion to suppress. See *New York v. Quarles*, 467 U.S. 649, 653 (1984); *Fleming v. Collins*, 954 F.2d 1109, 112-14 (5th Cir. 1992) (en banc). Accordingly, the judgment of the district court is AFFIRMED.