

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-5077
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LLEWELLYN LEON YOUNG,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:92cr9 (01)

- - - - -
June 22, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

Llewellyn Leon Young pleaded guilty in federal court to one count of possession of a firearm within 1000 feet of a school, and was sentenced to 42 months imprisonment, one year supervised release, and a \$25 special assessment. He was convicted of aggravated robbery in state court and sentenced to ten years imprisonment, suspended for ten years probation. Both convictions arose out of the same offense.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Young argues that his federal conviction and sentence were barred by the Double Jeopardy Clause. A double jeopardy claim cannot be raised when an individual is prosecuted for the same act that violates the laws of dual sovereigns. United States v. Moore, 958 F.2d 646, 650 (5th Cir. 1992). Young violated the laws of two sovereigns, the state of Texas and the federal government, and therefore cannot raise a double jeopardy claim.

Young argues, however, that his federal prosecution is barred by Grady v. Corbin, 495 U.S. 508, 110 S.Ct. 2084, 109 L.Ed.2d 548 (1990). Under Grady, a subsequent prosecution is barred if the Government, to establish an essential element of the second offense, will prove conduct that constitutes an offense for which the defendant has already been prosecuted. Grady, 495 U.S. at 521-22. Grady, however, does not apply to the dual sovereign doctrine. United States v. Cooper, 949 F.2d 737, 750-51 (5th Cir. 1991), cert. denied, 112 S.Ct. 2945 (1992).

AFFIRMED.