

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-8388  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL LARA SALAS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-91-CR-157  
- - - - -

March 18, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

The district court was not clearly erroneous in determining that there was a sufficient factual basis to support the Salas's plea. Fed. R. Crim. P. 11(f); see United States v. Tuangmaneeratmun, 925 F.2d 797, 801 (5th Cir. 1991). To support a conviction for carrying a firearm in relation to a narcotics trafficking offense, the evidence must "show that the firearm was available to provide protection to the defendant in connection with his engagement in drug trafficking; a showing that the

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

weapon was used, handled or brandished in an affirmative manner is not required." United States v. Molinar Apodaca, 889 F.2d 1417, 1424 (5th Cir. 1989). It is enough to show that the weapon facilitated, or could have facilitated, the drug trafficking offense. United States v. Capote-Capote, 946 F.2d 1100, 1104 (5th Cir. 1991), cert. denied, 112 S.Ct. 2278 (1992). The presence of loaded firearms where the drugs are sold and cash is kept is sufficient to establish the use of a firearm as a part of a drug trafficking crime. United States v. Caldwell, No. 92-4813, 1993 WL 47600, at \*2 (5th Cir. Feb. 25, 1993).

The search of Salas's residence produced the drugs, \$5,345 in cash, and five firearms, one of which was the .22 caliber revolver in question. The .22 caliber revolver and another weapon were found on a dresser next to numerous syringes and two scales. The district court asked Salas if he possessed the cocaine with the intent to distribute it and if he had the pistol at the time. Salas responded affirmatively to both questions. At no time during the plea colloquy did Salas assert that he did not use the firearm in connection with his cocaine trafficking.

Count two of Salas's indictment (the gun count) was constitutionally sufficient. In United States v. Wilson, 884 F.2d 174, 177-81 (5th Cir. 1989), the Court determined that an indictment worded in substantially the same manner as Salas's indictment "sufficiently set out the essential elements of the offense."

AFFIRMED.