

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 93-1571

(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARCELLUS RENARD WHITE,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(5:93-CR-021-C)

(January 25, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Defendant Marcellus Renard White pled guilty to possessing a firearm in a school zone, in violation of 18 U.S.C. § 922(q). In *United States v. Lopez*, 2 F.3d 1342, 1368 (5th Cir. 1993), we held § 922(q) to be unconstitutional when the indictment at issue fails to allege a connection to interstate commerce. Here, the indictment brought against White did not allege any connection to

* Local Rule 47.5.1 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

interstate commerce. "In this circuit, one panel may not overrule the decision))right or wrong))of a prior panel, absent en banc reconsideration or a superseding decision of the Supreme Court." *In re Dyke*, 943 F.2d 1435, 1442 (5th Cir. 1991). Accordingly, we reverse the judgment of conviction and remand the cause with directions to dismiss the indictment.