

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7368
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOEL CASTILLO, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR-B-93-008-01
- - - - -
(March 22, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Joel Castillo, Jr., argues that his guilty plea is invalid because he did not violate 18 U.S.C. § 922(b)(5). He contends that, although the undercover agent to whom Castillo sold the firearms gave Castillo misleading information, Castillo properly sold the firearms to him because the agent was qualified to purchase a firearm and was a resident of the same state as Castillo.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

"A plea of guilty admits all the elements of a formal criminal charge and waives all non-jurisdictional defects in the proceedings leading to conviction." United States v. Smallwood, 920 F.2d 1231, 1240 (5th Cir.), cert. denied, 111 S.Ct. 2870 (1991). Section 922(b)(5) forbids sellers of firearms to proceed with a sale when they know the purchaser is providing incomplete or false information. United States v. Newman, 628 F.2d 362, 367 (5th Cir. 1980). Section 922(b)(5) does not require the seller and purchaser to be residents of the same state. See United States v. Plyman, 551 F.2d 965, 966-67 (5th Cir. 1977) (Section 922(b)(5) does not speak in terms of sales to those the seller knows or believes to live in another state, but 18 U.S.C. § 922(b)(3) does). Castillo's guilty plea did not admit to an invalid element of § 922(b)(5).

Castillo may be implying that his guilty plea was unknowing and involuntary because he believed he was pleading guilty to a lawful transaction. However, this Court cannot consider this possibility because Castillo has not provided a transcript of the guilty plea for the appellate record.

An appellant has the burden of including in the record on appeal transcripts of all proceedings relevant to the issues on appeal. Fed. R. App. P. 10(b). This Court will not consider an issue about which the record on appeal is insufficient. United States v. Hinojosa, 958 F.2d 624, 632-33 (5th Cir. 1992).

Castillo's conviction and sentence are AFFIRMED.