

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40458
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTHONY A. WHITEHURST,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:94-CR-96-1
- - - - -
February 5, 1996

Before JOLLY, JONES and STEWART, Circuit Judges.

PER CURIAM:*

Anthony A. Whitehurst appeals his conviction for possession of a firearm by a convicted felon and possession with intent to distribute cocaine. Whitehurst argues that 1) his indictment is unconstitutional because it charged that he committed offenses which were beyond Congress' power to regulate; 2) the district abused its discretion in failing to conduct a pretrial hearing on

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

his motion to suppress; 3) the district court abused its discretion in denying his motion to sever count one of the indictment from counts two and four of the indictment; 4) a police officer tampered with a witness in violation of 18 U.S.C. § 1512; 5) the district court erred in refusing to declare a mistrial because several jurors read a prejudicial newspaper article during the trial; 6) the district court abused its discretion in allowing the Government to introduce certain testimony in rebuttal; 7) the district court erred in denying his motion for a judgment of acquittal as to count one of the indictment; and 8) his trial counsel was ineffective.

We have reviewed the record and find no reversible error on the first seven claims made by Whitehurst. This court declines, however, to rule on his allegations of ineffective assistance of counsel, leaving those to development of a record on habeas corpus. United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988).

AFFIRMED.