

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10791
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESSE CAROL WOOD, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:97-CR-2-C
- - - - -

June 4, 1998

Before JOLLY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:*

Jesse Carol Wood, Jr., appeals his judgment of conviction for possession of a firearm by a felon. Wood has filed a suggestion for initial hearing en banc, which is DENIED. Wood argues that 18 U.S.C. § 922(g)(1) is unconstitutional on its face because it does not require a substantial effect on interstate commerce; that the indictment in this case is fatally defective because of its failure to allege a substantial effect on interstate commerce; and that there is an insufficient factual

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

basis for conviction under the statute because the mere movement of a firearm from one state to another, at some undetermined time in the past, does not constitute a substantial effect on interstate commerce. This argument lacks merit. See United States v. Rawls, 85 F.3d 240, 242 (5th Cir. 1996).

He also argues that the evidence is insufficient because the Government failed to prove that the weapon ever traveled in interstate commerce. Viewing the evidence in the light most favorable to the Government, a rational trier of fact could have found beyond a reasonable doubt that the firearm was a Remington manufactured in New York. United States v. Gresham, 118 F.3d 258, 265 (5th Cir. 1997), cert. denied, 118 S. Ct. 702 (1998).

AFFIRMED; SUGGESTION FOR HEARING EN BANC DENIED.