

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10355
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DEPRIMETHON ANDRE BICKENS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:97-CR-138-1-A

February 16, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Deprimethon Andre Bickens appeals his jury conviction for being a felon in possession of a firearm. He argues that the district court abused its discretion when it denied his motion for a mistrial. Bickens' motion for a mistrial was based upon his bizarre behavior throughout his trial, during which Bickens kept his head down on the table, refused to acknowledge the judge or jury, and acted disoriented.

We review the trial court's refusal to grant a mistrial for abuse of discretion, and the trial court's decision is afforded

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the highest degree of respect. See United States v. Ramirez, 963 F.2d 693, 699 (5th Cir. 1992); United States v. Bauman, 887 F.2d 546, 549-50 (5th Cir. 1989). The trial court specifically instructed the jury that it should not consider Bickens' behavior when determining his guilt or innocence. The jury is presumed to have followed these instructions. See United States v. Willis, 6 F.3d 257, 263 (5th Cir. 1993). Bickens has not shown that the trial court's determination that Bickens was simply putting on an act was erroneous, nor has he demonstrated that his behavior had a substantial impact on the jury. See Ramirez, 963 F.2d at 699. Bickens has not shown that the trial court abused its discretion.

AFFIRMED.