

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 09-12408  
\_\_\_\_\_

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MAR 30, 2010 JOHN LEY CLERK
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D. C. Docket No. 08-60264-CR-JIC

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SCOTT A. THOMPSON,

Defendant-Appellant.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Florida  
\_\_\_\_\_

(March 30, 2010)

Before CARNES, ANDERSON and STAHL,\* Circuit Judges.

PER CURIAM:

\_\_\_\_\_  
\* Honorable Norman H. Stahl, United States Circuit Judge for the First Circuit, sitting by designation.

Having considered the briefs and heard oral argument in this appeal, we readily conclude that the conviction and sentence are due to be affirmed. The record on appeal that is before us does not disclose that the evidence Appellant Thompson contends should have been suppressed was actually admitted against him at the trial. The burden is on the appellant to put before this Court a sufficient record to establish the predicate for his contentions on appeal, and Thompson has not done that.

We add one more point about the text messages that Thompson contends were belatedly obtained from the LG cell phone. Even if we were to go beyond the record and assume that those text messages were admitted at trial, and further assume that the parties' representations about the other evidence admitted at trial are true, it is clear that any error in admitting the LG cell phone text messages was harmless beyond a reasonable doubt.

**AFFIRMED.**