

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-5186

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MELVIN WARREN JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (CR-05-156)

Submitted: August 25, 2006

Decided: September 13, 2006

Before WILKINSON, NIEMEYER, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Devon L. Donahue, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Frank D. Whitney, United States Attorney, Anne M. Hayes, Christine Witcover Dean, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Melvin Warren Johnson was convicted of possessing with intent to distribute cocaine (Count 1), maintaining a place for the purpose of manufacturing, distributing and using cocaine (Count 2), possessing firearms and ammunition by a convicted felon (Count 3), and possessing firearms in furtherance of the drug trafficking crimes alleged in Counts 1 and 2, in violation of 18 U.S.C.A. § 924(c) (West Supp. 2006) (Count 4). He timely appeals, arguing that the evidence was insufficient to support his conviction for Count 4.

Viewing the evidence as required, United States v. Burgos, 94 F.3d 849, 862 (4th Cir. 1996), we find there was substantial evidence to support Johnson's § 924(c) conviction for Count 4. Glasser v. United States, 315 U.S. 60, 80 (1942). We reject Johnson's argument that there was insufficient evidence that the guns at issue were in furtherance of his drug trafficking. United States v. Lomax, 293 F.3d 701, 705 (4th Cir. 2002). To the extent that Johnson alleges erroneous jury instructions regarding Count 4, this court only reviews for plain error, because he failed to object to the instructions below. Fed. R. Crim. P. Rule 30(d). We find no plain error in the district court's instructions for Count 4. United States v. Olano, 507 U.S. 725, 731-32 (1993) (giving review standard for plain error).

Accordingly, we affirm Johnson's convictions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED