

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-5170

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICHARD EDWARD CABEY,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Winston-Salem. Thomas David Schroeder, District Judge. (1:09-cr-00413-TDS-1)

Submitted: June 30, 2011

Decided: July 13, 2011

Before SHEDD, DUNCAN, and KEENAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jonathan Leonard, LAW OFFICE OF JONATHAN LEONARD, Winston-Salem, North Carolina, for Appellant. Ripley Rand, United States Attorney, Anand P. Ramaswamy, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richard Edward Cabey appeals from his conviction for possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g), 924(e) (2006). Cabey pleaded guilty but reserved his right to appeal the district court's denial of his motion to suppress evidence seized from his vehicle after an investigatory stop. Finding no error, we affirm.

This court reviews factual findings underlying the district court's denial of a motion to suppress for clear error and legal conclusions de novo. United States v. Blake, 571 F.3d 331, 338 (4th Cir. 2009), cert. denied, 130 S. Ct. 1104 (2010). A factual finding is clearly erroneous if this court "on the entire evidence is left with the definite and firm conviction that a mistake has been committed." United States v. Harvey, 532 F.3d 326, 337 (4th Cir. 2008) (internal quotation marks omitted). However, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety," the court will not reverse the district court's finding even if it would have "decided the fact differently." United States v. Stevenson, 396 F.3d 538, 542 (4th Cir. 2005) (internal quotation marks and alteration omitted). In other words, when two views of the evidence are permissible, "the district court's choice between them cannot be clearly

erroneous." Id. (internal quotation marks and alteration omitted).

We have reviewed the transcript of the hearing on the motion to suppress, the district court's memorandum opinion and order denying the motion, and the parties' briefs and joint appendix. Having reviewed these materials, we conclude that the district court did not err in denying the motion to suppress. We therefore affirm the judgment. 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