



United States v. Briggs

2005 | Cited 0 times | W.D. North Carolina | December 27, 2005

ORDER

This matter is before the court upon the defendant's Motion for Judgment of Acquittal or Grant of New Trial, filed November 21, 2005. As the basis for his motion, defendant makes three arguments: (1) there was insufficient evidence at trial to prove possession of the gun; (2) the court's failure to sever the two counts of the indictment for trial resulted in prejudice to the defendant; and (3) Officer Correa's reference to a "stolen van," despite the court's exclusion of evidence of other crimes, prejudiced the defendant.

The court finds that there was, in fact, evidence that the defendant actually or constructively possessed the firearm in his lap. The court further finds that the defendant has failed to show actual prejudice resulting from joinder of the § 922(g)(9) count. With regard to defendant's argument that Officer Correa's reference to a "stolen van" resulted in prejudice, the court finds this argument likewise to be without merit. The court finds that such remark was inadvertent, was not the result of any government misconduct, and was immediately remediated by a curative instruction by the court.

Accordingly, the court finds no basis for defendant's motion.

IT IS THEREFORE ORDERED that defendant's Motion for Judgment of Acquittal or Grant of New Trial is hereby DENIED.

