

NOT PRECEDENTIAL

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-2378

UNITED STATES OF AMERICA

v.

FREDERICK B. WILLIAMS, Appellant

On Appeal From the United States District Court
For the District of New Jersey
(D.C. Crim. No. 99-cr-00418)
District Judge: Honorable Stephen M. Orlofsky

Submitted Under Third Circuit LAR 34.1(a)
March 7, 2002
Before: BECKER, Chief Judge, ALITO and RENDELL,
Circuit Judges.

(Filed March 15, 2002)

OPINION

BECKER, Chief Judge.

Frederick B. Williams appeals from his conviction, following a negotiated plea agreement, to one count of possession of a weapon by a convicted felon in violation of 18 U.S.C. 922(g)(1). The gravamen of his appeal is that the statute is unconstitutional because the conduct it proscribes the intrastate possession of a firearm does not have a substantial effect upon interstate commerce and thus does not constitute a valid exercise of Congress' power under the Commerce Clause. While acknowledging that we upheld the constitutionality of 922(g)(1) in *United States v. Gateward*, 84 F.3d 670 (3d Cir.), cert. denied, 519 U.S. 907 (1996), Williams argues that at the time of *Gateward*, it was still unclear in this Circuit whether *Lopez* was a "limited holding," or if it was instead a "watershed" opinion signaling a fundamental shift in the Supreme Court's Commerce Clause jurisprudence. He further argues that the Supreme Court's two recent opinions in *United States v. Morrison*, 529 U.S. 598 (2000), and *Jones v. United States*, 529 U.S. 848 (2000), make clear that *Lopez* was no aberration and that Congress' Commerce Clause power is significantly more limited than had previously been thought, and in light of these two new decisions, "it becomes even more clear that 18 U.S.C. 922(g)(1) is unconstitutional as it exceeds Congress' authority under the Commerce Clause."

Unfortunately for Mr. Williams this issue has now been conclusively resolved by our opinion in *United States v. Singletary*, 268 F.3d 196 (3d Cir. 2001). In *Singletary*, we considered the precise constitutional challenge to that statute raised by Williams here, and concluded that Congress did not exceed its power to regulate interstate commerce when it enacted 922(g)(1). *Singletary* thus reaffirmed our prior decision in *United States v. Gateward*, 84 F.3d 670 (3d Cir. 1996), and held that post-*Gateward* decisions of the Supreme Court in *United States v. Morrison*, 529 U.S. 598 (2000), and *Jones v. United States*, 529 U.S. 848 (2000), did not overrule *Gateward* sub silentio. The judgment of the District Court will be affirmed.

TO THE CLERK:

Please file the foregoing Opinion.

BY THE COURT:

/s/Edward R. Becker

Chief Judge

MEMORANDUM

DATE: March 13, 2002

TO: Marcy Waldron

FROM: Judge Becker

RE: United States v. Frederick Williams, No. 01-2378
Submitted: March 7, 2002

Dear Marcy:

Please file the enclosed Not Precedential Opinion in the above case. The signed original will be delivered.

Sincerely,

Edward R. Becker

ERB:afr

cc: Judge Alito
Judge Rendel