

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 02-2247

UNITED STATES OF AMERICA

v.

RICKY LYNN SARVEY,

Appellant

Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Criminal Action No. 01-cr-00055)
District Judge: Honorable Donetta W. Ambrose

Submitted Under Third Circuit LAR 34.1(a)
March 14, 2003

Before: BECKER, Chief Judge, RENDELL and AMBRO, Circuit Judges

(Opinion filed: March 19, 2003)

OPINION

AMBRO, Circuit Judge

Ricky Lynn Sarvey conditionally pled guilty to the crime of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g), preserving his right to appeal the question whether § 922(g) “is unconstitutional on its face or as applied in this case because Congress exceeded its powers under

the Commerce Clause in passing the statute.” Sarvey concedes that our decision in *United States v. Singletary*, 268 F.3d 196 (3d Cir. 2001), forecloses relief on his appeal and so raises this issue only to preserve it for *en banc* rehearing before this Court or for review by the Supreme Court.

Pursuant to *Singletary*, 268 F.3d 196, the District Court correctly rejected Sarvey’s constitutional challenge. We therefore affirm.

TO THE CLERK:

Please file the foregoing Opinion.

By the Court,

/s/ Thomas L. Ambro
Circuit Judge