

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 03-2802  
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UNITED STATES OF AMERICA

v.

AARON GEDDES,

Appellant  
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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW JERSEY

District Court Judge: The Honorable Mary L. Cooper  
(D.C. No. 02-cr-00705)  
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Submitted Under Third Circuit L.A.R. 34.1(a)  
May 6, 2004

BEFORE: SLOVITER and FUENTES, Circuit Judges,  
and POLLAK, District Judge.\*

(Opinion Filed: June 2, 2004)  
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OPINION OF THE COURT  
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\* Honorable Louis H. Pollak, Senior District Judge for the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

FUENTES, Circuit Judge:

In June 2002, New Jersey police arrested Appellant Aaron Geddes when they observed him appearing to sell narcotics to an unidentified buyer, who was allowed to leave. During the arrest, Geddes attempted to draw a Glock semi-automatic pistol from his waistband, but the officers subdued Geddes and forcibly confiscated the firearm. Geddes was arraigned on various state charges, as well as a federal charge of felon in possession of a firearm, 18 U.S.C. § 922(g); he was convicted by a jury on the federal charge in April 2003 and sentenced to 110 months imprisonment. Geddes now appeals on three grounds: 1) the government did not provide sufficient evidence that the gun owned by Geddes had traveled in interstate commerce; 2) the District Court erred in refusing to hold discovery on Geddes's claim that he was selectively prosecuted; and 3) the District Court improperly allowed the government to enter into evidence the fact that Geddes was participating in a narcotics transaction before being arrested.

None of these arguments has any merit. First, the government provided sufficient evidence to satisfy § 922(g)'s requirement that Geddes possessed his firearm "in or affecting commerce." At trial, the government presented unrefuted evidence that Geddes's pistol is manufactured only in Austria, and is imported into the U.S. exclusively through a distributor in Georgia. Geddes's gun must have traveled in interstate commerce to reach New Jersey, and the government therefore fulfilled its burden of proof. United States v. Singletary, 268 F.3d 196, 204-05 (3d Cir. 2001); accord United States v. Coward, 296 F.3d 176, 183-84 (3d

Cir. 2002). Second, the District Court properly denied Geddes's request for an evidentiary hearing on his selective prosecution claim because Geddes has not presented any evidence that he was prosecuted more vigorously than similarly situated defendants on the basis of a suspect classification. United States v. Armstrong, 517 U.S. 456, 470 (1996). Finally, Geddes's evidentiary appeal fails because evidence of the drug transaction was necessary to explain to the jury why the police approached Geddes in the first place, and was not admitted to "show a mere propensity or disposition on the part of the defendant to commit the crime." United States v. Cruz, 326 F.3d 392, 395 (3d Cir. 2003) (internal quotations omitted); see also United States v. Butch, 256 F.3d 171, 175-76 (3d Cir. 2001) (evidence is admissible if it is necessary background information rather than an attempt to impugn defendant's character). Accordingly, we affirm the District Court's judgment.