

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i> v. JACK DEWHAN RANDOLPH, <i>Defendant-Appellant.</i>

No. 00-4921

Appeal from the United States District Court
for the Western District of North Carolina, at Charlotte.
Graham C. Mullen, Chief District Judge.
(CR-99-192-MU)

Submitted: November 28, 2001

Decided: January 16, 2002

Before LUTTIG, MICHAEL, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Marshall A. Swann, Charlotte, North Carolina, for Appellant. Robert J. Conrad, Jr., United States Attorney, Kenneth M. Smith, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

A jury found Jack Dewhan Randolph guilty of two counts of possession of a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C.A. §§ 2, 924(c)(1) (West 2000). At the close of the Government's case, the district court granted Randolph's motion for a judgment of acquittal for two counts charging Randolph with being a felon in possession of a firearm. On appeal, Randolph contends the district court abused its discretion by admitting improper evidence of a prior felony conviction and taking judicial notice that Randolph had a prior felony conviction. Upon further review of the evidence, the district court withdrew judicial notice. Finding no reversible error, we affirm.

Because the district court withdrew judicial notice and dismissed the two counts charging Randolph with being a felon in possession of a weapon, we find no abuse of discretion. Insofar as Randolph argues that the evidence of the felony conviction prejudiced the jury as it considered the other two charges, we find that any error was harmless. The evidence did not affect an issue concerning the two charges, the court withdrew judicial notice and instructed the jury to disregard it having taken notice of the felony conviction, and there was substantial evidence supporting the convictions. *United States v. Ince*, 21 F.3d 576, 583 (4th Cir. 1994).

We grant Randolph's motion to file a pro se supplemental brief. We have reviewed the issues raised in the brief and find them to be without merit.

Accordingly, we affirm the convictions and sentence. 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 judicial process.

AFFIRMED