

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-15539
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT Sept. 10, 2009 THOMAS K. KAHN CLERK

D.C. Docket No. 07-80062-CR-KAM

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLIE WYNE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(September 10, 2009)

Before CARNES, WILSON and COX, Circuit Judges.

PER CURIAM:

Charlie Wyne appeals his convictions for possession of a firearm and ammunition by a convicted felon; possession with intent to distribute at least five

grams or more of cocaine base; and knowingly carrying a firearm and ammunition during and in relation to a drug trafficking crime. Wyne argues the district court abused its discretion when it denied his request for a recess, which prevented him from presenting testimony from a defense witness.

The parties agree the district court's denial of this motion for a recess is reviewed for an abuse of discretion. However, we are precluded "from reviewing an issue raised on appeal if it has been waived through the doctrine of invited error." *United States v. Brannan*, 562 F.3d 1300, 1306 (11th Cir. 2009) (emphasis and citation omitted). The "doctrine of invited error is implicated when a party induces or invites the district court into making an error." *Id.* (quoting *United States v. Stone*, 139 F.3d 822, 838 (11th Cir. 1998)).

We do not find the court abused its discretion when it refused Wyne's request for a recess. But even if the court erred, Wyne invited the error of which he now complains. During trial, a defense witness failed to appear at her scheduled time of 9:00 a.m. Wyne told the court that he would exclude her as a witness if she did not arrive by 10:00 a.m. (R.6-114 at 21.) After Wyne's defense witness failed to arrive by his self-imposed deadline, the district court proceeded with the trial. Accordingly, we affirm Wyne's convictions and sentences.

AFFIRMED.