

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-11347
Non-Argument Calendar

D.C. Docket No. 1:14-cr-20697-JLK-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HECTOR LUIS GONZALEZ, JR.,
a.k.a. Coach,

Defendant-Appellant.

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

(January 6, 2016)

Before WILLIAM PRYOR, JORDAN and JULIE CARNES, Circuit Judges.

PER CURIAM:

Hector Gonzalez Jr. appeals his conviction for knowingly selling a firearm to a felon. 18 U.S.C. § 922(d)(1). Gonzalez challenges the sufficiency of the evidence and the supplemental jury instruction given to the jury. We affirm.

Ample evidence supports Gonzalez's conviction. Testimony and a video recording of the firearm transaction proved that Gonzalez "associated himself with the [selling of a firearm to Hervert Zamora, a convicted felon,] that Gonzales wished to bring . . . about, and that he sought by his actions to make . . . succeed." *See United States v. Broadwell*, 870 F.2d 594, 608 (11th Cir. 1989). Zamora, a confidential informant who was assisting law enforcement, testified that he told Gonzalez that he was a convicted felon interested in purchasing firearms for export to Mexico and he agreed to purchase an SKS rifle from Gonzalez for \$200. Consistent with the events depicted in the video recording, Zamora testified that he paid Gonzalez after a person named Pratts produced the rifle. The jury could reasonably credit Zamora's testimony. *See United States v. Thompson*, 473 F.3d 1137, 1142 (11th Cir. 2006). Although Gonzalez testified that he was busy selling drugs and was a mere spectator to the transaction between Zamora and Pratts and that the video recording showed him handing Pratts a cigarette or some other object instead of cash for the firearm, the jury was free to discredit Gonzalez's testimony and consider it as substantive evidence of his guilt. *See United States v. Brown*, 53 F.3d 312, 314 (11th Cir. 1995).

The district court did not abuse its discretion when it responded to the jury's request for "further definition and clarification of 'constructive possession.'" District courts "have broad discretion in formulating jury instructions provided that the charge as a whole accurately reflects the law and the facts." *United States v. Prather*, 205 F.3d 1265, 1270 (11th Cir. 2000) (quoting *United States v. Arias*, 984 F.2d 1139, 1143 (11th Cir. 1993)). As suggested by Gonzalez, the district court instructed the jury to read specific pages in the written jury instructions pertaining to constructive possession. And the district court reminded the jury to "consider all the instructions as a whole." See *United States v. Parr*, 716 F.2d 796, 809 (11th Cir. 1983). Although Gonzalez disagreed with highlighting the issue of "aiding and abetting again," that part of the instruction helped the jury assess whether Gonzalez facilitated the firearm transaction and addressed his closing argument that the case involved "a swearing contest" and did not involve "aiding and abetting" or "constructive possession."

We **AFFIRM** Gonzalez's conviction.