

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT

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No. 97-41049  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARC CORTINAS,

Defendant - Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
(C-97-CR-65-1)

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September 3, 1998

Before EMILIO M. GARZA, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Marc Cortinas appeals from his conviction for using and carrying a firearm in relation to a crime of violence in violation of 18 U.S.C. § 924(c). He argues that his conviction should be overturned because it is unclear whether the conviction was based upon a misdemeanor or a felony as the predicate offense. Cortinas does not dispute that the jury found him guilty of two counts of

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

the felony offense of assault with intent to commit murder. We have reviewed the record and find no reversible error. *See United States v. Munoz-Fabela*, 896 F.2d 908, 911 (5th Cir. 1990) (evidence of predicate offense sufficient because reasonable jury could have been convinced beyond a reasonable doubt that the defendant committed underlying offense); *see also United States v. Ramos-Rodriguez*, 136 F.3d 465, 467 (5th Cir. 1998) (defendant may still be convicted of § 924(c) offense even if acquitted of the predicate offense if there is ample evidence showing that a reasonable jury could have found defendant guilty of underlying offense). Accordingly, the judgment of the district court is AFFIRMED.

AFFIRMED.