

**UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 98-40318  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OSCAR DEAN DAVIS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(2:97-CR-6-ALL)

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January 6, 1999

Before POLITZ, Chief Judge, STEWART and PARKER, Circuit Judges.

PER CURIAM:\*

Oscar Dean Davis appeals his bench trial convictions on four counts of being a felon in possession of a firearm. Candidly conceding that the government met its burden of proof as to the other elements of the offense, Davis challenges the sufficiency of the evidence as to the element of knowing possession. He contends that he and his ex-wife were joint owners of the house where the guns were found and that there was no evidence that he exercised any

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5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

control over them.

The law is clear that in a joint occupancy situation, mere control or dominion over the place where the weapon is found is not sufficient to establish constructive possession. Rather, there must be some evidence “supporting at least a plausible inference that the defendant had knowledge of and access to the weapon.”<sup>1</sup>

It is abundantly clear from the record that Davis had knowledge of the weapons; he admitted that he had fired one of them and was aware of the existence of the other three, indeed he testified that he had spoken about them with the local police chief.

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<sup>1</sup> **United States v. Ybarra**, 70 F.3d 362, 365 (5<sup>th</sup> Cir. 1995).