

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>UNITED STATES OF AMERICA</p> <p style="text-align:center">v.</p> <p>ALBERTO HERNANDEZ, a/k/a ALBERTO LOPEZ, Defendant.</p>	<p>CRIMINAL ACTION</p> <p>No. 99-362-1</p>
--	--

MEMORANDUM AND ORDER

Katz, S.J.

March 20, 2002

This Motion raises the issue of defense counsel's ineffectiveness for failing to raise the constitutionality of the statute forbidding the possession of a firearm by a convicted felon. 18 U.S.C. § 922(g).

Following a hearing on defendant's Motion to Suppress, this court denied the Motion and the Court of Appeals affirmed following defendant's guilty plea and sentence. The weapon in question was manufactured outside of Pennsylvania.

The constitutional challenge has been rejected. The statute is a constitutional exercise of Congress' authority under the Commerce Clause. *United States v. Gateward*, 84 F.3d 670 (3d Cir. 1996), *cert. denied*, 519 U.S. 907 (1996); *United States v. Singletary*, 268 F.3d 196 (3d Cir. 2001).

An appropriate Order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>UNITED STATES OF AMERICA</p> <p style="text-align:center">v.</p> <p>ALBERTO HERNANDEZ, a/k/a ALBERTO LOPEZ, Defendant.</p>	<p>CRIMINAL ACTION</p> <p>No. 99-362-1</p>
--	--

ORDER

AND NOW, this 20th day of March, 2002, upon consideration of defendant's Motion Under 28 U.S.C. § 2255 and the response, it is hereby **ORDERED** that the said Motion is **DENIED**.

There is no basis to issue a certificate of appealability.

BY THE COURT:

MARVIN KATZ, S.J.