

FILED

September 29, 2003

Charles R. Fulbruge III
Clerk

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

No. 03-30281
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-

Appellee,

versus

PRESTON DUNN, JR.,

Defendant-

Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 02-CR-61-1-C

Before SMITH, DEMOSS and STEWART, Circuit Judges.

PER CURIAM:*

Preston Dunn, Jr., appeals his 48-month sentence for possessing a firearm in violation of a protective order in violation of 28 U.S.C. § 922(g)(8). Dunn argues that the district court clearly erred by increasing his offense level based on the court's finding that Dunn used the prohibited firearm in connection with an assault on his wife and that the court erroneously departed upward

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

based on Dunn's prior unadjudicated criminal conduct. Dunn disputes the factual finding that the assault involved a firearm, but he does not suggest that the court computed his offense level incorrectly if the finding of a firearm is correct. The district court's factual finding that the assault involved a firearm is supported by the evidence. United States v. Edwards, 65 F.3d 430, 432 (5th Cir. 1995). We find no error in the district court's decision to depart upward at sentencing based on the fact that Dunn's unadjudicated criminal history demonstrates a consistent pattern of incidents involving violence against women.

AFFIRMED.