

October 19, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10313
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN ROBERT WIMBERLEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:03-CR-55-ALL

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

John Robert Wimberley appeals his guilty-plea conviction and sentence for being a convicted felon in possession of ammunition. Wimberley argues that the district court erred in applying the enhancement provision found in U.S.S.G. § 2K2.1(b)(5) of the Sentencing Guidelines because there was no evidence that he possessed ammunition in connection with another felony offense. After a thorough review of the record and the applicable law, we hold that the district court did not clearly err in applying the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

enhancement of U.S.S.G. § 2K2.1(b)(5), because there was sufficient evidence to show that Wimberley possessed ammunition in connection with the felony offense of possession of methamphetamine. See United States v. Condren, 18 F.3d 1190, 1193, 1199-1200 (5th Cir. 1994); United States v. Armstead, 114 F.3d 504, 512 (5th Cir. 1997).

Wimberley also argues that the district court improperly sentenced him based on facts not admitted or found by a jury in violation of Blakely v. Washington, 124 S. Ct. 2531 (2004). This argument is foreclosed by United States v. Pineiro, 377 F.3d 464, 473 (5th Cir. 2004), petition for cert. filed, (U.S. Jul. 14, 2004) (No. 03-30437).

AFFIRMED.