

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 23, 2008

No. 08-30193
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JAMES GODWIN

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:06-CR-64-1

Before REAVLEY, WIENER, and PRADO, Circuit Judges.

PER CURIAM:*

James Godwin appeals his sentence following his guilty plea conviction for possession of a firearm by a convicted felon. Godwin argues that the district court erred by applying an enhancement pursuant to U.S.S.G. § 2K2.1(b)(6) for using or possessing a firearm in connection with another felony offense. He asserts that there was insufficient evidence that he was involved in the burglary that resulted in the theft of the firearm he possessed.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A “district court may adopt facts contained in a PSR without inquiry, so long as the facts have an adequate evidentiary basis and the defendant does not present rebuttal evidence.” *United States v. Caldwell*, 448 F.3d 287, 290 (5th Cir. 2006). The presentence report (PSR) relied on investigations by the Jefferson Parish Sheriff’s Office and the Bureau of Alcohol, Tobacco, and Firearms, which included a statement from another participant in the burglary describing Godwin’s role in that offense. This court has held that even uncorroborated hearsay evidence is sufficiently reliable for sentencing purposes. See *United States v. West*, 58 F.3d 133, 138 (5th Cir. 1995). Godwin did not present sufficient evidence to rebut the facts stated in the PSR. It is the defendant’s burden to show that the information in the PSR is materially untrue, *United States v. Betancourt*, 422 F.3d 240, 248 (5th Cir. 2005), and absent rebuttal evidence, the district court is entitled to rely on the facts stated in the PSR. *United States v. De Jesus-Batres*, 410 F.3d 154, 164 (5th Cir. 2005). As the district court’s factual determination was not implausible in light of the record as a whole, Godwin has not shown that the district court clearly erred by applying the enhancement. See *Caldwell*, 448 F.3d at 290.

AFFIRMED.