

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

United States Court of Appeals
Fifth Circuit

FILED

May 16, 2018

Lyle W. Cayce
Clerk

No. 17-11214
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

TOMMY NELSON, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:17-CR-48-1

Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Tommy Nelson, Jr., appeals the 105-month sentence imposed after he pleaded guilty to bank robbery. He argues that the district court erred in imposing a seven-level enhancement, pursuant to U.S.S.G. § 2B3.1(b)(2)(A), for the discharge of a firearm during the commission of the robbery. Specifically, Nelson asserts that the enhancement does not apply because he did not willfully induce the discharge of the firearm.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 17-11214

As he concedes, Nelson's argument is foreclosed by *United States v. Roberts*, 203 F.3d 867, 870-71 (5th Cir. 2000), in which this court held, on similar facts, that a § 2B3.1(b)(2)(A) enhancement was proper where the defendant aided in trying to wrest control of a firearm away from a deputy. This court concluded that the defendant's actions induced the deputy to discharge the weapon. *Roberts*, 203 F.3d at 870. Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.