

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

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2019

Lyle W. Cayce
Clerk

No. 17-30690
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ALEX KIRBY ANDERSON, also known as Gmb Tutru Anderson,

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:16-CR-269-1

Before DAVIS, HAYNES and HO, Circuit Judges.

PER CURIAM:*

Alex Kirby Anderson pleaded guilty to possession of a firearm by a convicted felon and was sentenced within the advisory guidelines range to 78 months of imprisonment. He appeals that sentence, arguing that in light of *Mathis v. United States*, 136 S. Ct. 2243 (2016), his previous conviction under a Louisiana statute, LA. STAT. 40:966(A)(1), for possession with intent to distribute a controlled substance, does not qualify as a controlled substance

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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offense under U.S.S.G. § 4B1.2(b). He therefore contends that the district court erred in applying the enhanced base offense level under U.S.S.G. § 2K2.1(a)(3).

Because Anderson did not object to the base offense level in the district court, our review is limited to plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). To establish plain error, Anderson must show, among other things, a forfeited error that is clear or obvious. *See id.* Anderson has not shown that his challenge to the calculation of his base offense level under § 2K2.1(a)(3) is not subject to reasonable dispute. *See Puckett*, 556 U.S. at 135. Therefore, the judgment of the district court is AFFIRMED.