

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-30112  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARK STEVEN WILSON, aka Michael Rickey  
Washington, aka Steven Ronnie Blake, aka  
Freddie McNeil, aka Michael Steven Williams,  
aka Mark Taylor, aka Marcus Wilson,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR 93-223 E

- - - - -  
(September 21, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Mark S. Wilson argues that he was entitled to the six-level reduction under U.S.S.G. § 2K2.1(b)(1) because he only possessed the firearms at the shooting range where the guns were purchased.

In reviewing a district court's application of the guidelines, the court's findings of fact are reviewed under the clearly erroneous standard, and the court's application of the

---

\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

facts to the guidelines is a question of law reviewed de novo. United States v. Shell, 972 F.2d 548, 550 (5th Cir. 1992).

The applicable version of §2K2.1(b)(1) (1989) provided for a six-level reduction in the defendant's offense level, as determined under § 2K2.1(a), "[i]f the defendant obtained or possessed the firearm . . . solely for lawful sporting purposes[.]" In making this determination, the district court was directed to look to surrounding circumstances, including the number and type of firearms, the location and circumstances of possession, and the nature of the defendant's criminal history. § 2K2.1, comment. (n.2). A felon alleging that he was entitled to a reduction in offense level under § 2K2.1(b)(1) has the burden of establishing entitlement by a preponderance of the evidence. See Shell, 972 F.2d at 550.

Here, the trial court could easily conclude and did not err in refusing to find that Wilson possessed the firearms "solely" for the purpose of lawful target practice. Notwithstanding that Wilson only fired the newly-purchased guns on the gun shop's firing range, the evidence shows Wilson to be a convicted felon with an extensive criminal history. He admitted involvement in the illegal purchase of pistols, which he unlawfully possessed. And additionally, he admitted that he ultimately transferred the guns to a third party in Atlanta, Georgia. We reject appellant's claim as having no merit.

AFFIRMED.