

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1456

United States of America,

Appellee,

v.

Carlos Darrell Dickerson,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Minnesota.
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* [UNPUBLISHED]
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Submitted: May 27, 2004

Filed: May 28, 2004

Before MELLOY, HANSEN, and COLLOTON, Circuit Judges.

PER CURIAM.

Carlos Dickerson challenges the sentence imposed by the district court¹ upon a jury conviction for possessing a firearm after having been convicted of a misdemeanor crime of domestic violence, in violation of 18 U.S.C. § 922(g)(9). We affirm.

At trial, two witnesses testified that Dickerson fired a pistol near his ex-girlfriend's apartment. In addition, the government submitted a recording of a 911

¹The Honorable Michael J. Davis, United States District Judge for the District of Minnesota.

phone call from the ex-girlfriend, who reported that Dickerson had shot at her apartment, and forensic evidence that Dickerson had discharged a weapon or been in close proximity to a discharged weapon. The jury convicted Dickerson. The presentence report (PSR) recommended applying the aggravated-assault Guideline because the pistol was used in connection with another felony offense, namely the aggravated assault. See U.S.S.G. §§ 2K2.1(c) (cross-reference provision), 2X1.1(a) (base offense level is determined by substantive offense), 2A2.2(a) (base offense level of 15 for aggravated assault), 2A2.2(b)(2)(A) (5-level increase if firearm was discharged). Dickerson denied firing the pistol and objected to cross-referencing the aggravated-assault Guideline. The district court adopted the PSR's recommendation, and sentenced Dickerson to 37 months imprisonment and 3 years supervised release.

On appeal, Dickerson challenges the district court's finding that he fired the pistol. Based upon the evidence presented at trial, however, we conclude the district court did not clearly err in finding that Dickerson possessed the firearm in connection with an aggravated assault. See United States v. Jones, 327 F.3d 654, 656-57 (8th Cir. 2003) (clear-error review).

Accordingly, we affirm.
