

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 07-2869

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United States of America,

Appellee,

v.

Shawn Sarver,

Appellant.

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Appeal from the United States  
District Court for the  
Western District of Arkansas.

[UNPUBLISHED]

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Submitted: May 8, 2008  
Filed: May 16, 2008

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Before BYE, SMITH, and BENTON, Circuit Judges.

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PER CURIAM.

Shawn Sarver challenges the sentence the district court<sup>1</sup> imposed after he pleaded guilty to bank robbery, in violation of 18 U.S.C. § 2113(a). On appeal, he argues that the district court erred in applying a 2-level increase for making a threat of death. *See* U.S.S.G. § 2B3.1(b)(2)(F).

Upon careful review, we conclude that the district court correctly applied section 2B3.1(b)(2)(F), because Sarver's conduct would make a reasonable bank teller

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<sup>1</sup>The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

fear death. *See* U.S.S.G. § 2B3.1, comment. (n.6) (intent of provision is to provide increased offense level for cases in which offender engaged in conduct that would instill a fear of death in a reasonable victim); *United States v. Jennette*, 295 F.3d 290, 292 (2d Cir. 2002) (concluding that reasonable teller, when faced with bank robber who demands money and states that he has gun, normally and reasonably would fear for his or her life); *United States v. Carbaugh*, 141 F.3d 791, 794 (7th Cir. 1998) (holding that statement “I have a gun” can constitute threat of death under Guidelines; threat of death need not include statement of readiness or willingness to use gun; reasonable teller would ordinarily experience fear of being shot when robber confronting her announces he has gun). *See generally United States v. Ingram*, 501 F.3d 963, 968 (8th Cir. 2007) (standard of review), *petition for cert. filed*, (U.S. Dec. 5, 2007) (No. 07-8093).

Accordingly, the judgment is affirmed.

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