

United States Court of Appeals
For the Eighth Circuit

No. 22-1570

United States of America

Plaintiff Appellee

v.

Donald Lavanis Dickerson

Defendant Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: January 9, 2023
Filed: March 1, 2023
[Unpublished]

Before GRASZ, MELLOY, and KOBES, Circuit Judges.

PER CURIAM.

Donald Lavanis Dickerson pled guilty to one count of being a felon in possession of a firearm and one count of possessing an unregistered firearm. The

district court¹ applied a four level enhancement under U.S.S.G. § 2K2.1(b)(6)(B) for use or possession of a firearm in connection with another felony, namely distribution of methamphetamine. Dickerson appeals, arguing the gun was not found next to the methamphetamine and the evidence was otherwise insufficient to support the enhancement. We affirm.

Sources informed police that Dickerson possessed a sawed-off shotgun and distributed methamphetamine. During a search of Dickerson’s residence, officers found methamphetamine on Dickerson’s person and a firearm in his truck outside. Officers found additional evidence of methamphetamine sales and firearms in a search of Dickerson’s Facebook messages. Interviews with three different confidential sources provided further evidence that Dickerson sold methamphetamine while in possession of a firearm.

Applying U.S.S.G. § 2K2.1(b)(6)(B), the district court found the “facts would certainly seem to establish by a preponderance of the evidence that the defendant was involved in distributing methamphetamine while in possession of this particular firearm, which would mandate, under relevant case law, application of” U.S.S.G. § 2K2.1(b)(6)(B).

We review “for clear error a district court’s finding that a defendant possessed a firearm in connection with another felony offense.” United States v. Mitchell, 963 F.3d 729, 731 (8th Cir. 2020).

The court can infer a firearm was used in connection with a felony if a firearm is found in close proximity to evidence of the felony. See e.g., United States v. Cosen, 965 F.3d 929, 931 (8th Cir. 2020). However, a court looks to all of the

¹ The Honorable Stephanie M. Rose, Chief Judge, United States District Court for the Southern District of Iowa.

evidence presented to decide if the firearm was used in connection with a felony. See e.g., United States v. Mathis, 911 F.3d 903, 909 (8th Cir. 2018) (relying on victim testimony to show a firearm was used in connection with a felony).

Here, there was more than was enough evidence for the district court to conclude by a preponderance of the evidence that Dickerson possessed a firearm in connection with the sale of methamphetamine.

We affirm the judgment of the district court.
