

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 08 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JASON B. TIFFIN,

Defendant - Appellant.

No. 07-30194

D.C. No. CR-06-05352-FDB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Argued and Submitted November 20, 2008
Seattle, Washington

Before: B. FLETCHER and RAWLINSON, Circuit Judges, and EZRA**, District
Judge.

Jason Tiffin appeals his 120-month sentence imposed following a guilty plea
and jury conviction. Tiffin pled guilty to being a felon in possession of body
armor, in violation of 18 U.S.C. § 931, and being a felon in possession of firearms,

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable David Alan Ezra, United States District Judge for the
District of Hawaii, sitting by designation.

in violation of 18 U.S.C. § 922(g)(1). He was also convicted by a jury of possession of ammunition and possession of a firearm, both in violation of 18 U.S.C. § 922(g)(1). We affirm the district court's sentence.

Tiffin challenges several of the conclusions reached by the trial judge in its enhancement calculations under the Sentencing Guidelines. Specifically, Tiffin challenges the district court's finding that: (1) he possessed a shotgun within the meaning of 26 U.S.C. § 5845(a), which resulted in a two-level increase to his base offense level under U.S.S.G. § 2K2.1(a)(3); (2) he possessed the shotgun in connection with the felony offenses of unlawful possession of ammunition and unlawful possession of body armor, which resulted in a four-level increase under U.S.S.G. § 2K2.1(b)(5); (3) he was not eligible for an acceptance of responsibility reduction under U.S.S.G. § 3E1.1 because he put the government to its burden of proof at trial; and (4) he obstructed justice, which resulted in a two-level increase under U.S.S.G. § 3C1.1.

Although the district court's explanation of how it arrived at its decision to apply the enhancements lacked clarity, the record supports the district court's conclusion that the firearm was a sawed-off shotgun with an obliterated serial number, and was used in connection with the other felony offenses. *See United States v. Zepeda-Martinez*, 470 F.3d 909, 913 (9th Cir. 2006) (upholding enhancement where the record contained "overwhelming" evidence supporting the

district court's determination). The record also supports the obstruction of justice enhancement based on Tiffin's efforts to manufacture an alibi. *See United States v. Mattarolo*, 209 F.3d 1153, 1159 (9th Cir. 2000); *see also United States v. Tidwell*, 191 F.3d 976, 982 (9th Cir. 1999). Tiffin's sentence of 120 months, which was well below the Guideline range of 168 to 210 months, was reasonable. *See United States v. Bendtzen*, 542 F.3d 722, 729 (9th Cir. 2008).

AFFIRMED.