

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 10 2015

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MAX JOSEPH PLOG-HOROWITZ,

Defendant - Appellant.

Nos. 14-10059

14-10060

D.C. Nos. 4:12-cr-00661-CW

4:13-cr-00337-CW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Claudia Wilken, District Judge, Presiding

Submitted April 7, 2015\*\*

Before: FISHER, TALLMAN, and NGUYEN, Circuit Judges.

In these consolidated appeals, Max Joseph Plog-Horowitz appeals from the district court's judgments and challenges the 60-month sentence imposed following his revocation of probation and guilty-plea conviction for being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1).

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

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Plog-Horowitz contends that the district court improperly imposed a four-level sentencing enhancement under U.S.S.G. § 2K2.1(b)(6)(B). He argues that there was insufficient evidence that he possessed the firearm in connection with the felony of impersonating a federal officer. We review for clear error. *See United States v. Flores*, 729 F.3d 910, 913 (9th Cir. 2013). The pistol that Plog-Horowitz was convicted of possessing was found loaded and holstered along with law enforcement credentials, clothing, and other weapons. In light of this and Plog-Horowitz's history of impersonating a federal officer, the district court did not clearly err in finding that Plog-Horowitz intended to use or possess the firearm in connection with the offense of impersonating a federal officer. *See United States v. Jimison*, 493 F.3d 1148, 1149 (9th Cir. 2007). In any event, the district court also found that Plog-Horowitz intended to possess or use the gun in connection with the felony offense of conspiracy to commit insurance fraud and Plog-Horowitz does not challenge that finding on appeal.

**AFFIRMED.**