

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 20 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ADIYA THOMAS GRAHAM, a.k.a. Adyia
Thomas Graham, "Gat",

Defendant-Appellant.

No. 16-30231

D.C. No. 3:15-cr-00273-JO

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Robert E. Jones, District Judge, Presiding

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Adiya Thomas Graham appeals from the district court's judgment and challenges the 78-month sentence imposed following his guilty-plea conviction for being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). We have jurisdiction under 28 U.S.C. § 1291. We affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

Graham challenges the district court's imposition of a four-level increase to his offense level under U.S.S.G. § 2K2.1(b)(6)(B). We review the district court's identification and interpretation of the correct sentencing guideline de novo, its findings of fact for clear error, and its application of the Guidelines to the facts for abuse of discretion. *See United States v. Gasca-Ruiz*, 852 F.3d 1167, 1170 (9th Cir. 2017) (en banc).

The district court did not clearly err in finding, based on the circumstantial evidence presented by the government at sentencing, that Graham more likely than not committed the Oregon felony offense of unlawful use of a weapon under Oregon Revised Statutes § 166.220. *See United States v. Newhoff*, 627 F.3d 1163, 1170 (9th Cir. 2010) (upholding upward adjustment under U.S.S.G. § 2K2.1(b)(6)(B) based on reasonable inferences drawn from the circumstantial evidence presented). The district court did not abuse its discretion in applying the Guidelines to the facts of this case and imposing the four-level increase to Graham's offense level.

AFFIRMED.