

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-4120

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERNEST JAMES JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Robert C. Chambers, District Judge. (3:11-cr-00054-1)

Submitted: August 31, 2012

Decided: September 11, 2012

Before WILKINSON, MOTZ, and FLOYD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Dana F. Eddy, EDDY LAW OFFICE, Charleston, West Virginia, for Appellant. R. Booth Goodwin II, United States Attorney, Joseph F. Adams, Assistant United States Attorney, Huntington, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ernest James Johnson appeals the district court's order denying his motion for a judgment of acquittal or, alternatively, for a new trial. On appeal, Johnson contends that the evidence was insufficient to convict him of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c) (2006), and that the trial court abused its discretion in denying his motion for a new trial. We affirm.

Johnson contends that there was insufficient evidence before the jury to support his § 924(c) conviction. Johnson challenges only the jury's finding that he possessed the firearm in furtherance of the drug trafficking offense. A jury verdict must be sustained "if, viewing the evidence in the light most favorable to the prosecution, the verdict is supported by substantial evidence." United States v. Smith, 451 F.3d 209, 216 (4th Cir. 2006) (internal quotation marks omitted). Whether a firearm "furthered, advanced, or helped forward a drug trafficking crime . . . is ultimately a factual question." United States v. Perry, 560 F.3d 246, 254 (4th Cir. 2009) (internal quotation marks omitted). We have reviewed the record and conclude that the Government presented sufficient evidence from which the jury could conclude beyond a reasonable doubt

that Johnson was guilty of possessing a firearm in furtherance of a drug trafficking crime.

Johnson also asserts that the district court erred by denying his motion for a new trial following the admission of testimony regarding his prior conviction for armed robbery. "We review for abuse of discretion a district court's denial of a motion for a new trial." United States v. Perry, 335 F.3d 316, 320 (4th Cir. 2003). After reviewing the record, we conclude that the district court did not abuse its discretion in denying Johnson's motion.

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED