

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-11809
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 27, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

VICTOR LUNA-USCANGA,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:15-CR-153-2

Before BENAVIDES, SOUTHWICK, and COSTA, Circuit Judges.

PER CURIAM:*

Victor Luna-Uscanga appeals the 127-month sentence imposed following his guilty plea conviction for conspiracy to distribute five kilograms or more of cocaine. He argues that the district court erred in applying a firearm enhancement pursuant to U.S.S.G. § 2D1.1(b)(1) because neither he nor his codefendant possessed the firearm in question. We review the district court's

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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interpretation of the Sentencing Guidelines de novo and its factual findings for clear error. *United States v. Trujillo*, 502 F.3d 353, 356 (5th Cir. 2007).

Although nothing in the record links the firearm to any particular conspirator, “the evidence makes it plausible that a ‘weapon was present’ and that one of the conspirators possessed it.” *United States v. Rodriguez-Guerrero*, 805 F.3d 192, 196 (5th Cir. 2015) (quoting § 2D1.1(b)(1), comment. (n.11(A))). As there was enough evidence to support that the weapon must have been possessed by one of the conspirators in furtherance of the conspiracy, the district court did not err in its factual findings or legal conclusions underlying the firearm enhancement. *See id.*

AFFIRMED.