

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

United States Court of Appeals
Fifth Circuit

FILED

June 14, 2018

Lyle W. Cayce
Clerk

No. 17-60682
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ROBERT BURSE,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:17-CR-6-1

Before REAVLEY, GRAVES, and HO, Circuit Judges.

PER CURIAM:*

Robert Burse was convicted of one count of possession of a firearm by a felon and sentenced to serve 100 months in prison and a three-year term of supervised release. The district court determined that he committed this offense in connection with the offense of possession of controlled substances with intent to distribute and applied the cross-referencing provision of U.S.S.G. § 2K2.1(c)(1)(A). Now, he argues that the district court erred by

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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applying this Guideline because the record does not show that he possessed the gun underlying the charge in connection with the possession of drugs with intent to distribute.

This court reviews the district court's factual findings for clear error and its application of the guidelines de novo. *United States v. Hicks*, 389 F.3d 514, 529 (5th Cir. 2004). A finding is clearly erroneous if a review of the record leaves a definite and firm conviction that a mistake has been committed. *United States v. Griffin*, 324 F.3d 330, 365 (5th Cir. 2003).

Review of the record supports the district court's application of the disputed Guideline, as Burse admitted to facts showing that he possessed controlled substances with the intent to distribute them, and the proximity of the firearm to the controlled substances supports a conclusion that it was used to facilitate the drug offense, as does the sum of cash found on the unemployed Burse. *See* 21 U.S.C. § 841(a)(1),(n); *United States v. Yanez-Sosa*, 513 F.3d 194, 201 (5th Cir. 2008); *United States v. Skipper*, 74 F.3d 608, 611 (5th Cir. 1996).

AFFIRMED.