

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-1468

United States of America,	*
	*
Plaintiff – Appellee,	*
	*
v.	* Appeal from the United States
	* District Court for the
	* Eastern District of Missouri.
Antonio L. Davis,	*
	*
Defendant – Appellant.	* [UNPUBLISHED]

Submitted: September 21, 2009
Filed: October 1, 2009

Before MURPHY, JOHN R. GIBSON, and RILEY Circuit Judges.

PER CURIAM.

Antonio L. Davis was convicted for knowing and intentional possession of .38 grams of cocaine base (crack) in violation of 21 U.S.C. § 844(a) and for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). On appeal he challenged the latter conviction, contesting the sufficiency of the evidence upon which the district court¹ based its finding that he had been carrying the handgun found near the spot where he was arrested.

¹The Honorable Rodney W. Sippel, United States District Judge for the Eastern District of Missouri.

Police officers Andre Rogers and Daniel Book observed Davis driving erratically and changing lanes without using his turn signal. They also noticed that his car had no front license plate and attempted to pull him over. Davis didn't stop, however, but continued on until his car sputtered to a near halt. Then he jumped from the vehicle, and officer Book pursued him on foot. Because of the way Davis was holding his waistband, officer Rogers believed he was carrying a gun and reported that to the radio dispatcher.

Officer Book followed Davis down an alley into an overgrown yard where he was able to tackle him. As the two fell to the ground, Book saw Davis toss a shiny metal object into the yard. While Rogers escorted Davis to the police vehicle, Book searched the yard and found a 9 mm Ruger handgun approximately ten to twelve feet from where he had tackled Davis. At trial Book testified that he found the gun in the area where Davis had tossed the shiny metal object. Davis told the judge that the object that the officer had seen must have been his sunglasses which had been knocked off when Book tackled him.

In examining the sufficiency of the evidence, we view the evidence and all reasonable inferences in the light most favorable to the verdict. U.S. v. Cain, 487 F.3d 1108, 1111 (8th Cir. 2007). Resolution of the credibility of both Davis and officer Book was squarely within the province of the district court, and the evidence adduced at trial was sufficient to show Davis possessed the handgun.

Accordingly, the judgment of the district court is affirmed.
