

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>
v.
TERRY LAMB, a/k/a Chops, <i>Defendant-Appellant.</i>

No. 01-5021

Appeal from the United States District Court
for the Southern District of West Virginia, at Charleston.
John T. Copenhaver, Jr., District Judge.
(CR-01-18)

Submitted: April 29, 2002

Decided: June 3, 2002

Before NIEMEYER, LUTTIG, and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Herbert L. Hively, II, Hurricane, West Virginia, for Appellant. Kasey Warner, United States Attorney, Samuel D. Marsh, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Terry Lamb appeals from his 150-month sentence after pleading guilty to conspiracy to distribute crack cocaine, in violation of 21 U.S.C. § 846 (1994). On appeal, Lamb argues the district court erred in finding he possessed a dangerous weapon for purposes of *U.S. Sentencing Guidelines Manual* § 2D1.1(b)(1) (2000). We affirm.

A two-level enhancement must be given under USSG § 2D1.1(b)(1) if a dangerous weapon was possessed during the offense. The enhancement applies if the weapon is present, "unless it is clearly improbable that the weapon was connected with the offense." USSG § 2D1.1, comment. (n.3). The determination that a weapon enhancement is warranted is a factual question subject to clearly erroneous review. *United States v. Apple*, 915 F.2d 899, 914 (4th Cir. 1990). Because a confidential informant testified that he saw Lamb possess a firearm on at least four occasions during drug distribution activities, and because Lamb fails to establish it was clearly improbable that the weapon was connected with the offense, we conclude the district court did not clearly err.

For these reasons, we affirm Lamb's sentence. 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