

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 00-4151

STACY TYRONE ORGAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Virginia, at Harrisonburg.
James C. Turk, District Judge.
(CR-99-36)

Submitted: August 15, 2000

Decided: September 20, 2000

Before WILKINS, NIEMEYER, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Timothy S. Coyne, FOWLER, GRIFFIN, COYNE, COYNE & PAT-
TON, P.C., Winchester, Virginia, for Appellant. Robert P. Crouch,
Jr., United States Attorney, Jean B. Hudson, Assistant United States
Attorney, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Stacy Tyrone Organ appeals his conviction and sentence for possession of a firearm after having been previously convicted of a misdemeanor crime of domestic violence in violation of 18 U.S.C.A. § 922(g)(9) (West 2000). Finding no reversible error, we affirm.

Organ first claims that the district court erred in denying his motion to dismiss the indictment, claiming that his prosecution for a violation of § 922(g)(9) violated the notice and fair warning requirements of the Due Process Clause as well as the Commerce Clause. We have recently rejected this claim in similar cases, however, and find that the district court correctly denied Organ's motion to dismiss the indictment. See United States v. Mitchell, 209 F.3d 319, 323-24 (4th Cir.), petition for cert. filed, June 7, 2000 (No. 99-9895); United States v. Bostic, 168 F.3d 718, 723 (4th Cir.), cert. denied, 527 U.S. 1029 (1999).

Organ also claims that the district court clearly erred in finding that he did not qualify for a reduction in sentence pursuant to U.S. Sentencing Guidelines Manual § 2K2.1(b)(2) (1998). Under § 2K2.1(b)(2), "[i]f the defendant . . . possessed all ammunition and firearms solely for lawful sporting purposes or collection, and did not unlawfully discharge or otherwise unlawfully use such firearms or ammunition," his offense level should be decreased to level six. Organ's son stated that Organ told him one of the bullets was "for your mom," and the district court found Organ's son's statement to be credible. Further, Organ had a history of violence. These facts were sufficient to permit a finding that Organ did not possess the firearm solely for lawful sporting purposes. Accordingly, the district court did not clearly err in determining that Organ did not qualify for the downward adjustment.

We affirm Organ's conviction and 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