

JAN 22 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARTHUR DOMINGUEZ, JR.,

Defendant - Appellant.

No. 07-10080

D.C. No. CR-05-00081-JMR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John M. Roll, District Judge, Presiding

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Arthur Dominguez, Jr. appeals from the 110-month sentence imposed following his guilty-plea conviction for possession of a firearm by a convicted

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

felon in violation of 18 U.S.C. § 922(g)(1) and 924(a)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Dominguez contends that the district court erred in applying a four-level upward adjustment under U.S.S.G. § 2K2.1(b)(6) because the pre-sentence report was insufficient to establish that he “possessed” a firearm in connection with another felony offense and that the district court should have applied a clear and convincing evidentiary standard in determining whether the adjustment applied. We disagree. We conclude that the relevant statements in the pre-sentence report bore a sufficient indicia of reliability, *see United States v. Marin-Cuevas*, 147 F.3d 889, 895 (9th Cir. 1997), and the district court did not err in applying a preponderance of the evidence standard. *See United States v. Riley*, 335 F.3d 919, 925-26 (9th Cir. 2003). Accordingly, we conclude there was sufficient evidence to demonstrate that Dominguez “possessed” a firearm in connection with felonious conduct. *See United States v. Polanco*, 93 F.3d 555, 566-67 (9th Cir. 1996).

Dominguez further contends that his sentence is unreasonable because the district court failed to consider all of the sentencing factors set forth in 18 U.S.C. § 3553(a). We disagree. The district court properly analyzed the § 3553 factors, and we conclude that Dominguez’s sentence is not unreasonable. *See Gall v. United States*, 128 S. Ct. 586, 597-98 (2007).

AFFIRMED.