

DEC 28 2007

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NOT FOR PUBLICATION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.

JOMINIQUE JEROME JOHNSON,

Defendant - Appellant.

No. 06-30359

D.C. No. CR-05-00169-2-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted December 3, 2007**

Before: GOODWIN, WALLACE and FISHER, Circuit Judges.

Jominique Jerome Johnson appeals from the sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute cocaine

* 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). Appellant's request for oral argument is denied.

and distribution of cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Johnson challenges the district court's application of the firearm enhancement listed in U.S.S.G. § 2D1.1(b)(2). We conclude that the district court did not clearly err in determining that the weapon was possessed in connection with the offense and that Johnson failed to establish that it was "clearly improbable" that the gun was connected to the drug conspiracy. *See* U.S.S.G. § 2D1.1(b)(2); *United States v. Lopez-Sandoval*, 146 F.3d 712, 715-16 (9th Cir. 1998); *United States v. Garcia*, 909 F.2d 1346, 1349-50 (9th Cir. 1990).

Johnson contends that the sentence is unreasonable because the district court failed to make a balanced assessment of the record. We disagree. The district court considered the relevant sentencing factors, and we conclude that the sentence imposed is not unreasonable. *See Gall v. United States*, __ S. Ct. __, 2007 WL 4292116 (Dec. 10, 2007); *United States v. Plouffe*, 445 F.3d 1126, 1131 (9th Cir.), *cert. denied*, 126 S. Ct. 2314 (2006).

AFFIRMED.