

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-5135

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CORNELL SHERON EVANS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Jerome B. Friedman, District Judge. (2:09-cr-00059-JBF-TEM-1)

Submitted: November 30, 2010

Decided: December 3, 2010

Before WILKINSON, KEENAN, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Michael S. Nachmanoff, Federal Public Defender, Keith Loren Kimball, Assistant Federal Public Defender, Caroline S. Platt, Research and Writing Attorney, Norfolk, Virginia, for Appellant. Neil H. MacBride, United States Attorney, Darryl J. Mitchell, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cornell Sheron Evans pled guilty to possession of a firearm by a convicted felon, 18 U.S.C. § 922(g)(1) (2006). He appeals the seventy-eight month sentence he received, arguing that the district court clearly erred in applying an adjustment for reckless endangerment during flight, U.S. Sentencing Guidelines Manual § 3C1.2 (2009). We affirm.

Evans stipulated that, when Virginia Beach police attempted a traffic stop of his car, he continued to drive until he lost control of his vehicle while making a turn on the rain-wet road, then got out of the car and ran, throwing a loaded 9mm pistol over a fence toward an interstate highway as he went. He was then apprehended. At the sentencing hearing, the district court received evidence that, during his brief flight, Evans accelerated to a speed "well over the reckless limits" despite the presence of other vehicles, "just barely made" one turn, and later spun out of control. On these facts, we conclude that the district court did not clearly err in finding that Evans "recklessly created a substantial risk of death or serious bodily injury to another person while fleeing from a law enforcement officer." USSG § 3C1.2. See, e.g., United States v. Carter, 601 F.3d 252, 254-56 (4th Cir. 2010).

We therefore affirm the sentence imposed by the district court. 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