

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED
June 1, 2012

No. 11-50800
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANTHONY TYRONE GARRETT, also known as Anthony Garrett,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:11-CR-95-1

Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Anthony Tyrone Garrett appeals the sentence imposed after he pleaded guilty to being a felon in possession of a firearm. The court sentenced him to the statutory maximum sentence of 120 months in prison, which was above the advisory guidelines maximum of 96 months.

The district court did not commit clear error by finding that Garrett possessed a gun with an altered or obliterated serial number. *See United States v. Perez*, 585 F.3d 880, 883 (5th Cir. 2009). A federal agent testified that a man

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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named Bartch bought the gun from a man named Anthony who was later confirmed to be Anthony Garrett. The four-level increase in Garrett's offense level was thus proper under U.S.S.G. § 2K2.1(b)(4) (2010).

In addition, Garrett failed to show that the above-guidelines sentence was unreasonable, either as a departure under § 4A1.3 of the Sentencing Guidelines or as a variance outside the guidelines system under 18 U.S.C. § 3553(a). *See United States v. Brantley*, 537 F.3d 347, 348-50 (5th Cir. 2008). Garrett had amassed 25 criminal history points, almost double the points needed to put him in the top criminal history category of VI. He also had numerous unscored convictions dating from when he was a juvenile. Although many of his prior convictions were misdemeanors, many of them involved violence or threats of violence. The district court recognized these relevant factors and did not abuse its discretion by imposing a sentence above the advisory guidelines range. *See Gall v. United States*, 552 U.S. 38, 46, 51-52 (2007). The judgment of the district court is AFFIRMED.