

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-3525

United States of America,

Appellee,

v.

Silverio Reyes,

Appellant.

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* Appeal from the United States

* District Court for the

* District of Nebraska

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* [UNPUBLISHED]

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Submitted: July 7, 2000

Filed: August 3, 2000

Before McMILLIAN, LOKEN and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

After authorities found drugs in Silverio Reyes's bedroom and garage, he pleaded guilty to participating in a drug-trafficking conspiracy, in violation of 21 U.S.C. §§ 841(a)(1) and 846. At sentencing, the District Court¹ for the District of Nebraska imposed a two-level dangerous weapon enhancement under U.S.S.G. § D1.1(b)(1) (1998) based on a loaded firearm found in a locked car in Reyes's garage. He now appeals from the final judgment entered upon his guilty plea, arguing that he did not

¹The Honorable Thomas M. Shanahan, United States District Judge for the District of Nebraska.

possess the gun. Having carefully reviewed the record, we conclude the district court did not clearly err in imposing the enhancement. There was evidence at sentencing that Reyes owned the gun that was in a car that was present in the garage where methamphetamine was found. See U.S.S.G. § 2D1.1, comment. (n.3). Accordingly, we affirm. See 8th Cir. R. 47B.

McMILLIAN, Circuit Judge, dissenting.

I dissent and would remand the case to the district court for more specific findings on the issue of constructive possession of the gun.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.