

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-2809

United States of America,

Appellee,

v.

Byron Scott Saul,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: June 5, 2001

Filed: June 12, 2001

Before HANSEN, MORRIS SHEPPARD ARNOLD, and BYE, Circuit Judges.

PER CURIAM.

Byron Scott Saul pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and was sentenced to 96 months of imprisonment and 3 years of supervised release. On appeal, he challenges the district court's¹ imposition of an enhancement for using the firearm in connection with another felony, and the court's assessment of his criminal history.

¹The Honorable William G. Cambridge, United States District Judge for the District of Nebraska, now retired.

We first conclude that the district court did not clearly err in applying the enhancement under U.S.S.G. § 2K2.1(b)(5). See United States v. Rohwedder, 243 F.3d 423, 428 (8th Cir. 2001) (standard of review). The evidence presented at sentencing supported the court's conclusion that Saul's conduct satisfied the elements of the Nebraska felony of terroristic threats. See Neb. Rev. Stat. § 28-311.01 (1995); State v. Tillman, 511 N.W.2d 128, 134 (Neb. Ct. App. 1993).

Second, we conclude that the district court did not clearly err in assessing criminal history points for a 1981 theft conviction. See United States v. Levi, 229 F.3d 677, 679 (8th Cir. 2000) (standard of review). The evidence presented at sentencing supported the court's determination that, within fifteen years of the date of his commission of the instant offense, Saul was serving a parole-revocation sentence arising from the theft conviction. See U.S.S.G. § 4A1.2(e)(1) and (k)(2)(B).

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

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