

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 07-10111-01-WEB
)	
ALEXANDER L. BURTIN,)	
)	
Defendant.)	
_____)	

Memorandum and Order

This matter came before the court on the defendant's objection to the Presentence Report. The court ruled orally on the objection at the sentencing hearing of December 17, 2007. This written memorandum will supplement the court's oral ruling.

Defendant's sole objection concerns an additional 8.58 grams of methamphetamine for which he was found responsible under the relevant conduct provisions of the guidelines. *See* USSG § 1B1.3. The methamphetamine was discovered during a traffic stop on March 2, 2007. (PSR ¶¶ 29-33). Defendant denies that he possessed this substance or that he is responsible for it. Although the Government contends the circumstances of the stop show that the methamphetamine was in the defendant's possession, the court has no evidentiary basis to make such a finding. Accordingly, the court will sustain the objection. As the defendant concedes, however, this ruling does not effect the offense level or the advisory guideline range applicable to his offenses.

Conclusion.

Defendant's objection to the Presentence Report is SUSTAINED. The Probation Officer in charge of this case shall see that a copy of this order is appended to any copy of the Presentence Report made available to the Bureau of Prisons. IT IS SO ORDERED this 18th Day of December, 2007, at Wichita, Ks.

s/Wesley E. Brown

Wesley E. Brown

U.S. Senior District Judge