

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 11-13376
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JANUARY 12, 2012 JOHN LEY CLERK

D.C. Docket No. 9:11-cr-80005-KLR-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GARY L. FINKLEA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(January 12, 2012)

Before WILSON, PRYOR and BLACK, Circuit Judges.

PER CURIAM:

Gary Finklea appeals his sentence of 180 months of imprisonment following his plea of guilty to being a felon in possession of a firearm and ammunition. 18 U.S.C. § 922(g)(1). Finklea argues that the district court violated his rights under the Fifth and Sixth Amendments by sentencing him as a career criminal based on prior convictions that were neither charged in his indictment nor admitted by him. Finklea's argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 226–27, 118 S. Ct. 1219, 1222 (1998), and Finklea acknowledges that we are “bound to follow Almendarez-Torres unless and until the Supreme Court itself overrules that decision.” United States v. Thomas, 242 F.3d 1028, 1035 (11th Cir. 2001).

We **AFFIRM** Finklea's sentence.