

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-4178

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMOND EDWARD GILL,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Richard D. Bennett, District Judge. (1:13-cr-00577-RDB-1)

Submitted: July 28, 2016

Decided: August 2, 2016

Before AGEE, KEENAN, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Joseph Murtha, MURTHA, PSORAS & LANASA LLC, Lutherville, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Paul E. Budlow, Assistant United States Attorney, Baltimore, Maryland for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Raymond Edward Gill was convicted by a jury of one count of armed bank robbery, in violation of 18 U.S.C. § 2113(a), (d), and (f) (2012), and one count of brandishing a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924(c) (2012). Gill was sentenced to 300 months for the bank robbery and 180 months consecutive on the brandishing count, for a total sentence of 480 months of imprisonment. On appeal Gill asserts that bank robbery may be accomplished by intimidation only and thus argues that it is not a crime of violence. Based on this premise, Gill raises two issues: (1) whether his § 924(c) conviction must be reversed because federal bank robbery is not a crime of violence in the wake of Johnson v. United States, 135 S. Ct. 2551 (2015); and (2) whether the district court erred in sentencing him as a career offender because armed bank robbery no longer constitutes a crime of violence after Johnson. We affirm.

We review both issues for plain error only because Gill raises the issues for the first time on appeal. United States v. Olano, 507 U.S. 725, 732 (1993). Both issues fail, however, based on our recent opinion in United States v. McNeal, 818 F.3d 141 (4th Cir. 2016). In McNeal, we held that taking by intimidation under § 2113(a) involves the threat to use physical force and thus armed bank robbery is a crime of violence

pursuant to 18 U.S.C. § 924(c)(3)(A). Id. at 153. Thus, because we find both of Gill's arguments are foreclosed by McNeal, we affirm his convictions and sentence. We deny Gill's pro se motion to amend and dispense with oral argument as the appeal facts and legal contentions are adequately presented in the materials before this Court and argument would not aid the decisional process.

AFFIRMED