

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-4324

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SAADIQ TUCKER,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:02-cr-00205-BO-1)

Submitted: January 31, 2017

Decided: February 2, 2017

Before WILKINSON, KEENAN, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. John Stuart Bruce, United States Attorney, Jennifer P. May-Parker, First Assistant United States Attorney, Barbara D. Kocher, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Saadig Tucker appeals his convictions and 84-month sentence imposed after he pled guilty without a plea agreement to armed bank robbery, in violation of 18 U.S.C. § 2113(a), (d) (2012); and using or carrying a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii) (2012). Tucker asserts only that the five-year statutory mandatory minimum sentence imposed on his § 924(c) conviction generally violates the Equal Protection and Due Process Clauses, and specifically violates his Eighth Amendment rights. Counsel rightfully concedes, however, that these arguments have been expressly rejected by this Court. See United States v. Khan, 461 F.3d 477, 494-95 (4th Cir. 2006), as amended (Sept. 7, 2006). “[A] panel of this court cannot overrule, explicitly or implicitly, the precedent set by a prior panel of this court. Only the Supreme Court or this court sitting en banc can do that.” Scotts Co. v. United Indus. Corp., 315 F.3d 264, 271 n.2 (4th Cir. 2002) (internal quotation marks omitted).

Given counsel’s concession and our holdings in Khan, we affirm the district court’s judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED