

United States Court of Appeals
For the Eighth Circuit

No. 18-3055

United States of America,

Plaintiff - Appellee,

v.

Joshua R. Berryhill,

Defendant - Appellant.

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: June 14, 2019

Filed: August 13, 2019

[Unpublished]

Before COLLOTON, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

Joshua Berryhill pleaded guilty to one count of unlawful possession of a firearm as a previously convicted felon. *See* 18 U.S.C. §§ 922(g)(1), 924(a)(2). At

sentencing, the district court¹ determined a base offense level of 20 because Berryhill committed the instant offense after “sustaining one felony conviction of . . . a crime of violence.” USSG § 2K2.1(a)(4)(A). The court concluded that either of Berryhill’s two prior Missouri felony convictions—second-degree robbery, in violation of Mo. Rev. Stat. § 569.030, or armed criminal action, in violation of Mo. Rev. Stat. § 571.015—qualified as a “crime of violence.” *See* USSG § 4B1.2(a). After calculating an advisory guideline range of 51 to 63 months’ imprisonment, the court varied downward from the range and sentenced Berryhill to 48 months’ imprisonment.

Berryhill appeals, arguing that the court committed procedural error by finding that he had sustained a previous conviction for a crime of violence. We have since held, however, that Missouri second-degree robbery is indeed a crime of violence under the sentencing guidelines, *United States v. Parker*, 929 F.3d 940 (8th Cir. 2019), so Berryhill’s contention is foreclosed by circuit precedent. The district court did not err in calculating the advisory guideline range.

The judgment of the district court is affirmed.

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.