

Not For Publication in West's Federal Reporter
**United States Court of Appeals
For the First Circuit**

No. 12-1213

UNITED STATES OF AMERICA,

Appellee,

v.

STEPHEN L. VOISINE,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

[Hon. John A. Woodcock, U.S. District Judge]

Before

Lynch, Chief Judge,
Torruella and Stahl, Circuit Judges.

Virginia G. Villa, Assistant Federal Public Defender, on brief
for appellant.

Renée M. Bunker, Assistant United States Attorney, and
Thomas E. Delahanty II, United States Attorney, on brief for
appellee.

January 18, 2013

Per Curiam. Defendant-Appellant Stephen L. Voisine asks us to reconsider arguments heard in and decided by this court regarding: (1) whether 18 U.S.C. § 922(g)(9) should be construed to exclude a purportedly non-violent offensive physical contact misdemeanor conviction as a predicate offense; and (2) whether applying § 922(g)(9) to such a prior conviction would violate a particular defendant's Second Amendment rights. See United States v. Booker, 644 F.3d 12 (1st Cir. 2011); United States v. Nason, 269 F.3d 10 (1st Cir. 2001). The Court considered and denied the exact same arguments in United States v. Armstrong, III, Case No. 12-1216 (1st Cir. 2012). Since there are no pertinent factual differences distinguishing the instant case from Armstrong, we accordingly incorporate its reasoning here and affirm the district court's denial of Defendant-Appellant's motion to dismiss the indictment.

So Ordered.