

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-11160
Non-Argument Calendar

D.C. Docket No. 8:16-cr-00065-VMC-JSS-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GLOVER A. YAWN, JR.,

Defendant-Appellant.

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

(July 11, 2018)

Before MARCUS, ROSENBAUM, and ANDERSON, Circuit Judges.

PER CURIAM:

Glover Yawn, Jr. appeals his sentence for possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(e), arguing that his sentence was improperly enhanced under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e), because his prior conviction for Florida felony battery under Fla. Stat. § 784.041(1) does not qualify as a violent felony. Yawn acknowledges that we ruled in *United States v. Vail-Bailon*, 868 F.3d 1293 (11th Cir. 2017) (*en banc*), *cert. denied*, 2018 WL 2767792 (U.S. June 11, 2018), and *United States v. Green*, 873 F.3d 846, 869 (11th Cir. 2017), *cert. denied*, 2018 WL 2767821 (U.S. June 11, 2018), that Fla. Stat. § 784.041(1) has as an element the use, attempted use, or threatened use of physical force against another, but he argues that *Vail-Bailon* and *Green* were wrongly decided.

We review *de novo* whether a defendant’s prior conviction qualifies as a violent felony under the ACCA. *Green*, 873 F.3d at 869.

In *Vail-Bailon*, we applied the categorical approach and held, in the context of a provision of the Sentencing Guidelines, that felony battery under Fla. Stat. § 784.041(1) has as an element the use, attempted use, or threatened use of physical force against the person of another. *See Vail-Bailon*, 868 F.3d at 1299, 1308. In *Green*, we extended the holding in *Vail-Bailon* to the elements clause of the ACCA, stating that,

. . . having held that, for Guidelines’ purposes, felony battery under Florida Statute § 784.041 categorically constitutes a crime of violence

under the elements clause of that provision, *Vail-Bailon* compels a conclusion that this statute likewise constitutes a violent felony under the elements clause of the ACCA.

Green, 873 F.3d at 869.

Under the prior precedent rule, we are bound by our prior decisions unless and until they are overruled by the Supreme Court or this Court *en banc*. *United States v. Brown*, 342 F.3d 1245, 1246 (11th Cir. 2003).

Yawn's argument on appeal is foreclosed by our binding precedent. We held in *Green* that felony battery under Fla. Stat. § 784.041(1) constitutes a violent felony under the elements clause of the ACCA. Thus, Yawn's contention that felony battery under Fla. Stat. § 784.041(1) does not qualify as a violent felony under § 924(e) is refuted by our binding precedent. Although Yawn argues that *Vail-Bailon* and *Green* were wrongly decided, our decisions remain binding unless and until they are overruled. Accordingly, we affirm.

AFFIRMED.