

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4266

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUSTIN BENJAMIN HASTE, JR.,

Defendant - Appellant.

On Remand from the Supreme Court of the United States.
(S. Ct. No. 07-7412)

Submitted: July 8, 2008

Decided: September 9, 2008

Before KING and SHEDD, Circuit Judges, and WILKINS, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Louis C. Allen, III, Federal Public Defender, Eric D. Placke, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Robert A. J. Lang, Assistant United States Attorney, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

This case is before the court on remand from the United States Supreme Court. Justin Benjamin Haste, Jr., was previously convicted and sentenced to 180 months in prison after pleading guilty pursuant to a plea agreement to possession of a firearm by a felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(e) (2000). Although Haste conceded he had two predicate offenses for armed career criminal status under the Armed Career Criminal Act ("ACCA"), 18 U.S.C. § 924(e) (2000), he asserted before the district court and this court that a third conviction for felonious possession of a weapon of mass destruction under N.C. Gen. Stat. § 14-288.8 (2005) should not have been considered a "violent felony" under the ACCA. We disagreed and affirmed the district court's judgment. See United States v. Haste, 234 F. App'x 70 (4th Cir. 2007) (unpublished). The Supreme Court vacated our judgment and remanded the case for further consideration in light of United States v. Begay, 128 S. Ct. 1581 (2008). Having carefully reviewed the Supreme Court's opinion, we conclude that a violation of N.C. Gen. Stat. § 14-288.8 is not a "violent felony" under the ACCA.

Accordingly, we vacate Haste's sentence and remand this matter to the district court for resentencing consistent with this opinion. We dispense with oral argument because the facts and

legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED