

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4950

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ELSON PRESSLEY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Dever III, District Judge. (7:07-cr-00041-D)

Submitted: April 24, 2008

Decided: May 2, 2008

Before WILKINSON and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Raleigh, North Carolina, for Appellant. George E. B. Holding, United States Attorney, Anne M. Hayes, Banumathi Rangarajan, Assistant United States Attorneys, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elson Pressley pled guilty, without a plea agreement, to possession of a firearm and ammunition by a convicted felon, in violation of 18 U.S.C.A. §§ 922(g)(1), 924 (West 2000 & Supp. 2007). He received an enhanced sentence under the Armed Career Criminal Act ("ACCA"), 18 U.S.C.A. § 924(e) (West 2000 & Supp. 2007). Pressley timely appealed.

Pressley asserts that the ACCA enhancement violated his Sixth Amendment rights because his prior convictions, upon which the court based the enhancement, were not submitted to a jury, proved beyond a reasonable doubt, or admitted by him. However, as Pressley recognizes, this court rejected the same argument in United States v. Cheek, 415 F.3d 349, 352-54 (4th Cir. 2005); see also United States v. Thompson, 421 F.3d 278, 283 (4th Cir. 2005). A panel of this court may not overrule a prior published decision of the court. United States v. Ruhe, 191 F.3d 376, 388 (4th Cir. 1999).

Accordingly, we affirm Pressley's sentence. 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.

AFFIRMED