

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

**No. 15-4117**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC VERSHAWN MARKS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever, III, Chief District Judge. (5:14-cr-00141-D-1)

Submitted: March 30, 2017

Decided: April 3, 2017

Before TRAXLER and WYNN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, G. Alan DuBois, First Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Thomas G. Walker, United States Attorney, Jennifer P. May-Parker, Phillip A. Rubin, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Vershawn Marks appeals his 151-month sentence imposed following his guilty plea to distribution of a quantity of cocaine base, in violation of 21 U.S.C. § 841(a)(1) (2012). On appeal, Marks challenges his career offender designation based on Johnson v. United States, 135 S. Ct. 2551 (2015), which declared the residual clause of the Armed Career Criminal Act unconstitutionally vague. Marks' argument is foreclosed by the Supreme Court's recent decision that the Sentencing Guidelines, including the career offender residual clause, "are not subject to a vagueness challenge under the Due Process Clause." Beckles v. United States, \_\_\_ S. Ct. \_\_\_, \_\_\_, No. 15-8544, 2017 WL 855781, at \*9 (U.S. Mar. 6, 2017).

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED