

No. 15-6076

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jul 24, 2017
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
)
DENNIS DEWAYNE PLEMONS)
)
Defendant-Appellant.)

ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF TENNESSEE

Before: BATCHELDER and KETHLEDGE, Circuit Judges; LEVY, District Judge.*

KETHLEDGE, Circuit Judge. In 2014, Dennis Plemons pleaded guilty to being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). At sentencing, the district court found that Plemons had three prior convictions for violent felonies under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), which triggered a mandatory-minimum sentence of 15 years. One of those convictions was for Tennessee aggravated burglary, Tenn. Code Ann. § 39-14-403. At the time of Plemons’s sentencing, that crime constituted a violent felony for purposes of the ACCA under our decision in *United States v. Nance*, 481 F.3d 882 (6th Cir. 2007). In *United States v. Stitt*, however, we overruled *Nance* and held that a conviction for Tennessee aggravated burglary is not a violent felony under the ACCA. --- F.3d ---, 2017 WL 2766326 (6th Cir. 2017) (en banc). Plemons’s conviction for that offense therefore was not a

* The Honorable Judith E. Levy, United States District Judge for the Eastern District of Michigan, sitting by designation.

violent felony under the ACCA. We vacate Plemons's sentence and remand for proceedings consistent with this opinion.