

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 17a0432n.06

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.

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