

United States Court of Appeals
For the Eighth Circuit

No. 14-3122

United States of America

Plaintiff - Appellee

v.

Timothy G. Ossana

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - Cape Girardeau

Submitted: June 8, 2015

Filed: June 11, 2015

[Unpublished]

Before GRUENDER, MELLOY, and BENTON, Circuit Judges.

PER CURIAM.

Following a prior felon-in-possession conviction under 18 U.S.C. § 922(g)(1), Timothy G. Ossana twice appealed a crime-of-violence determination under U.S. Sentencing Guidelines Manual § 2K2.1(a)(4)(A). In United States v. Ossana (Ossana I), 638 F.3d 895 (8th Cir. 2011), we held the initial federal sentencing record insufficient to determine whether a prior Arizona aggravated assault conviction

qualified as a crime of violence. The underlying Arizona statute was overinclusive and the record did not establish which subpart of the statute supported Ossana's conviction. On remand, the district court expanded the record, applied the modified categorical approach, and found the Arizona conviction qualified as a crime of violence. We affirmed. See United States v. Ossana (Ossana II), 679 F.3d 733 (8th Cir. 2012).

After Ossana served his term of incarceration for that initial 18 U.S.C. § 922(g)(1) conviction, authorities again discovered him in possession of a firearm. He pleaded guilty in the present case to another § 922(g)(1) violation and, again, argued that the same underlying Arizona conviction did not qualify as a crime of violence. The district court¹ rejected the argument and sentenced him pursuant to U.S.S.G. § 2K2.1(a)(4)(A). Ossana appeals.

Ossana does not rely upon newly developed law nor does he point to a state-court record different from that presented in Ossana II.² We addressed the classification of the same Arizona conviction in depth in Ossana II, and Ossana raises no new evidence nor arguments to cast doubt upon our prior holding or require a different result. The district court in the present case properly determined that the Arizona conviction qualifies as a crime of violence.

We affirm the judgment of the district court.

¹The Honorable Stephen N. Limbaugh, Jr., United States District Judge for the Eastern District of Missouri.

²Ossana cites Descamps v. United States, 133 S. Ct. 2276 (2013), but does not explain how it changes the analysis from that employed in Ossana II. Having reviewed Descamps, we do not find that it requires a different result in this appeal.