

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TIMOTHY SHAWN ROBERTSON,
Defendant-Appellant.

No. 00-4906

Appeal from the United States District Court
for the Eastern District of North Carolina, at Raleigh.
Malcolm J. Howard, District Judge.
(CR-00-103-H)

Submitted: July 31, 2001

Decided: August 22, 2001

Before WIDENER, NIEMEYER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon,
Assistant Federal Public Defender, Raleigh, North Carolina, for
Appellant. John Stuart Bruce, Interim United States Attorney, Anne
M. Hayes, Assistant United States Attorney, J. Frank Bradsher, Assis-
tant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Timothy Robertson pled guilty to one count of being a felon in possession of a firearm, 18 U.S.C.A. § 922(g)(1) (West 2000). He received an enhanced sentence as an armed career criminal under 18 U.S.C.A. § 924(e) (West 2000) based on three prior felony convictions. On appeal, Robertson claims that, under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), the district court erred in sentencing him under § 924(e) where the indictment charged him under § 922(g), which carries a maximum penalty of ten years.

However, in *Apprendi*, the Supreme Court expressly declined to overrule *Almandarez-Torres v. United States*, 523 U.S. 224 (1998), which held that prior felony convictions are mere sentence enhancements and not elements of an offense. *See also United States v. Skidmore*, ___ F.3d ___, 2001 WL 683001 (7th Cir. June 19, 2001) (holding that enhanced sentence under § 924(e) did not violate *Apprendi* where defendant had requisite three prior felony convictions); *United States v. Dorris*, 236 F.3d 582, 586-88 (10th Cir. 2000) (same), *cert. denied*, 69 U.S.L.W. 3672 (U.S. April 16, 2001) (No. 00-8937); *United States v. Mack*, 229 F.3d 226, 235 n.12 (3d Cir. 2000) (same), *cert. denied*, 69 U.S.L.W. 3739 (U.S. May 21, 2001).

Accordingly, we affirm Robertson'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