

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TRAVIS ORLANDER DUSENBURY,
Defendant-Appellant.

No. 02-4270

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
William L. Osteen, District Judge.
(CR-01-104)

Submitted: September 16, 2002

Decided: October 29, 2002

Before WIDENER, WILKINS, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Walter T. Johnson, Jr., LAW OFFICE OF WALTER T. JOHNSON, JR., Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Steven H. Levin, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Travis Orlander Dusenbury appeals his 190-month sentence, which was imposed following his guilty plea to possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(e) (2000). He contends on appeal the district court erred in sentencing him pursuant to the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e). We affirm.

Dusenbury first contends he should not have been sentenced under the ACCA because he lacked the requisite number of qualifying convictions under the statute. We find this argument to be without merit. *See* 18 U.S.C. § 924(e)(2)(B) (defining "violent felony" as a crime that "has as an element the use, attempted use, or threatened use of physical force against the person of another" or "otherwise involves conduct that presents a serious potential risk of physical injury to another").

Dusenbury next contends he should not have been sentenced under the ACCA because the predicate convictions were not alleged in the indictment or submitted to the jury to be proven beyond a reasonable doubt. This argument is foreclosed by our decision in *United States v. Sterling*, 283 F.3d 216, 219-20 (4th Cir.), *cert. denied*, 122 S. Ct. 2606 (2002).

Accordingly, we affirm Dusenbury'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