

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-4972

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

COLEY TERRANCE HOLMAN

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., Chief District Judge. (1:12-cr-00072-WO-1)

Submitted: May 6, 2013

Decided: May 9, 2013

Before KING and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, III, Federal Public Defender, William S. Trivette, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Ripley Rand, United States Attorney, T. Nick Matkins, Special Assistant United States Attorney, Bethany Corbin, Third Year Law Student, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Coley Terrance Holman pled guilty in accordance with a written plea agreement to possession of a firearm by a convicted felon, 18 U.S.C. § 922(g) (2006). He was sentenced to 186 months in prison. Holman now appeals, arguing that he was improperly sentenced as an armed career criminal because the indictment did not charge a violation of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e) (2006). We affirm.

As Holman acknowledges in his brief, controlling circuit precedent defeats his claim. We have held that prior convictions used as the basis for sentencing a defendant as an armed career criminal need not be charged in the indictment or proven to a jury beyond a reasonable doubt. United States v. Cheek, 415 F.3d 349, 352 (4th Cir. 2005).

We accordingly affirm. 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