

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-4530

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEPHEN RAY MILLER,

Defendant - Appellant.

No. 09-4532

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER RYAN HAYES,

Defendant - Appellant.

Appeals from the United States District Court for the District
of South Carolina, at Columbia. Cameron McGowan Currie,
District Judge. (3:08-cr-00855-CMC-1)

Submitted: November 18, 2010

Decided: November 24, 2010

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

Affirmed by unpublished per curiam opinion.

David B. Betts, Columbia, South Carolina; Joshua S. Kendrick, Columbia, South Carolina, for Appellants. William N. Nettles, United States Attorney, Winston D. Holliday, Jr., Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

A jury convicted Stephen Ray Miller and Christopher Ray Hayes of robberies, in violation of 18 U.S.C. § 1951(a) (2006), and of using, carrying, and possessing a firearm during the commission of the robberies, in violation of 18 U.S.C. § 924(c) (2006). On appeal, Miller and Hayes argue that the district court erred in denying their motion for acquittal on the basis of sufficiency of the evidence, contending that the Government must prove that the firearms used were capable of expelling projectiles by explosive actions. We affirm.

On December 23, 2007, Hayes and two co-conspirators robbed a Walgreens pharmacy of controlled substances. On January 23, 2008, Hayes, Miller, and one of the two co-conspirators from the prior robbery robbed another Walgreens pharmacy. Video surveillance and testimony of the two co-conspirators and several eyewitnesses, including the store managers, pharmacists, a cashier, and others confirmed that Hayes and Miller used guns during the robberies. Appellants contend that the Government failed to prove that the guns carried by them during the robberies were capable of expelling a projectile by an explosive action, as set forth in the definition of firearm in 18 U.S.C. § 921(a)(3) (2006). Appellants assert that absent such proof, the evidence was insufficient to support their firearm convictions.

A conviction under § 924(c) can be sustained solely on the strength of testimony of lay witnesses unfamiliar with firearms, and no expert testimony is required. See United States v. Jones, 907 F.2d 456, 460 (4th Cir. 1990). In this case, numerous witnesses testified that Miller and Hayes used guns during the robberies, and guns are visible in the surveillance videos. Thus, substantial evidence supports the convictions for use of a firearm during the commission of the robberies, and the district court did not err in denying the motion for acquittal. See United States v. Redd, 161 F.3d 793, 797 (4th Cir. 1998).

Accordingly, we affirm Miller's and Hayes' convictions. We dispense with oral argument because the facts and legal contentions are adequately presented in the material before the court and argument would not aid the decisional process.

AFFIRMED