

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-41258  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID FROST,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-01-CR-186-1  
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September 13, 2002

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:\*

David Frost appeals his sentence following his guilty-plea conviction for possession of pseudoephedrine with intent to manufacture methamphetamine in violation of 21 U.S.C.

§ 841(c)(1). Frost argues that the district court erred in determining that he was a career offender pursuant to U.S.S.G.

§ 4B1.1. Frost contends that, despite this court's ruling to the contrary in United States v. Jackson, 220 F.3d 635 (5th Cir.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

2000), cert. denied, 532 U.S. 988 (2001), his two prior convictions for the Texas crime of unauthorized use of a motor vehicle are not crimes of violence pursuant to U.S.S.G. § 4B1.2(a)(2). This court reviews "a district court's interpretation of the sentencing guidelines de novo and its application of the guidelines to the facts for clear error." See United States v. Cho, 136 F.3d 982, 983 (5th Cir. 1998).

After Frost was sentenced, we decided United States v. Charles, \_\_\_ F.3d \_\_\_ (5th Cir. Jul. 31, 2002, No. 01-10113) (en banc), 2002 WL 1764147, \*1, in which we overruled Jackson. Accordingly, Frost's sentence is VACATED, and this case is REMANDED for re-sentencing in light of Charles.