

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10784
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOEL ANTHONY JACKSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:01-CR-174-A-1

March 25, 2003

Before BARKSDALE, DEMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Joel Anthony Jackson ("Jackson") appeals his sentence for being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Jackson argues that his previous convictions for unauthorized use of a motor vehicle and theft of a vehicle are not crimes of violence and should not have been considered for sentencing enhancement purposes under U.S.S.G. §§ 2K2.1 and 4B1.2. The Government concedes that Jackson's previous convictions are not crimes of violence.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

In United States v. Charles, 301 F.3d 309, 314 (5th Cir. 2002)(en banc), this court held that a crime is a "crime of violence" under § 4B1.2(a)(2) "only if, from the face of the indictment, the crime charged or the conduct charged presents a serious potential risk of injury to a person." It is impossible to review the Jackson's prior indictments under this standard because they are not present in the record. Therefore, we VACATE Jackson's sentence and REMAND to the district court for resentencing consistent with the decision in Charles. See United States v. Lee, 310 F.3d 787, 791 (5th Cir. 2002).

VACATED and REMANDED FOR RESENTENCING.