

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-10357
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 6, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

LEE CLINTON HOBDY,

Defendant–Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:15-CR-22-1

Before JOLLY, SMITH, and GRAVES, Circuit Judges.

PER CURIAM:*

Lee Hobdy pleaded guilty of being a convicted felon in possession of a

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(e) and was sentenced to 46 months of imprisonment and a two-year term of supervised release. He challenges the calculation of his guidelines range under U.S.S.G. § 2K2.1(a)(4)(A), which states that the base offense level is 20 if the offense occurred after a felony conviction for a crime of violence (“COV”).

Hobdy avers that his Texas robbery conviction no longer qualifies as a COV because the former residual clause and accompanying commentary of U.S.S.G. § 4B1.2(a)(2) are invalid in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). That argument is unavailing, *see Beckles v. United States*, 137 S. Ct. 886, 892 (2017), and Texas robbery qualifies as an enumerated COV under the former commentary to § 4B1.2. *See United States v. Flores-Vasquez*, 641 F.3d 667, 670 n.1 (5th Cir. 2011); *United States v. Santiesteban-Hernandez*, 469 F.3d 376, 380–81 (5th Cir. 2006), *overruled on other grounds by United States v. Rodriguez*, 711 F.3d 541, 547–63 (5th Cir. 2013) (en banc). We need not address Hobdy’s argument that Texas robbery does not constitute a COV under § 4B1.2 because it lacks the element of use, threatened use, or attempted use of force. *See United States v. Olalde-Hernandez*, 630 F.3d 372, 376 (5th Cir. 2011).

AFFIRMED.