

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

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No. 17-10507  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

June 22, 2018

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOEL CADENA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:16-CR-232-1

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Before DAVIS, COSTA, and ENGELHARDT, Circuit Judges.

PER CURIAM:\*

Joel Cadena pleaded guilty to one count of bank robbery, in violation of 18 U.S.C. § 2113(a), and one count of using, carrying, and brandishing a firearm during and in relation to, and possessing and brandishing a firearm in furtherance of, a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii); he received consecutive sentences of 36 and 84 months, respectively. On appeal, Cadena argues that his § 924(c) conviction is invalid because federal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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bank robbery does not qualify as a crime of violence. Specifically, Cadena maintains that bank robbery does not have as an element the actual, attempted, or threatened use of force, as required under § 924(c)(3)(A). Additionally, he contends that § 924(c)(3)(B), which defines a crime of violence as an offense “that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense,” is unconstitutionally vague. The Government moves for summary affirmance, asserting that the issue is foreclosed by circuit precedent. Alternatively, the Government moves for an extension of time to file an appellate brief.

We have held that bank robbery, as defined under § 2113(a), qualifies as a crime of violence because the least culpable conduct under that statute requires, at a minimum, an implicit threat to use force. *United States v. Brewer*, 848 F.3d 711, 714-16 (5th Cir. 2017). Accordingly, the judgment of the district court is AFFIRMED. The Government’s motion for summary affirmance and the alternative motion for an extension of time to file an appellate brief are DENIED.