

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

United States Court of Appeals
Fifth Circuit

FILED

April 22, 2019

Lyle W. Cayce
Clerk

No. 18-10948
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

WILLIAM DANTE MITCHELL,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:17-CR-67-1

Before DAVIS, GRAVES, and HO, Circuit Judges.

PER CURIAM:*

William Dante Mitchell appeals the 180-month statutory minimum sentence imposed following his guilty plea conviction for possession of a firearm by a convicted felon. He argues that his prior Texas convictions of possession with intent to deliver a controlled substance and delivery of a controlled substance are not serious drug offenses for purposes of the Armed Career Criminal Act enhancement under 18 U.S.C. § 924(e). The Government

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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has filed an unopposed motion for summary affirmance and, alternatively, seeks an extension of time to file its brief.

As the Government argues and Mitchell concedes, his argument is foreclosed by *United States v. Cain*, 877 F.3d 562, 562-63 (5th Cir. 2017), *cert. denied*, 138 S. Ct. 1579 (2018), and *United States v. Vickers*, 540 F.3d 356, 363-66 (5th Cir. 2008). Because the issue is foreclosed, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the Government's motion for summary affirmance is GRANTED and the judgment is AFFIRMED. The Government's alternative motion for an extension of time to file its brief is DENIED.