

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1580
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DEMOND LAMONT HENDERSON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CR-003-A
- - - - -
(July 20, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

A jury convicted Demond Lamont Henderson of carjacking and using and carrying a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. §§ 2119 and 924(c). The district court sentenced Henderson to 57 months in prison for the carjacking and a mandatory consecutive 60 months on the firearm charge for a total of 117 months. On appeal, he argues that his conviction and sentence for both crimes violates the Double Jeopardy Clause.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Henderson's argument is foreclosed by United States v. Singleton, 16 F.3d 1419 (5th Cir. 1994). Singleton held that the Double Jeopardy Clause did not bar prosecution for both armed carjacking and possession of a firearm in the commission of a violent crime because the text and legislative history of § 924(c) clearly indicated that Congress intended "to impose cumulative punishments for violations of § 924(c) and all crimes of violence, including `carjacking.'" Id. at 1429; see also United States v. Portillo, 18 F.3d 290, 291-92 (5th Cir. 1994) (rejecting same argument).

Henderson maintains that the Supreme Court abandoned the "clear expression of legislative intent" prong of the double jeopardy analysis in United States v. Dixon, ___ U.S. ___, 113 S. Ct. 2849, 125 L. Ed. 2d 556 (1993), effectively overruling Missouri v. Hunter, 459 U.S. 359, 103 S. Ct. 673, 74 L. Ed. 2d 535 (1983). This argument lacks merit. Dixon did not address whether enhanced penalty statutes, such as § 924(c), violate the Double Jeopardy Clause, nor did the Court purport to overrule Hunter. Accordingly, Singleton is binding and disposes of this appeal. See In re Dyke, 943 F.2d 1435, 1442 (5th Cir. 1991) (absent en banc consideration or superseding decision from Supreme Court prior panel's decision binds subsequent panel).

AFFIRMED.