

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41127
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DWAYNE NELSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:97-CR-83-ALL

February 16, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Dwayne Nelson appeals his guilty-plea conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g). He argues that the district court erred by applying the sentence-enhancement provision of § 924(e) without ascertaining whether four of his previous convictions for burglary of a building met the definition of "violent felony" as defined in § 924(e).

The Appellee asserts that Nelson's notice of appeal was untimely. Judgment was entered on September 8, 1998; therefore,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the notice of appeal, dated September 15, 1998, was timely.

See Fed. R. App. P. 4(b)(1)(A)(i).

In Taylor v. United States, 495 U.S. 575, 599 (1990), the Supreme Court concluded that a person has been convicted of burglary for purposes of a § 924(e) enhancement if he is convicted of any crime having the basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime. The Court further stated that "if the defendant was convicted of burglary in a State where the generic definition has been adopted, with minor variations in terminology, then the trial court need find only that the state statute corresponds in substance to the generic meaning of burglary." Id.

In United States v. Silva, 957 F.2d 157, 161-62 (5th Cir. 1992), we held that Texas Penal Code § 30.02, which criminalizes burglary of a building, is a generic burglary statute containing all the essential elements required by Taylor. Accordingly, the judgment of the district court is AFFIRMED.