

REVISED, OCTOBER 24, 2000

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-30898
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANK S. JACKSON, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 99-CR-25-ALL-M

- - - - -
September 1, 2000

Before EMILIO M. GARZA, STEWART and PARKER, Circuit Judges.

PER CURIAM:*

Frank S. Jackson, Jr., appeals from his jury-verdict conviction for being a felon in possession of a firearm which had been shipped in interstate commerce. He argues that the district court erred in adding three criminal history points for his prior conviction for attempted manslaughter. Because he failed to object to this issue in district court, our review is limited to plain error. See United States v. Ocana, 204 F.3d 585, 588 (5th Cir. 2000).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Jackson's sentence for his attempted-manslaughter conviction included a two-year term of imprisonment as a condition of his probation, and he was given credit for time served. His prior sentence therefore qualified as a sentence of imprisonment exceeding one year and one month under U.S.S.G. § 4A1.1(a). See U.S.S.G. §§ 4A1.1(a), 4A1.2(b), 4A1.2, comment. (n.2); see also United States v. Brown, 54 F.3d 234, 239-40 (5th Cir. 1995)(defendant, who was given credit for time served, actually served part of his prior sentence, thereby qualifying such prior sentence as a sentence of imprisonment under § 4A1.1(a)). The district court did not err in adding three points for his prior sentence under § 4A1.1(a), and its judgment is AFFIRMED.

Jackson has moved this court for appointment of substitute counsel. Given the disposition of the instant appeal and the fact that his currently appointed counsel appears to have rendered meaningful assistance, his motion is DENIED.

AFFIRMED; MOTION DENIED.