

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10011
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TROYCE ARVA RUBY, III, also known as Troyce Ruby,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:01-CR-129-1-A

October 29, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Troyce Arva Ruby ("Ruby") appeals the sentencing following his guilty plea to possession with the intent to distribute methamphetamine and using and carrying a firearm in relation to a drug trafficking crime. Ruby argues that the district court erred in sentencing him as a career offender under U.S.S.G. § 4B1.1(c) because his previous conviction for escape was not a crime of violence.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This court reviews the district court's application of the Sentencing Guidelines *de novo*. See United States v. Charles, 301 F.3d 309, 312 (5th Cir. 2002). Section 4B1.2 defines a "crime of violence" as an offense which "has as an element the use, attempted use, or threatened use of physical force against the person of another." U.S.S.G. § 4B1.2(a). Ruby attempted to escape after he was detained by officers for throwing beer bottles out of a car window. Ruby's conviction for escape meets the definition of a "crime of violence." See United States v. Ruiz, 180 F.3d 675 (5th Cir. 1999).

Ruby's sentence is AFFIRMED.