

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

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2011

Lyle W. Cayce
Clerk

No. 10-51043
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

THOMAS MADISON TUBBS,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:10-CR-137-1

Before BENAVIDES, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Thomas Madison Tubbs presents arguments that he concedes are foreclosed by *United States v. Harrimon*, 568 F.3d 531 (5th Cir. 2009), which held that the Texas state offense of evading arrest or detention by use of a vehicle is a violent felony under the Armed Career Criminal Act (ACCA). Recently, the Supreme Court validated our decision in *Harrimon* by holding that a conviction under Indiana's felony vehicle

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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flight law constituted a violent felony under the ACCA. *See Sykes v. United States*, 131 S. Ct. 2267, 2277 (2011).

Accordingly, the Government's motion for summary affirmance is GRANTED and the judgment of the district court is AFFIRMED.