

United States Court of Appeals
for the Fifth Circuit

No. 22-10909
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 18, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CUEDELL JAVON HENRY,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:21-CR-211-1

Before WIENER, STEWART, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Defendant-Appellant Cuedell Javon Henry appeals his conviction and sentence for possession of a stolen firearm, in violation of 18 U.S.C. §§ 922(j), 924(a)(2), and 2. He contends that his prior conviction for Texas aggravated robbery is not a crime of violence under U.S.S.G. § 4B1.2(a). Henry acknowledges that this argument is foreclosed by our precedent but

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-10909

seeks to preserve it for further review. The government filed an opposed motion for summary affirmance or, in the alternative, an unopposed motion for an extension of time to file its brief.

As Henry concedes, his position is foreclosed. *See United States v. Santiesteban-Hernandez*, 469 F.3d 376, 380–81 (5th Cir. 2006), *abrogated on other grounds by United States v. Rodriguez*, 711 F.3d 541 (5th Cir. 2013) (en banc). We have reaffirmed that holding and concluded that Texas robbery qualifies as a crime of violence under § 4B1.2(a)(2). *See United States v. Adair*, 16 F.4th 469, 470–71 (5th Cir. 2021), *cert. denied*, 142 S. Ct. 1215 (2022). The government is correct that summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

The government’s motion for summary affirmance is GRANTED, the government’s alternative motion for an extension of time to file a brief is DENIED AS MOOT, and the district court’s judgment is AFFIRMED.