[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-11438
Non-Argument Calendar

D.C. Docket Nos. 1:16-cv-24253-CMA,
1:13-cr-20008-CMA-1

DANIEL RODRIGUEZ,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(December 20, 2019)

Before WILSON, WILLIAM PRYOR, and ANDERSON Circuit Judges.

PER CURIAM:

Daniel Rodriguez, a federal prisoner, appeals the district court's denial of his 28 U.S.C. § 2255 motion to vacate. Rodriguez challenges his conviction for possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c), because it was based upon his conviction for Hobbs Act robbery, 18 U.S.C. § 1951, which he argued before the district court and on appeal is not a crime of violence under § 924(c)(3)(A) or § 924(c)(3)(B). Rodriguez also argues that we should remand for resentencing in the wake of *Dean v. United States*, 581 U.S. ____, 137 S. Ct. 1170 (2017), which held that § 924(c) does not restrict the district court's authority to consider a sentence imposed under § 924(c) when calculating a just sentence for the predicate offense.

The scope of our review in unsuccessful § 2255 cases is limited to the issues specified in the certificate of appealability (COA). *McKay v. United States*, 657 F.3d 1190, 1195 (11th Cir. 2011). We review de novo the district court's legal conclusions and look for clear error in its factual findings. *Spencer v. United States*, 773 F.3d 1132, 1137 (11th Cir. 2014) (en banc). Under the prior panel precedent rule, we are bound by our prior holdings, regardless of perceived defects in the reasoning or analysis, unless overturned by the Supreme Court or by this court sitting en banc. *In re Lambrix*, 776 F.3d 789, 794 (11th Cir. 2015).

Section 924(c) provides for a mandatory consecutive sentence for any defendant who uses or carries a firearm during a crime of violence or a

drug-trafficking crime. 18 U.S.C. § 924(c)(1). For the purposes of § 924(c), a "crime of violence" means an offense that is a felony and:

> (A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
>
> (B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Id. § 924(c)(3)(A), (B). We have referred to § 924(c)(3)(A) as the "elements clause," while § 924(c)(3)(B) is referred to as the "residual clause." *See Thompson v. United States*, 924 F.3d 1153, 1155 (11th Cir. 2019).

In *In re St. Hubert*, we held that the defendant's challenge to his § 924(c) conviction failed because, in *In Re Saint Fleur*, we had already held that Hobbs Act robbery is a crime of violence under the elements clause. 909 F.3d 335, 345–46 (11th Cir. 2018) (*citing In re Saint Fleur*, 824 F.3d 1337 (11th Cir. 2016)). Moreover, we held that decisions published in the context of an application for leave to file a second or successive § 2255 motion, including *Saint Fleur*, are "binding precedent on *all* subsequent panels of this Court, including those reviewing direct appeals and collateral attacks." *Id.*

It follows then that the district court did not err when it determined that Rodriguez's conviction for Hobbs Act robbery was a § 924(c) predicate offense because *Saint Fleur*, which held that Hobbs Act robbery is a crime of violence under the elements clause, remains binding precedent in this Circuit. *See St.*

Hubert, 909 F.3d at 345-46. Because Hobbs Act robbery is a crime of violence under the elements clause, *United States v. Davis*, which invalidated § 924(c)'s residual clause, is not instructive here as *Davis* neither invalidated the elements clause nor abrogated *Saint Fleur*. *Davis*, 581 U.S. ____, 139 S. Ct. at 2319, 2324–25, 2336 (2017) (holding that the residual clause in § 924(c)(3)(B) is unconstitutionally vague).

As to Rodriguez's *Dean* claim, we do not have jurisdiction to review that issue because it was not specified in the COA, and appellate review is limited to the issues specified in the COA. *See McKay*, 657 F.3d at 1195.

In sum, because Rodriguez's arguments are foreclosed by our precedent, we affirm.

AFFIRMED.