[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-10459
Non-Argument Calendar

D.C. Docket No. 5:08-cr-00040-RH-GRJ-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHRISTOPHER SHAUN LAMAR,
a.k.a. Bleed,

Defendant-Appellant.

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

(April 3, 2020)

Before WILSON, LAGOA and FAY, Circuit Judges.

PER CURIAM:

Christopher Shaun Lamar, a federal prisoner proceeding *pro se*, appeals the district court's denial of his motion to reduce sentence based on an error in the

presentence investigation report ("PSI") regarding the disposition of a 2006 Georgia controlled substance offense that enhanced his federal sentence. Lamar filed an almost identical copy of the subject motion in our Court. The government responded and moved for summary affirmance.

Summary disposition is appropriate either where time is of the essence, such as "situations where important public policy issues are involved or those where rights delayed are rights denied," or where "the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous." *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).[1]

Additionally, *pro se* pleadings are held to a less stringent standard than counseled pleadings and, therefore, are liberally construed. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). We may affirm on any ground supported by the record, regardless of the district court's stated reasoning. *Castillo v. United States*, 816 F.3d 1300, 1303 (11th Cir. 2016).

It is unlawful for any person to knowingly possess, with the intent to distribute, a controlled substance. 21 U.S.C. § 841(a)(1). In 2012, when Lamar was convicted, the penalty for violating § 841(a)(1) was a minimum of 10 years of

[1] We are bound by cases decided by the former Fifth Circuit before October 1, 1981. *Bonner v. City of Pritchard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

imprisonment. 21 U.S.C. § 841(b)(1)(A)(ii), (iii) (2012). However, where an individual violated § 841(a)(1) after a prior conviction for a "felony drug offense," the minimum term of imprisonment became 20 years. *Id.* A "felony drug offense" is an offense that is "punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs"; and cocaine is a narcotic drug. 21 U.S.C. § 802(17), (44). Moreover, because this enhancement is imposed for a prior conviction, it can be applied to an individual's sentence only if the government filed a notice of the prior convictions relied upon under 21 U.S.C. § 851. *Id.* § 851(a)(1).

We have held that the meaning of the word "conviction" in a federal statute, including § 841(b)(1), is a question of federal law unless Congress has provided otherwise. *United States v. Mejias*, 47 F.3d 401, 404-05 (11th Cir. 1995). We have also held that a Florida plea of *nolo contendere* with adjudication withheld is considered a prior conviction under § 841(b)(1) for the purpose of applying a § 851 enhancement. *Id.* at 404.

The government's position that Lamar's 2006 controlled substance offense was properly considered a prior conviction under § 841 even after his PSI was corrected is correct as a matter of law. *See Groendyke Transp., Inc.*, 406 F.2d at 1162. As an initial matter, as the government points out, it is unclear what procedural vehicle Lamar intended to use to raise his claim and, relatedly, whether

the claim is cognizable at all. Nonetheless, because the government's position as to the merits of Lamar's claim would be correct under even the most lenient standard of review, we need not delve into the potential procedural hazards that Lamar's claim raises.

Additionally, it appears that the district court mistakenly understood Lamar's most recent two motions to reduce sentence, including the one that is the subject of this appeal, to raise challenges based on his 2004 Georgia convictions and the increased guideline range calculation resulting from the application of criminal history points to those convictions. Indeed, the district court's January 2020 order denying Lamar's motion references the reasoning of its September 2019 order, but the September 2019 order addressed only Lamar's challenge based on his 2004 Georgia convictions, which did not implicate the § 851 enhancement to his present sentence. However, because we may affirm on any ground supported by the record, we address Lamar's challenge to his sentence based on his 2006 controlled substance offense and affirm because his arguments fail as a matter of law. *See Castillo*, 816 F.3d at 1303.

First, the government is correct that Lamar's reliance on *United States v. Willis*, 106 F.3d 966 (11th Cir. 1997), is misplaced because *Mejias* is directly on point and *Willis* is not. In *Willis*, we addressed the issue of whether a Florida plea of *nolo contendere* with adjudication withheld qualified as a prior conviction for the

purpose of establishing whether a defendant was a felon, such that he could be convicted under 18 U.S.C. § 922(g) for being a felon in possession of a firearm. *Willis*, 106 F.3d at 967-68. In that context, we determined that Florida law applied to the definition of "conviction" and, under Florida law, the prior offense did not qualify as a conviction. *Id.* at 968. In *Mejias*, in contrast, we held that federal law applies to the definition of "prior conviction" under § 841(b)(1). *Mejias*, 47 F.3d at 404-05.

Further, addressing the same argument that Lamar now raises, we held in *Mejias* that a prior plea of *nolo contendere* with adjudication withheld still qualifies as a prior conviction for the purposes of applying an § 851 enhancement. *See id.* Therefore, even if the PSI had correctly noted the disposition of Lamar's 2006 offense prior to his sentencing, he still would have been subject to the 20-year mandatory minimum sentence and, for the same reason, the district court properly concluded that he was not entitled to a sentence reduction.

Thus, as the government's position is correct as a matter of law, and there is no substantial question about the outcome of the case, we GRANT the government's motion for summary affirmance. *See Groendyke Transp., Inc.*, 406 F.2d at 1162. All other pending motions are DENIED AS MOOT.