

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-15837

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MAR 17, 2009 THOMAS K. KAHN CLERK

D. C. Docket No. 07-60123-CR-KAM

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIK REDEEMER,

Defendant-Appellant.

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

(March 17, 2009)

Before BARKETT and FAY, Circuit Judges, and TRAGER,* District Judge.

PER CURIAM:

* Honorable David G. Trager, United States District Judge for the Eastern District of New York, sitting by designation.

At the oral argument session, Erik Redeemer, through counsel, stipulated that he has abandoned and waived any argument regarding whether there was sufficient evidence for a reasonable factfinder to conclude that he either actually or constructively possessed a firearm as a convicted felon in violation of 18 U.S.C. § 922(g). Accordingly, his conviction is affirmed.

As to sentencing, the government concedes that the crime of carrying a concealed weapon is not a “violent felony” for purposes of the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e). Thus, the only remaining issue is whether Redeemer’s felony conviction for a violation of Tennessee’s escape statute, T.C.A. § 39-16-605 (1993), qualifies as a “violent felony” for purposes of the ACCA. The parties have stipulated that in order to address this issue it is appropriate to remand this case to the district court for further fact finding regarding the circumstances of Redeemer’s escape conviction, in light of Chambers v. United States, — U.S. —, 129 S. Ct. 687 (2009). Accordingly, we vacate Redeemer’s sentence and remand for further proceedings.

AFFIRMED in part; VACATED and REMANDED in part.