

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 14-10804
Non-Argument Calendar

D.C. Docket No. 1:13-cr-00020-WLS-TQL-2

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTHONY JEROME FACON,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Georgia

(September 4, 2014)

Before HULL, MARCUS, and MARTIN, Circuit Judges.

PER CURIAM:

Anthony Jerome Facon appeals his 444-month total sentence imposed after his convictions for one count of armed bank robbery, in violation of 18 U.S.C. § 2113(a), (d), and § 2, and two counts of possessing a firearm during the commission of a violent felony, in violation of 18 U.S.C. § 924(c)(1)(A)(ii). Facon challenges the 300-month sentence he received for the second conviction under § 924(c). He complains that because the second § 924(c) conviction was charged in the same indictment, it does not constitute a “second or subsequent” conviction, triggering the 300-month sentence, for purposes of 18 U.S.C. § 924(c)(1)(C). Because Facon’s position is foreclosed by binding Supreme Court precedent, we affirm.

Section 924(c) requires a district court, “[i]n the case of a second or subsequent conviction under this subsection,” to impose a sentence of not less than 25-years imprisonment. 18 U.S.C. § 924(c)(1)(C). In Deal v. United States, 508 U.S. 129, 113 S. Ct. 1993 (1993), the Supreme Court considered whether multiple convictions under § 924(c) arising out of a single criminal proceeding constitute second or subsequent convictions. Id. at 131, 113 S. Ct. at 1996. Over a vocal dissent composed of three justices, the majority held that a “conviction” for purposes of the enhanced sentences set forth in § 924(c)(1)(C) refers to the finding of guilt preceding the entry of final judgment. Id. at 132, 113 S. Ct. at 1996. This interpretation of § 924(c)(1)(C), the Supreme Court held, allows and indeed

requires the enhanced sentences to be imposed even where more than one § 924(c) conviction is obtained in a single criminal proceeding. Id. at 132, 137, 113 S. Ct. at 1996, 1999.

Deal thus bound the district court here to impose the enhanced sentence set forth in § 924(c)(1)(C). Deal also binds us to affirm sentences like these, “[u]nless and until the Supreme Court itself overrules that decision,” or Congress revisits § 924(c)(1)(C). See United States v. Thomas, 242 F.3d 1028, 1035 (11th Cir. 2001).

AFFIRMED.