[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-10125
Non-Argument Calendar

D.C. Docket No. 0:19-cr-60229-WPD-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KAVORIS CLAYTON,

Defendant-Appellant.

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

(December 16, 2020)

Before WILSON, NEWSOM, and ANDERSON, Circuit Judges.

PER CURIAM:

Kavoris Clayton appeals his 120-month sentence imposed after he pleaded guilty to possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1), and distribution of a controlled substance, in violation of 21 U.S.C. § 841(a)(1). He also had prior Florida felony convictions for attempted robbery and delivery of cocaine. The district court sentenced him as a career offender, finding that his prior Florida convictions were predicate offenses for career offender classification.

A defendant is a career offender under the Sentencing Guidelines if (1) he was at least 18 years old when he committed the current offense; (2) the current offense is a felony that is either a crime of violence or a controlled substance offense; and (3) he has at least two prior felony convictions of either a crime of violence or a controlled substance offense. U.S.S.G. § 4B1.1(a). Under the Guidelines, a "controlled substance offense" is an offense that is a felony and "that prohibits the manufacture, import, export, distribution, or dispensing of a controlled substance . . . or the possession of a controlled substance . . . with intent to manufacture, import, export, distribute, or dispense." *Id.* § 4B1.2(b).

The Sentencing Guidelines do not state that a "controlled substance offense" must require that the defendant knows the illicit nature of the substance. *Id.* Clayton argues, however, that the Guidelines impliedly include such a mens rea requirement. And because Fla. Stat. § 893.13, under which he was previously convicted for delivery of cocaine, does not require mens rea of the nature of the

controlled substance, Clayton argues that his conviction under that statute is not a controlled substance offense. Thus, following his line of argument, the conviction would not be a career offender predicate offense under the Sentencing Guidelines. Yet, as he concedes, this argument is foreclosed by our precedent—namely, our decision in *United States v. Smith*, 775 F.3d 1262 (11th Cir. 2014).

We are bound by our prior panel decisions unless we overrule them sitting en banc, or the Supreme Court does so. *United States v. Jordan*, 635 F.3d 1181, 1189 (11th Cir. 2011). Our decision in *Smith*—holding that Fla. Stat. § 893.13 is a career offender predicate offense—remains binding in this circuit. 775 F.3d at 1268. Therefore, the district court correctly sentenced Clayton as a career offender.

AFFIRMED.