

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-10896
Non-Argument Calendar

D.C. Docket No. 9:19-cr-80161-RKA-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KASHUS DAVIS,

Defendant-Appellant.

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

(October 30, 2020)

Before NEWSOM, ANDERSON, and ED CARNES, Circuit Judges.

PER CURIAM:

Kashus Davis pleaded guilty to being a felon in possession of a firearm. See 18 U.S.C. § 922(g). He appeals his sentence, contending that the district court erroneously ruled that he qualified for a sentence enhancement under the Armed

Career Criminal Act (ACCA), 18 U.S.C. § 924(e). Davis argues that his prior convictions under Florida Statutes § 893.13(1) are not predicate “serious drug offense[s]” for purposes of the ACCA because the Florida statute “does not require an element of mens rea regarding the illicit nature of the controlled substance.”

Prior panel precedent forecloses Davis’ argument. We held in Smith that Florida Statutes § 893.13(1) is a “serious drug offense” for purposes of the ACCA. United States v. Smith, 775 F.3d 1262, 1268 (11th Cir. 2014). We also held that a “serious drug offense” need not include an element of mens rea regarding the illicit nature of the controlled substance. Id. at 1267–68.

We remain bound by Smith unless and until it is overruled by either the Supreme Court or us en banc. See Smith v. GTE Corp., 236 F.3d 1292, 1300 n.8 (11th Cir. 2001). Because that has not happened, we affirm Davis’ sentence.

AFFIRMED.