

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

May 30, 2018

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONALD ALEXANDER SHERIFF, a/k/a
Donald Sample,

Defendant - Appellant.

No. 17-8069
(D.C. No. 1:16-CR-00230-ABJ-1)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **BRISCOE, KELLY, and BACHARACH**, Circuit Judges.**

Defendant-Appellant Donald Alexander Sheriff was convicted by a jury of bank robbery, 18 U.S.C. § 2113(a), (d), and brandishing a firearm during and in relation to a crime of violence, 18 U.S.C. § 924(c)(1)(A)(ii). The Presentence Investigation Report (PSR) noted that Mr. Sheriff had eight prior federal convictions, five for robbery and three for bank robbery, which it determined, along with the instant offense, were all crimes of violence under U.S.S.G. § 4B1.2. The district

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

court agreed, determined Mr. Sheriff a career offender, and sentenced him to consecutive terms of 276 months on the bank robbery count and 84 months on the brandishing count, for a total of 360 months, with concurrent five year terms of supervised release thereafter. In addition, he was ordered to make restitution in the amount of \$178,374.87.

On appeal, Mr. Sheriff argues that the district court erred when it determined that his bank robbery convictions under 18 U.S.C. 2113(a) were crimes of violence. Mr. Sheriff's argument is foreclosed by this court's recent decision in United States v. McCranie, No. 17-1058, 2018 WL 2050093 (10th Cir. 2018). There, we held that federal bank robbery is categorically a crime of violence. McCranie, 2018 WL 2050093, at *4. As this panel is bound by that panel's decision, In re Smith, 10 F.3d 723, 724 (10th Cir. 1993), the district court judgment is

AFFIRMED.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge