

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-11477
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH WAYNE CLINTON,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:00-CR-32-ALL

October 8, 2002

Before BARKSDALE, DeMOSS, and BENAVIDES, CIRCUIT JUDGES.

PER CURIAM:*

Kenneth Wayne Clinton appeals his sentence following conviction for felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Clinton argues that a prior conviction for the unauthorized use of a motor vehicle is not a crime of violence and should not have been considered for sentencing enhancement purposes under U.S.S.G. §§ 2K2.1 and 4B1.2. He argues that the reasoning of our decision in United States v. Jackson, 220 F.3d 635, 639 (5th Cir. 2000), cert. denied, 532 U.S. 988 (2001), which held that the

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

unauthorized use of a motor vehicle was a crime of violence, has been undermined by United States v. Chapa-Garza, 243 F.3d 921 (5th Cir. 2001). We recently overturned Jackson in United States v. Charles, ___ F.3d ___ (5th Cir. July 31, 2002, No. 01-10113)(en banc), 2002 WL 1764147 at *4.

We therefore VACATE the sentence and REMAND for re-sentencing consistent with Charles.

VACATED and REMANDED.