



2010 Decisions

Opinions of the United
States Court of Appeals
for the Third Circuit

5-20-2010

USA v. Arthur Homer Jackson

Follow this and additional works at: https://digitalcommons.law.villanova.edu/thirdcircuit_2010

Recommended Citation

"USA v. Arthur Homer Jackson" (2010). *2010 Decisions*. 1306.
https://digitalcommons.law.villanova.edu/thirdcircuit_2010/1306

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2010 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-2127

UNITED STATES OF AMERICA

v.

ARTHUR HOMER JACKSON,

Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. No. 08-cr-00115)
District Judge: Honorable Terrence F. McVerry

Submitted Under Third Circuit LAR 34.1(a)
May 19, 2010

Before: FUENTES, HARDIMAN and NYGAARD, *Circuit Judges*.

JUDGMENT ORDER

This cause came on to be considered on the record from the United States District Court for the Western District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on May 19, 2010.

Arthur Homer Jackson appeals his judgment of sentence following his plea of guilty to violating 18 U.S.C. § 922(g)(1). At sentencing, the District Court calculated Jackson's base offense level as 24 in light of § 2K2.1(a)(2) of the United States Sentencing Guidelines (USSG), which adopts the definition of "crime of violence" found

at USSG § 4B1.2(a) . After finding that Jackson's two prior convictions for recklessly endangering another person qualified as crimes of violence under the Guidelines, the District Court did not consider whether Jackson's prior conviction for indecent assault or his two prior convictions for fleeing and eluding police constituted qualifying offenses.

In response to Jackson's brief on appeal, the Government concedes that Jackson's convictions for reckless endangerment are not crimes of violence. *See United States v. Johnson*, 587 F.3d 203, 209-10 (3d Cir. 2009). In light of this concession, the parties have suggested that we remand the case for resentencing. Because we agree with the parties that these questions should first be considered by the District Court, it is hereby

ORDERED and ADJUDGED that the judgment of the United States District Court for the Western District of Pennsylvania entered April 3, 2009, be and the same is hereby VACATED and the case is REMANDED to the United States District Court for the Western District of Pennsylvania. No costs shall be taxed.

BY THE COURT:

/s/Thomas M. Hardiman
Circuit Judge

ATTEST:

/s/Marcia M. Waldron,
Clerk

Dated: May 20, 2010