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Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 26a0307p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JUSTIN BOBO,

Defendant-Appellant.

No. 26-5145

Appeal from the United States District Court for the Western District of Tennessee at Memphis.
No. 2:24-cr-20200-1—Mark S. Norris Sr., District Judge.

Argued: October 22, 2026

Decided and Filed: November 19, 2026

Before: GRIFFIN, BUSH, and HERMANDORFER, Circuit Judges.

COUNSEL

ARGUED: Mary C. Jermann-Robinson, FEDERAL PUBLIC DEFENDER'S OFFICE, Memphis, Tennessee, for Appellant. Jennifer Musselwhite, UNITED STATES ATTORNEY'S OFFICE, Memphis, Tennessee, for Appellee. **ON BRIEF:** Mary C. Jermann-Robinson, FEDERAL PUBLIC DEFENDER'S OFFICE, Memphis, Tennessee, for Appellant. Jennifer Musselwhite, UNITED STATES ATTORNEY'S OFFICE, Memphis, Tennessee, for Appellee.

OPINION

GRIFFIN, Circuit Judge.

Defendant Justin Bobo pleaded guilty to possession of a firearm as a convicted felon, reserving the right to challenge whether a prior robbery conviction counted as a violent felony

for purposes of the sentencing enhancement under the Armed Career Criminal Act. At sentencing, he argued that a recent Tennessee Supreme Court decision undermined this court's precedent establishing that Tennessee robbery is a violent felony. The district court disagreed and applied the sentencing enhancement. We affirm.

I.

Tennessee police investigated Bobo for aggravated assault. During that investigation, they found a firearm beneath the driver's seat of his vehicle. A federal grand jury indicted Bobo for possession of a firearm as a convicted felon, with an enhanced penalty under the Armed Career Criminal Act (ACCA) based on three prior violent-felony convictions.

Bobo pleaded guilty and admitted that he had three prior felony convictions under Tennessee law—robbery in 2010, aggravated robbery in 2012, and aggravated assault in 2022. He reserved the right, however, to challenge whether the 2010 robbery conviction qualified as an ACCA predicate.

The presentence report recommended that all three convictions be counted as violent felonies under the ACCA. Applying the ACCA sentencing enhancement, the presentence report calculated Bobo's Guidelines range at 188–235 months of imprisonment. Bobo objected, contending that his 2010 robbery conviction no longer qualified as a violent felony based on a recent Tennessee Supreme Court decision, *State v. Curry*, 705 S.W.3d 176 (Tenn. 2025).

At sentencing, the district court overruled Bobo's objection. It then adopted the presentence report's proposed Guidelines range and sentenced Bobo to 194 months of imprisonment. Bobo timely appealed.

II.

Bobo raises one issue—whether Tennessee robbery continues to qualify as a violent felony under the ACCA after *Curry*. We review de novo the district court's determination that it does. *United States v. Mitchell*, 743 F.3d 1054, 1058 (6th Cir. 2014).

As relevant here, a "violent felony" under the ACCA is any crime punishable by more than one year that "has as an element the use, attempted use, or threatened use of physical force

against the person of another." 18 U.S.C. § 924(e)(2)(B)(i). To determine whether an offense qualifies as a violent felony, we look to its statutory definition. *Mitchell*, 743 F.3d at 1058. Under Tennessee law, robbery "is the intentional or knowing theft of property from the person of another" either "by violence" or "putting the person in fear." Tenn. Code Ann. § 39-13-401(a). "Violence," as used in the robbery statute, has been defined by the Tennessee Supreme Court as "physical force unlawfully exercised so as to injure, damage or abuse." *State v. Fitz*, 19 S.W.3d 213, 214 (Tenn. 2000). And it has defined the fear element of robbery as "a fear of bodily injury and of present personal peril from [physical force] offered or impending." *State v. Taylor*, 771 S.W.2d 387, 398 (Tenn. 1989).

Based on these interpretations by the Tennessee Supreme Court, we held in *Mitchell* that Tennessee robbery "directly corresponds" to the ACCA's requirement that a violent felony has as an element the "use . . . or threatened use of physical force." 743 F.3d at 1059 (quoting 18 U.S.C. § 924(e)(2)(B)(i)). Thus, Tennessee robbery is categorically a violent felony under the ACCA. *Id.* We have repeatedly reaffirmed *Mitchell*'s holding. *See United States v. Campbell*, 122 F.4th 624, 628–29 (6th Cir. 2024); *United States v. Belcher*, 40 F.4th 430, 431–32 (6th Cir. 2022); *United States v. Southers*, 866 F.3d 364, 369 (6th Cir. 2017).

Bobo contends, however, that *Curry* reinterpreted "the meaning or scope of robbery" and "there can [now] be instances where an individual has been convicted of robbery by fear without attempting or threatening violence." We disagree.

Curry did not reinterpret the fear element of robbery. It considered only whether a robbery conviction satisfied the element of another offense—the crime-of-violence element in the unlawful possession statute, Tenn. Code Ann. § 39-17-1307(b)(1)(A). *See Curry*, 705 S.W.3d at 179–80. At that time, robbery was not an enumerated "crime of violence" in Tenn. Code Ann. § 39-17-1301(3), the statutory provision that defines the term.[1] *Id.* at 187. Even so, *Curry* concluded that robbery can "be a crime of violence for purposes of the unlawful possession statute, depending on the underlying facts of the robbery case." *Id.* at 189. It then established that if a person is charged with unlawful possession of a firearm, and the predicate

[1]Following *Curry*, the state legislature added "robbery" to § 39-17-1301(3)'s list.

felony crime of violence is robbery, the state must prove and the jury decide that "the prior robbery was in fact committed by violence," not some "means other than violence." *Id.* at 190–92. If the robbery was not in fact "accomplished by violence," however, then the essential crime-of-violence element would be lacking and the defendant could not be convicted under § 39-17-1307(b)(1)(A). *See id.* at 191–93 & n.25.

But all this matters only "for purposes of the unlawful possession statute," § 39-17-1307(b)(1)(A). *Id.* at 189. *Curry* never purported to interpret the fear element in the state's robbery statute, § 39-13-401(a); nor did *Curry* abrogate *Taylor*'s previous determination that "[t]he fear constituting an element of robbery is a fear of bodily injury and of present personal peril from violence offered or impending," 771 S.W.2d at 398. *Taylor*'s interpretation still controls.

And because *Mitchell*'s conclusion that "the commission of a robbery through fear, which in Tennessee reduces to the fear of bodily injury from physical force offered or impending, directly corresponds to [the ACCA's] use or threatened use of physical force" was based on *Taylor*, *Mitchell* still controls as well. 743 F.3d at 1059 (citation modified). Accordingly, Bobo's 2010 robbery conviction is a violent felony under the ACCA. *Id.* at 1060.

III.

For the foregoing reasons, we affirm.