UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
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ORDER

April 2, 2018

Before

MICHAEL S. KANNE, *Circuit Judge*
ILANA DIAMOND ROVNER, *Circuit Judge*
DIANE S. SYKES, *Circuit Judge*

No. 17-2419	UNITED STATES OF AMERICA, Plaintiff - Appellee v. WILLARD QUINN, Defendant - Appellant
Originating Case Information:	
District Court No: 3:16-cr-00077-JD-MGG-1 Northern District of Indiana, South Bend Division District Judge Jon E. DeGuilio	

Willard Quinn argues on appeal only that this court should overrule its recent decision in *Douglas v. United States*, 858 F.3d 1069 (7th Cir.), *cert. denied*, 138 S. Ct. 565 (2017), in which the court held that the Indiana offense of battery resulting in serious bodily injury offense has as an element the use of physical force and therefore constitutes a crime of violence. Quinn challenges the same Indiana statute that was at issue in *Douglas*.

In 2017 Quinn pleaded guilty, without a plea agreement, to possessing a firearm after being convicted of a crime punishable by imprisonment for a term exceeding on year, in violation of 18 U.S.C. § 922(g)(1). The Presentence Investigation Report concluded that Quinn's base offense level should be 20 because his prior Indiana conviction for "battery resulting in serious bodily injury" constituted a "prior felony crime of violence conviction." U.S.S.G. § 2K2.1(a)(4)(A). Quinn objected to the conclusion, but recognized that the district court was bound by the recent decision in *Douglas* and noted that he was raising the objection to preserve for appeal.

On appeal, Quinn argues that *Douglas* was wrongly decided because the Indiana statute does not require "violent force" or "intentional force," and therefore does not have, as an element, the use or threatened use of physical force. *See* Ind. Code § 35-42-2-1 (2014). He argues that the Indiana battery statute under which he was convicted, on its face, requires only an offensive touching, not the level of force required to constitute violent force under *Johnson v. United States*, 559 U.S. 133, 140 (2010). The *Douglas* court rejected this argument because Douglas, like Quinn, was convicted of the Class C felony version of the crime, which has "serious bodily injury" as an element. Based on *Johnson*'s definition that violent force is force "capable of causing" injury, the *Douglas* court concluded that "force that actually causes injury necessarily [is] capable of causing that injury and thus satisfies the federal definition." *Douglas*, 858 F.3d at 1071. The Eleventh Circuit has agreed with this reasoning in analyzing a similar battery statute. *See United States v. Vail-Bailon*, 868 F.3d 1293, 1302 (11th Cir. 2017).

Quinn admits that his sole argument on appeal is foreclosed by *Douglas*, and his brief does not offer a compelling reason for the court to reexamine its recent decision. Accordingly, we affirm the judgment of the district court in light of this court's decision in *Douglas*. Quinn has preserved the issue for further review.

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