

690 Fed.Appx. 292 (Mem)

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. 5th Cir. Rules 28.7 and 47.5.
United States Court of Appeals, Fifth Circuit.

UNITED STATES of America,
Plaintiff-Appellee

v.

Chris Eugene COSNER,
Defendant-Appellant

No. 16-60673

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Summary Calendar

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Filed June 13, 2017

Appeals from the **United States** District Court for the Northern District of Mississippi, USDC No. 1:15-CR-96-1

Attorneys and Law Firms

***293** Susan Spears Bradley, Esq., Assistant U.S. Attorney, U.S. Attorney's Office, Northern District of Mississippi, Oxford, MS, for Plaintiff-Appellee

Michael Stephen Carr, Esq., Carr & Calderon, Cleveland, MS, for Defendant-Appellant

Before JONES, WIENER, and CLEMENT, Circuit Judges.

Opinion

PER CURIAM:*

A jury convicted **Chris Eugene Cosner** of bank robbery in violation of 18 U.S.C. § 2113(a) and (d) and brandishing a firearm in relation to a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(ii). The district court sentenced **Cosner** as a career offender pursuant to U.S.S.G. § 4B1.1 to a total of 360 months of imprisonment. **Cosner** now appeals, contending that his bank robbery conviction is not a "crime of violence" for the purposes of serving as a predicate offense for his § 924(c)(1) conviction or for application of the career-offender guideline. He also asserts that the district court improperly participated in plea negotiations and that trial counsel rendered constitutionally ineffective assistance. We affirm.

First, as **Cosner** concedes, his challenges to the characterization of his federal bank robbery conviction of a "crime of violence" are foreclosed by our recent decision in *United States v. Brewer*, which held that federal bank robbery is categorically a "crime of violence" as defined by § 4B1.2(a)(1) for the purpose of the career-offender guideline. See 848 F.3d 711, 714-16 (5th Cir. 2017). Because § 4B1.2(a)(1) defines "crime of violence" "in exactly the same manner as § 924(c)(3)(A)," see *United States v. Jones*, 854 F.3d 737, 740 (5th Cir. 2017), *Brewer* necessarily dictates that federal bank

robbery is also categorically a “crime of violence” for the purposes of his § 924(c)(1) conviction, *see* 848 F.3d at 714-16.

Second, **Cosner** fails to establish either that the district court impermissibly participated in plea discussions or, if it did, that such participation had any effect on the fairness and impartiality of his trial and sentencing. *See* FED. R. CRIM. P. 11(c)(1), (h); *United States v. Crowell*, 60 F.3d 199, 205 (5th Cir. 1995).

Third, we are unpersuaded that this is a “rare case” in which the record is sufficiently

developed to allow this court to consider **Cosner’s** claims of ineffective assistance of trial counsel in the first instance on direct appeal. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014). Accordingly, we dismiss those claims without prejudice to collateral review. *Id.*

AFFIRMED.

All Citations

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Footnotes

- * 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.