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In the Supreme Court of the United States

REGINALD GLENN,

PETITIONER-APPELLANT,

v.

UNITED STATES OF AMERICA,

RESPONDENT-APPELLEE.

APPENDIX A – Eleventh Circuit’s Unpublished Opinion
***United States v. Glenn*, 19-13249, 2021 WL 4618075 (11th Cir., Oct. 6, 2021)**

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 19-13249

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

REGINALD GLENN,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Georgia
D.C. Docket No. 4:19-cr-00002-CDL-MSH-1

Before JILL PRYOR, LUCK, and BRASHER, Circuit Judges.

PER CURIAM:

Reginald Glenn appeals his 42-month sentence for being a felon in possession of a firearm. He argues that the district court improperly determined that his prior Georgia aggravated-assault conviction qualified as a “crime of violence” under the United States Sentencing Guidelines. U.S.S.G. §§ 2K2.1(a)(4)(A), 4B1.2(a)(2). Because this argument is foreclosed by *United States v. Morales-Alonso*, 878 F.3d 1311 (11th Cir. 2018), we grant the government’s motion for summary affirmance.

I.

A federal grand jury indicted Glenn on one count of possessing a firearm as a convicted felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Glenn pleaded guilty without a plea agreement. A probation officer calculated Glenn’s base offense level as twenty, under U.S.S.G. § 2K2.1(a)(4)(A), because Glenn committed the offense after sustaining a felony conviction for a crime of violence. Specifically, the probation officer cited Glenn’s 2015 conviction for aggravated assault in Georgia, which involved him firing a gun at a witness while leaving the scene of a burglary.

Glenn objected to the calculation of his offense level. He argued that his prior Georgia conviction for aggravated assault did not qualify as a “crime of violence” under Section 4B1.2(a) because Georgia’s “aggravated assault statute is broader than generic

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aggravated assault.” The district court overruled Glenn’s objection. It reasoned that, under this Court’s precedent in *Morales-Alonso*, a conviction for Georgia aggravated assault with a deadly weapon qualified as a crime of violence under Section 4B1.2’s enumerated-offenses clause. The district court reduced Glenn’s total offense level for his acceptance of responsibility, resulting in a guideline range of 37 to 46 months. It sentenced him to 42 months’ imprisonment, followed by a 3-year term of supervised release. Glenn now appeals his sentence, and the government moves the Court for summary affirmance and for stay of the briefing schedule.

II.

We review *de novo* whether a defendant’s prior conviction qualifies as a crime of violence under the Sentencing Guidelines. *United States v. Palomino Garcia*, 606 F.3d 1317, 1326 (11th Cir. 2010). Summary disposition is appropriate where “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Under the Guidelines, the base offense level for an offense involving the unlawful possession of firearms is twenty if the defendant committed any part of the offense after sustaining one felony conviction of a “crime of violence.” U.S.S.G. § 2K2.1(a)(4)(A). An offense punishable by more than a year can amount to a “crime of violence” under either of two definitions in Section 4B1.2(a). The elements clause in Subsection (a)(1) defines a “crime of

violence” as an offense that “has as an element the use, attempted use, or threatened use of physical force against the person of another.” The enumerated-offenses clause in Subsection (a)(2) contains a list of offenses that qualify as crimes of violence, including “aggravated assault.” Glenn contends that his previous conviction for aggravated assault is not a crime of violence under either clause.

We start (and end) with the enumerated offenses clause. A conviction “constitutes a crime of violence under the enumerated offenses clause . . . if the elements of the statute of conviction are the same as, or narrower than, the generic version of the enumerated offense.” *Morales-Alonso*, 878 F.3d at 1315. In relevant part, the 2015 version of the Georgia aggravated assault statute (under which Glenn was convicted) required proof of two essential elements: (1) an assault, and (2) aggravation of the assault by the use of a deadly weapon. O.C.G.A. § 16-5-21(b) (2015); *see also Smith v. Hardrick*, 464 S.E.2d 198, 200 (Ga. 1995). Georgia’s simple assault statute provides that “[a] person commits the offense of simple assault when he . . . (1) Attempts to commit a violent injury to the person of another; or (2) Commits an act which places another person in reasonable apprehension of immediately receiving a violent injury.” O.C.G.A. § 16-5-20.

In *Morales-Alonso*, we held that a conviction for Georgia aggravated assault was a crime of violence under the commentary to U.S.S.G. § 2L1.2, which listed “aggravated assault” as an enumerated crime. 878 F.3d at 1320. Applying our decision in *United States v. Palomino Garcia*, 606 F.3d 1317, 1332 (11th Cir. 2010), we stated

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that generic aggravated assault has two elements: (1) a “criminal assault” that (2) is “accompanied by either the intent to cause serious bodily injury to the victim or the use of a deadly weapon.” *Morales-Alonso*, 878 F.3d at 1315. Because the Georgia aggravated assault statute contained substantially the same elements, we held that it satisfied the enumerated-offenses clause. *Id.* at 1320.

It is true that *Morales-Alonso* dealt with the enumerated-offenses clause in Section 2L1.2, not Section 4B1.2. *Id.* But we must interpret the definition of “crime of violence” consistently throughout the Guidelines. *See United States v. Lockley*, 632 F.3d 1238, 1241 (11th Cir. 2011). And both sections define the term “crime of violence” in the same way by enumerating “aggravated assault” as a covered offense. *Compare* U.S.S.G. § 2L1.2, comment. (n.2), *with id.* § 4B1.2(a)(2) (citing Section 2L1.2 cases when interpreting “crime of violence” in Section 4B1.2). Accordingly, our decision in *Morales-Alonso* about Section 2L1.2 is controlling here.

Glenn argues that we did not consider in *Morales-Alonso* his argument that the *mens rea* element of the Georgia aggravated-assault statute is broader than the generic version of aggravated assault. But our decisions remain binding unless they are overruled or undermined to the point of abrogation, regardless of any “fail[ure] to consider certain critical issues or arguments.” *United States v. Lee*, 886 F.3d 1161, 1163 n.3 (11th Cir. 2018); *United States v. Archer*, 531 F.3d 1347, 1352 (11th Cir. 2008). This rule applies even where the advocates in the precedent case failed to argue the issue in the first place. *See Tippitt v. Reliance Standard Life Ins. Co.*,

457 F.3d 1227, 1234 (11th Cir. 2006) (“[A] prior panel precedent cannot be circumvented or ignored on the basis of arguments not made to or considered by the prior panel.”) (citing *Cohen v. Off. Depot, Inc.*, 204 F.3d 1069, 1076 (11th Cir. 2000) (“[T]he holding of a prior decision . . . is the law of this Circuit regardless of what might have happened had other arguments been made . . .”). So the fact that we did not address Glenn’s *mens rea* argument does not undermine *Morales-Alonso*’s binding effect.

Neither have later decisions from this or the Supreme Court undermined our holding in *Morales-Alonso*. In *United States v. Moss*, we held that a Georgia conviction for aggravated assault does not qualify as a violent felony under the Armed Career Criminal Act’s *elements* clause. 920 F.3d 752, 758–59 (11th Cir. 2019), *opinion reinstated*, 4 F.4th 1292 (11th Cir. 2021) (*en banc*); *accord United States v. Carter*, 7 F.4th 1039, 1045 (11th Cir. 2021) (applying *Moss* in concluding that the defendant’s aggravated assault conviction under O.C.G.A. § 16-5-21(a)(2) did not qualify as a violent felony under the ACCA’s *elements* clause). But *Morales-Alonso* controls whether Georgia aggravated assault qualifies as a crime of violence under the Guidelines’ *enumerated-offenses* clause, not the *elements* clause. Likewise, the Supreme Court in *Borden v. United States* addressed whether an offense that could be committed with a *mens rea* of recklessness could satisfy the *elements* clause in the ACCA. 141 S. Ct. 1817, 1834 (2021). Because the *enumerated offenses* clause supports the sentencing enhancement applied by the district court, we need not address whether the *elements* clause

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provides an additional basis for the enhancement. *See Morales-Alonso*, 878 F.3d at 1314 n.4.

III.

The government's position that a Georgia conviction for aggravated assault with a deadly weapon is a crime of violence under the enumerated-offenses clause of Section 4B1.2 is "clearly right as a matter of law," and there is no substantial question as to the outcome of Glenn's appeal. *See Groendyke Transp.*, 406 F.2d at 1162. Accordingly, we **GRANT** the government's motion for summary affirmance and **DENY** as moot its motion to stay the briefing schedule.

NO. _____

In the Supreme Court of the United States

REGINALD GLENN,

PETITIONER-APPELLANT,

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UNITED STATES OF AMERICA,

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APPENDIX B – Sentencing Transcript
***United States v. Glenn*, 4:19-CR-2 (CDL)**
United States District Court, Middle District of Georgia
Columbus Division

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

UNITED STATES OF AMERICA)	CASE NO. 4:19-CR-00002
)	
VS.)	AUGUST 13, 2019
)	
REGINALD GLENN)	SENTENCING HEARING

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE CLAY D. LAND,
UNITED STATES DISTRICT JUDGE

Proceedings recorded by stenography; transcript produced by
computer.

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1 (Proceedings on August 13, 2019, commencing at 10:45 a.m.,
2 as follows:)

3 THE COURT: Let's call our next case.

4 THE CLERK: Yes, sir, Your Honor. The next case is
5 4:19-CR-02, United States of America versus Reginald Glenn.
6 For the government, Mr. Christopher Williams. For the
7 defendant, Mr. Michael Simpkins.

8 (A discussion was held off the record.)

9 THE COURT: You, sir, are the defendant in this case,
10 Reginald Glenn; is that correct?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Glenn, do you understand this is your
13 sentencing hearing?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: I want to make sure you have had an
16 opportunity to review the presentence report prepared by the
17 U.S. Probation Office. Have you reviewed that report?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you gone over it with your lawyer?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you believe you understand it?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Simpkins, you have obviously reviewed
24 the presentence report; is that correct?

25 MR. SIMPKINS: I have, Your Honor.

1 THE COURT: You have gone over it with your client?

2 MR. SIMPKINS: I have, Your Honor.

3 THE COURT: Do you believe he understands it?

4 MR. SIMPKINS: I do, Your Honor.

5 THE COURT: The Court has also reviewed the
6 presentence report and understands that there are no objections
7 to the report by the government.

8 Is that correct, Mr. Williams?

9 MR. WILLIAMS: That's correct, Your Honor.

10 THE COURT: The Court does understand that the
11 defendant has filed an objection to the presentence report.
12 And the first objection to the report is, the defendant objects
13 to the presentence report treating the defendant as a career
14 offender under the guidelines. Specifically, the defendant
15 takes the position that his previous conviction for aggravated
16 assault under Georgia law, using a dangerous weapon, does not
17 qualify as a crime of violence under the guidelines.

18 Is that your position with regard to the career
19 offender enhancements, Mr. Simpkins?

20 MR. SIMPKINS: It is, Judge. But just to specify,
21 it's not that Mr. Glenn was categorized as a career offender.
22 It was that he received a base offense level of 20 under
23 Section 2K2.1 instead of a 14 because of the Georgia aggravated
24 assault conviction and that crime of violence definition within
25 the career offender guidelines.

1 THE COURT: Okay. So he was not designated in the
2 presentence report was a career offender.

3 MR. SIMPKINS: That's correct, Your Honor.

4 THE COURT: But his base offense level was treated as
5 a 20 because he has one previous conviction that probation
6 concluded qualifies as a crime of violence?

7 MR. SIMPKINS: That's correct, Your Honor. Under, I
8 believe, it's (a) (6), if my memory serves me correctly.

9 THE COURT: What paragraph in the presentence report
10 is that assessment?

11 MR. SIMPKINS: Paragraph 11.

12 THE COURT: Okay. This crime of violence is spread
13 throughout.

14 All right. Just so the record is clear, Paragraph 11
15 of the presentence report, the presentence report establishes a
16 base offense level of 20 based upon a violation of 18 U.S.C.,
17 Section 922(g) (1), and the guideline 2K2.1.

18 According to the presentence report, that section
19 provides that if the defendant committed any part of this
20 offense subsequent to sustaining one felony conviction of a
21 crime of violence, then the base offense level shall be 20,
22 citing to U.S. Sentencing Guideline 2K2.1(a) (4) (A). And the
23 presentence report makes that determination of base offense
24 level 20 under that guideline based upon defendant's previous
25 conviction for aggravated assault using a dangerous weapon.

1 Mr. Simpkins, your objection is that the Georgia
2 aggravated assault offense should not be treated as a crime of
3 violence for purposes of this assessment?

4 MR. SIMPKINS: That is correct, Your Honor.

5 THE COURT: And how do you distinguish the binding
6 precedent from the Eleventh Circuit in the case of
7 *Morales-Alonzo*?

8 MR. SIMPKINS: Your Honor, *Alonzo* --

9 THE COURT: The Eleventh Circuit has concluded that a
10 Georgia aggravated assault conviction does qualify as a crime
11 of violence under the enumerated clause.

12 How do you distinguish that from this case?

13 MR. SIMPKINS: The *Morales-Alonzo* does state that,
14 but in that case they were talking about the U.S. Sentencing
15 Guidelines 2L1.2, or 2L2.1.

16 THE COURT: They were talking about the career
17 offender guidelines.

18 MR. SIMPKINS: No, they weren't, Your Honor. They
19 were talking about the immigration guidelines, which was --

20 THE COURT: Okay. The immigration guidelines.

21 MR. SIMPKINS: And, more importantly, it doesn't talk
22 about, at all, the *mens rea* required for the Georgia simple
23 assault, which is what I'm arguing. It said that it was not
24 overbroad because the Georgia definition --

25 THE COURT: Well, let me understand this. Under the

1 immigration guideline there are certain consequences of having
2 previously been convicted of a crime of violence.

3 MR. SIMPKINS: That's correct. I believe prior to --

4 THE COURT: Under this guideline there are certain
5 consequences of having been convicted of a crime of violence.

6 MR. SIMPKINS: That's correct.

7 THE COURT: Is your position that the crime of
8 violence for purposes of the immigration consequence is
9 different than a crime of violence for purposes of the
10 guideline in this case?

11 MR. SIMPKINS: No, it's not, Your Honor. I think
12 it's substantially -- the definitions are --

13 THE COURT: So the definition of crime of violence
14 would be exactly the same in both situations.

15 MR. SIMPKINS: I won't say exactly the same, because
16 I don't have them in front of them, but I would say
17 substantially similar.

18 THE COURT: All right. Substantially the same. And
19 both definitions, then, include as a crime of violence
20 aggravated assault; correct?

21 MR. SIMPKINS: Under the enumerated clause, yes, Your
22 Honor.

23 THE COURT: Right. And in the immigration case,
24 *Morales-Alonzo*, the Eleventh Circuit determined that Georgia --
25 a Georgia aggravated assault conviction was a crime of violence

1 under the enumerated clause; correct?

2 MR. SIMPKINS: That is correct.

3 THE COURT: Well, if the two definitions are
4 substantially the same, why would it not be a crime of violence
5 under the enumerated clause for purposes of this guideline
6 range, for purposes of this guideline?

7 MR. SIMPKINS: Your Honor, a reading of
8 *Morales-Alonzo*, they talk about -- the Eleventh Circuit talks
9 about the definition of -- Georgia's definition of deadly
10 weapon and how it's incorporated into that statute. The
11 argument was made that the Georgia aggravated assault was
12 broader than the generic definition of aggravated assault
13 because of those definitions.

14 And the Eleventh Circuit -- I won't say correctly --
15 but they did go through and say, No, it's not broader because
16 of this, it's not broader because of that. So for that
17 purpose, I will agree that *Morales-Alonzo* does say that -- if I
18 were arguing that the definition of deadly weapon was broader
19 than the generic definition, then I would agree with the Court
20 that that would be binding and my argument would be foreclosed
21 by that case.

22 However, that case does not argue or does not discuss
23 at all the *mens rea* requirement, the *mens rea* requirement for
24 Georgia simple assault. It does state that in order for there
25 to be an aggravated assault in the state of Georgia, there has

1 to be --

2 THE COURT: No. But you have got -- you had in that
3 case a conviction of aggravated assault through the use of a
4 deadly weapon; correct?

5 MR. SIMPKINS: That's correct.

6 THE COURT: You have got the conviction in this case
7 aggravated assault through the use of a deadly weapon; correct?

8 MR. SIMPKINS: That's correct.

9 THE COURT: So it would be your position that in the
10 *Morales-Alonzo* case, although they found that that was a crime
11 of violence under the enumeration clause, they erred?

12 MR. SIMPKINS: No, I don't think -- well --

13 THE COURT: Well, if they didn't, how can --

14 MR. SIMPKINS: Because they did not --

15 THE COURT: You are arguing that their ultimate
16 conclusion would have been different had there been a lawyer
17 there making the argument that you are making today, which is
18 that they should look at it as simple assault plus an
19 aggravated factor.

20 MR. SIMPKINS: That's correct.

21 THE COURT: And if under that situation you could
22 commit a theoretical offense without a threat of violence, then
23 the Georgia statute is too broad, and you have got to -- it
24 doesn't fall into the definition of crime of violence. I mean,
25 essentially, you are saying that that argument wasn't addressed

1 there, so the Court didn't have the opportunity to address it
2 there when they they decided that aggravated assault under
3 Georgia law was a crime of violence.

4 MR. SIMPKINS: That's absolutely correct, Your Honor.

5 THE COURT: Doesn't the case law say that when the
6 the Eleventh Circuit or the Court of Appeals specifically makes
7 a determination that — as they did here — then it doesn't
8 matter whether it could have been a different determination had
9 somebody theoretically made another argument?

10 MR. SIMPKINS: I'm not sure about that, Your Honor.

11 THE COURT: The holding in the Eleventh Circuit is
12 that aggravated assault under the Georgia statute, if committed
13 through the use of a deadly weapon, qualifies as a crime of
14 violence.

15 MR. SIMPKINS: Based on the arguments made —

16 THE COURT: Purposes of the guidelines.

17 MR. SIMPKINS: Based on the arguments made in that
18 case, I'll agree with you, Judge. But —

19 THE COURT: All right. You'll have an opportunity to
20 argue your argument to the Court of Appeals, but I think I'm
21 bound by *Morales-Alonzo* which I think clearly holds that for
22 guideline purposes crime of violence means — includes the
23 Georgia aggravated assault — a Georgia aggravated assault
24 conviction in this case, which is a conviction for aggravated
25 assault using a deadly weapon, and that it qualifies under the

1 enumerated clause.

2 The Court would find, alternatively, that it would
3 qualify under the elements clause, but it's unnecessary for the
4 Court to make that determination other than in the alternative,
5 because the determination that it falls under the definition
6 under the enumerated clause disposes of the defendant's
7 objection, which is overruled.

8 Are there other cases on appeal addressing crime of
9 violence in the context of this statute that —

10 MR. SIMPKINS: The Eleventh Circuit actually agreed
11 with me for a little while in *U.S. v. Moss*, and then they
12 vacated that opinion on July 15th, I believe.

13 THE COURT: That's the case they are hearing *en banc*?

14 MR. SIMPKINS: That's correct.

15 THE COURT: And that is specifically in this context
16 and not in the career offender context?

17 MR. SIMPKINS: No, Your Honor. You are correct. It
18 is in the career offender context.

19 THE COURT: Okay.

20 MR. SIMPKINS: Although I think those definitions of
21 crime of violence are also substantially similar to the
22 sentencing guideline definitions as well.

23 THE COURT: I mean, I'm sure there are appeals in
24 this specific context that are being processed.

25 MR. SIMPKINS: I believe so.

1 THE COURT: I'm assuming all defense lawyers, any
2 crime of violence enhancement is being appealed in some way, if
3 it hasn't been squarely addressed.

4 MR. SIMPKINS: If they are doing their jobs, yes.

5 THE COURT: All right. Well, I don't blame you for
6 that. But that job is going to require you to go one more step
7 before you are potentially successful.

8 Are there any other objections to the presentence
9 report by the defendant?

10 MR. SIMPKINS: Your Honor, I filed an objection
11 yesterday to the final presentence report conclusion that
12 Mr. Glenn should not receive acceptance of responsibility
13 because of the allegation that he had a cell phone at the jail.

14 THE COURT: This allegation that he had a what? A
15 cell phone?

16 MR. SIMPKINS: A cell phone. Yes, Your Honor.

17 THE COURT: Okay. What's the government's position
18 with regard to whether the defendant should receive acceptance
19 of responsibility?

20 MR. WILLIAMS: Well, Your Honor, technically that is
21 a new law violation that could suggest that that is
22 inconsistent with acceptance of responsibility. However,
23 despite our efforts, we were not able to get ahold of the
24 sheriff's office investigators involved in that search to be
25 here this morning. There will be no additional evidence to

1 present on that matter outside of the presentence report.

2 THE COURT: Okay. Well, I don't think the
3 presentence report standing alone is evidence, so if the
4 government is not in a position to support that part of the
5 presentence report, the Court is going to give the defendant
6 acceptance.

7 MR. WILLIAMS: Or if Your Honor would like, I believe
8 the probation officer can testify to hearsay. But I understand
9 Your Honor may would rather have the live witness from the
10 sheriff's office. But I'll defer to the Court's judgment on
11 that matter.

12 THE COURT: Well, if -- what paragraph of the
13 presentence report is that determination on?

14 MR. SIMPKINS: Paragraph 8 and 18, Your Honor.

15 THE COURT: 8 and 18. I'm not going to deny him
16 acceptance of responsibility based solely on the probation
17 office testifying as to what somebody else told them from the
18 Sumter County Jail. If the government feels strongly that he
19 shouldn't get acceptance, then somebody should have been
20 brought here to prove the allegation. I understand it may not
21 have been possible. But nobody sought a continuance or
22 anything else, so I'm going give him acceptance of
23 responsibility, which means that his total offense level would
24 be -- 21 or 20?

25 MR. SIMPKINS: 19.

1 MR. WILLIAMS: 19.

2 THE COURT: 19. So he'd get the extra one, too.

3 MR. WILLIAMS: Yes, Your Honor.

4 THE COURT: All right.

5 Is the 60 months, is that just the statutory maximum?

6 It's not a mandatory — that's the statutory maximum?

7 PROBATION OFFICER: Statutory minimum.

8 THE COURT: I mean statutory minimum?

9 PROBATION OFFICER: Yes, sir.

10 MR. SIMPKINS: For this case? This is a 922(g).

11 It's a maximum of 120 months, and there's no mandatory minimum.

12 MR. WILLIAMS: That's correct.

13 THE COURT: There's no mandatory minimum in this
14 case?

15 MR. WILLIAMS: No, Your Honor.

16 THE COURT: So if he gets acceptance, his guideline
17 range is 37 to 46 months; correct?

18 MR. SIMPKINS: That's correct, Your Honor.

19 MR. WILLIAMS: That's correct, Your Honor.

20 THE COURT: All right. Do you agree with that?

21 PROBATION OFFICER: I was thinking about the Greer
22 case.

23 THE COURT: Okay.

24 Any other objections, Mr. Simpkins?

25 MR. SIMPKINS: No, Your Honor.

1 THE COURT: Mr. Glenn, you have the right to address
2 the Court and say anything you wish for the Court to consider.

3 Do you have anything you wish to say at this time?

4 MR. SIMPKINS: Judge, Mr. Glenn's mother is here and
5 she just wanted to quickly address the Court if that was okay.

6 THE COURT: That's fine.

7 THE WITNESS: Sir, I just wanted to say —

8 THE COURT: Tell me your name, please.

9 THE WITNESS: I'm sorry. My name is Cassandra
10 Walker. I'm Reginald's mother.

11 THE COURT: Okay.

12 THE WITNESS: I was just hoping you can find it in
13 your heart to be as lenient as possible. I understand there is
14 a consequence of his choices, and hopefully if he's, you know,
15 given a chance with a short sentence, maybe he can have the
16 opportunity to redeem himself to become a better, productive
17 citizen.

18 THE COURT: All right.

19 Mr. Glenn, do you want to add anything?

20 THE DEFENDANT: I just want to apologize to the
21 courtroom for breaking the law and to my family and kid.

22 THE COURT: All right.

23 Mr. Simpkins, do you have anything to add?

24 MR. SIMPKINS: Nothing additional except for what I
25 put in my sentencing memorandum, Your Honor.

1 THE COURT: All right.

2 Do you want to put in the record the exhibit that
3 would include the aggravated assault conviction, Mr. Williams?

4 MR. WILLIAMS: Yes, Your Honor. You read my mind,
5 Your Honor. I was going to do that.

6 THE COURT: All right. We'll admit Government's
7 Exhibit 1 as the previous aggravated assault conviction.

8 Is there any objection that that is what this exhibit
9 is, Mr. Simpkins?

10 MR. SIMPKINS: No, Your Honor.

11 THE COURT: All right. That's admitted and will be
12 an exhibit to this sentencing hearing.

13 (Government's Exhibit 1 was admitted into evidence.)

14 THE COURT: Having considered the presentence report
15 that was prepared following your guilty plea, the Court accepts
16 the plea in this case and adjudicates you guilty of Count 1 of
17 the indictment.

18 After granting the defendant's objection with regard
19 to acceptance of responsibility and providing defendant with
20 credit for acceptance of responsibility, the Court has
21 determined that the advisory sentencing range in this case is
22 37 to 46 months considering an offense level of 19 and a
23 criminal history category of III.

24 In imposing sentence in this case, the Court has
25 considered the advisory sentencing range and the sentencing

1 factors found at 18 U.S.C., 3553(a), and has made an
2 individualized assessment based on the facts presented.

3 The Court commits you to the Bureau of Prisons for a
4 period of 42 months, which is a sentence within the advisory
5 guideline range.

6 The Court also imposes a mandatory assessment in the
7 amount of \$100 but waives the imposition of a fine or any
8 alternative sanction based on your financial condition.
9 Financial penalties shall be paid in accordance with the
10 Court's standing order 2017-02.

11 The prison term is to be followed by a period of
12 supervised release of three years. Supervised release shall
13 include the standard, mandatory, and special conditions as
14 noted in the presentence report and the Court's standard order
15 2017-02.

16 The Court also advises you that you do have the right
17 to appeal the sentence in the case, and you have not waived
18 that right. Should you decide to appeal your sentence, you
19 must file a notice of appeal or request the clerk of court to
20 file a notice on your behalf within 14 days of judgment being
21 filed in your case. If you are unable to afford the cost of an
22 appeal, you have the right to ask the Court to waive the normal
23 cost and/or to appoint counsel to represent you.

24 Now that the findings of the Court have been made and
25 the sentence imposed, are there any objections to the sentence

1 as to the findings of fact and conclusions of law other than
2 those already stated for the record?

3 By the government, Mr. Williams?

4 MR. WILLIAMS: No, Your Honor.

5 THE COURT: By the defendant, Mr. Simpkins?

6 MR. SIMPKINS: Nothing additional, Your Honor.

7 THE COURT: All right. That concludes that case.

8 (Proceedings concluded at 11:10 a.m.)

9 CERTIFICATE OF REPORTER

10 I, Betsy J. Peterson, Official Court Reporter of
11 the United States District Court, in and for the Middle
12 District of the State of Georgia, Columbus Division, a
13 Registered Professional Reporter, do hereby CERTIFY that the
14 foregoing proceedings were reported by me in stenographic
shorthand and were thereafter transcribed under my direction
into typewriting; that the foregoing is a full, complete, and
true record of said proceedings.

15 This 8th day of October, 2019.

16 Betsy Peterson
17 Digitally signed by Betsy Peterson
DN: cn=Betsy Peterson, o=United States
District Court, ou=Middle District of Georgia,
email=betsy_peterson@bellsouth.net, c=US
Date: 2019.10.08 19:54:54 -04'00'

18 s/Betsy J. Peterson
19 Betsy J. Peterson, CRR, RPR, CCR
20 Federal Official Court Reporter
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