

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 30 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

AL CHRISTOPHER BRAXTON ALLEN,
AKA Al Braxton Allen, AKA Christopher
Braxton Allen,

Defendant-Appellant.

No. 17-10378

D.C. No.

3:16-cr-00062-RCJ-VPC-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert C. Jones, District Judge, Presiding

Submitted October 26, 2020**

Before: McKEOWN, RAWLINSON, and FRIEDLAND, Circuit Judges.

Al Christopher Braxton Allen appeals from the district court's judgment and challenges his guilty-plea conviction and 102-month sentence for using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 924(c)(1)(A)(ii). We dismiss.

Allen contends that his conviction and sentence are illegal because Hobbs Act robbery under 18 U.S.C. § 1951 does not qualify as a crime of violence under § 924(c)(3)(A). The government argues that this appeal should be dismissed based on the appeal waiver contained in the plea agreement. We review de novo both the enforceability of an appeal waiver, *see United States v. Watson*, 582 F.3d 974, 981 (9th Cir. 2009), and whether a conviction is a crime of violence under 18 U.S.C. § 924(c)(3), *see United States v. Dominguez*, 954 F.3d 1251, 1256 (9th Cir. 2020).

Contrary to Allen's contention, Hobbs Act robbery qualifies as a crime of violence under the elements clause in § 924(c)(3)(A). *See Dominguez*, 954 F.3d at 1260-61. Accordingly, Allen's conviction and sentence are not illegal, and we dismiss pursuant to the valid appeal waiver. *See Watson*, 582 F.3d at 988.

DISMISSED.