

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-2901

United States of America,

Appellee,

v.

Kobyashi Jones,

Appellant.

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Appeal from the United States
District Court for the
Eastern District of Missouri.
[UNPUBLISHED]

Submitted: May 31, 2007

Filed: June 4, 2007

Before WOLLMAN, MURPHY, and BYE, Circuit Judges.

PER CURIAM.

In this direct criminal appeal of his 180-month prison sentence for being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), Kobyashi Jones challenges the district court’s¹ determination that one of his prior convictions is a “violent felony” within the meaning of 18 U.S.C. § 924(e)(1), which resulted in his classification as an armed career criminal under U.S.S.G. § 4B1.4(a). Upon de novo review, see United States v. Bockes, 447 F.3d 1090, 1092 (8th Cir. 2006), we affirm.

¹The Honorable Rodney W. Sippel, United States District Judge for the Eastern District of Missouri.

It is undisputed that Jones had a prior felony conviction for the offense of tampering in the first degree, in violation of Mo. Rev. Stat. § 569.080.1(2) (1999), based on his conduct in operating a jeep without the owner's consent. Jones's argument on appeal is therefore foreclosed by United States v. Johnson, 417 F.3d 990, 997 (8th Cir. 2005) (holding that Missouri offense of tampering by operation is violent felony for purposes of § 924(e)), cert. denied, 127 S. Ct. 285 (2006). Although Jones contends that Johnson is wrongly decided, we are not, sitting as a panel, at liberty to overrule Johnson. See Jackson v. Ault, 452 F.3d 734, 736 (8th Cir. 2006) (only en banc court can overturn panel decision), cert. denied, 127 S. Ct. 946 (2007).

Accordingly, we affirm.
