

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-2910

United States of America,

Appellee,

v.

Anthony Lee Prellwitz,

Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: November 7, 2008
Filed: November 21, 2008

Before WOLLMAN, SMITH, and GRUENDER, Circuit Judges.

PER CURIAM.

Anthony Lee Prellwitz pleaded guilty to being a felon in possession of a firearm and possessing an unregistered sawed-off shotgun. The district court sentenced him as an armed career criminal under 18 U.S.C. § 924(e) and U.S.S.G. § 4B1.4 based on his five prior felony convictions, including three Minnesota convictions for motor vehicle theft. Minnesota law defines motor vehicle theft as taking or driving a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or authorized agent did not give consent. See Minn. Stat. § 609.52, subd. 2(17). Prellwitz argues on appeal that his prior convictions for motor vehicle theft do not constitute violent felonies qualifying him as an armed career criminal and that his case must be remanded under United States

v. Williams, 537 F.3d 969, 971-76 (8th Cir. 2008) (noting statutory definition of “violent felony” is interchangeable with Guidelines definition of “crime of violence”; and holding, in analysis of Missouri law, that auto theft without consent is not a crime of violence for Guidelines purposes). The government concedes that Williams is controlling and requires remand. Accordingly, we remand for resentencing.
