

United States Court of Appeals
For the Eighth Circuit

No. 23-1330

United States of America

Plaintiff - Appellee

v.

Tommie Anderson

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri

Submitted: August 24, 2023

Filed: September 19, 2023

[Unpublished]

Before SHEPHERD, GRASZ, and KOBES, Circuit Judges.

PER CURIAM.

Tommie Anderson appeals the sentence imposed after he pled guilty to a firearm offense. His counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), and seeks leave to withdraw.

Anderson argues the district court¹ erred by treating his 2004 Missouri conviction for attempted second-degree robbery as a crime of violence when determining his base offense level under the United States Sentencing Guidelines Manual (“Guidelines”). *See* U.S.S.G. §§ 2K2.1(a)(4)(A), 4B1.2(a). We conclude the conviction qualifies as a crime of violence. *See United States v. Harrison*, 809 F.3d 420, 425 (8th Cir. 2015) (reviewing de novo district court’s determination whether an offense qualifies as a crime of violence under the Guidelines). We have held a Missouri conviction for second-degree robbery under the relevant statute is a crime of violence under the Guidelines. *See United States v. Gordon*, 69 F.4th 932, 933 (8th Cir. 2023). Anderson contends that because he was not convicted of a completed robbery, his conviction is not a crime of violence under *United States v. Taylor*, 142 S. Ct. 2015 (2002) (holding attempted Hobbs Act robbery does not qualify as crime of violence under 18 U.S.C. § 924(c)(3)(A)). We reject his argument because, unlike the statute at issue in *Taylor*, the Guidelines contain commentary specifically stating an attempt to commit a crime of violence is itself a crime of violence. *See* U.S.S.G. § 4B1.2, cmt. (n.1) (explaining crime of violence includes the offense of “attempting to commit such offense”).

Further, having independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. Accordingly, we grant counsel leave to withdraw and affirm.

¹The Honorable Ronnie L. White, United States District Judge for the Eastern District of Missouri.