

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN M. GONZALEZ-RUIZ,

Defendant.

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ORDER

12-cr-28-wmc

The court issues this order simply to clarify its ruling that the defendant does not qualify for enhancement under the Guidelines as an armed career criminal with respect to *both* of his previous convictions for aggravated assault and aggravated battery, although each are predicate offenses for this enhancement. Considering the decision in *Begay v. United States*, 553 U. S. 137 (2008), his convictions for possession of a sawed-off shotgun and conspiracy to commit armed robbery do not qualify as a predicate violent felonies. Specifically, as the court explained on the record, the defendant's conviction for conspiracy to commit armed robbery does not qualify because the Massachusetts statute under which the defendant was convicted does not require an overt act in connection with the conspiracy to support a conviction. Similarly, and to amplify, pursuant to the holding in *Begay*, his conviction for possession of a sawed-off shotgun does not qualify as a predicate offense because it is not similar in kind, nor the risk posed, to the offenses listed in the Armed Career Criminal Act.

Entered this 16th day of January, 2013.

BY THE COURT:

/s/

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WILLIAM M. CONLEY

District Judge