

Robert L. Farb
School of Government
November 3, 2015

Fourth Circuit Court of Appeals

(Note: You may access the court's opinion by clicking on the case name)

Court Holds That in Federal Prosecution For Possession of Firearm Under 18 U.S.C. § 922(g)(9) in Which Defendant Had a Prior Conviction in a North Carolina State Court of Assault On a Female, His Wife, the Assault Offense Did Not Qualify As a "Misdemeanor Crime of Domestic Violence" Under 18 U.S.C. § 921(a)(33)(A)

[United States v. Vinson](#), ___ F.3d. ___, 2015 WL 6686001 (4th Cir. November 3, 2015). Officers dispatched to the defendant's residence found a rifle and ammunition. He previously had been convicted in a North Carolina state court of assault on a female, his wife. The federal government indicted the defendant with possession of a firearm by a prohibited person under 18 U.S.C. § 922(g)(9). The federal district court dismissed the charge, finding that assault on a female did not qualify as a "misdemeanor crime of violence" under 18 U.S.C. § 921(a)(33)(A). The fourth circuit affirmed. It reviewed federal case law and determined that the "use or attempted use of force" set out in the definition of a misdemeanor crime of violence requires an "intentional" use of force. Because North Carolina law permits an assault conviction based on culpable negligence, none of the North Carolina forms of assault (attempted battery, show of violence, or completed battery) qualify as a misdemeanor crime of violence.