

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 01-1185

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United States of America,

Appellee,

v.

Gary E. Loucks,

Appellant.

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[UNPUBLISHED]

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Submitted: August 6, 2001  
Filed: August 15, 2001

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Before BOWMAN, FAGG, and HANSEN, Circuit Judges.

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PER CURIAM.

Gary E. Loucks pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). At sentencing, he objected to the use of his prior felony conviction for terroristic threats both to enhance his offense level under U.S.S.G. § 2K2.1(a)(4)(A) and to establish his criminal history under U.S.S.G. § 4A1.2(a), arguing that this constituted double jeopardy and impermissible double counting. The

district court<sup>1</sup> overruled his objection, and sentenced him to 46 months imprisonment and 3 years supervised release.

Loucks renews his arguments on appeal. We reject his claim of impermissible double counting because the Sentencing Guidelines specifically authorize this type of double counting. See U.S.S.G. § 2K2.1, comment. (n.15) (“Prior felony conviction(s) resulting in an increased base offense level under subsection . . . (a)(4)(A) . . . are also counted for purposes of determining criminal history points pursuant to Chapter Four, Part A (Criminal History).”); United States v. Rohwedder, 243 F.3d 423, 427 (8th Cir. 2001) (“Double counting is permissible if the Sentencing Commission intended that result and each section concerns conceptually separate notions relating to sentencing.”). Loucks’s double jeopardy argument also lacks merit. See Munger v. Erickson, 979 F.2d 1323, 1326 n.8 (8th Cir. 1992) (taking defendant’s prior conviction into account in sentencing him for subsequent offense does not constitute double jeopardy violation; defendant is being punished only for subsequent offense).

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>1</sup>The Honorable Fernando J. Gaitan, Jr., United States District Judge for the Western District of Missouri.