

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

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No. 96-3488EM

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United States of America,	*	
	*	
Appellee,	*	Appeal from the United States
	*	District Court for the Eastern
v.	*	District of Missouri.
	*	
Adam C. Risch,	*	[UNPUBLISHED]
	*	
Appellant.	*	

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Submitted: March 5, 1997

Filed: March 11, 1997

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Before McMILLIAN, FAGG, and LOKEN, Circuit Judges.

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PER CURIAM.

In an earlier appeal, we affirmed Adam C. Risch's drug conviction but remanded to permit the district court to consider whether Risch's sentence should be reduced under an amendment to the Sentencing Guidelines. United States v. Risch, 87 F.3d 240, 243-44 (8th Cir. 1996). On remand, the district court sentenced Risch to the statutory minimum for an offense involving 100 or more marijuana plants. Although Risch did not raise the issue in his first appeal, Risch now challenges the number of marijuana plants attributed to him. Based on Risch's failure to raise this issue in his original appeal, we will not consider Risch's new claim. See United States v. Kress, 58 F.3d 370, 373-74 (8th Cir. 1995). We overrule Risch's objection to the no-argument classification of this appeal.

We affirm Risch's sentence.

A true copy.

Attest:

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