

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-3348

United States of America,

Appellee,

v.

Howard A. McCowan,

Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: January 6, 1998

Filed: January 12, 1998

Before McMILLIAN, FAGG, and BOWMAN, Circuit Judges.

PER CURIAM.

In 1991, Howard McCowan was convicted of conspiring to distribute cocaine base and possessing cocaine base with intent to distribute, and using a firearm in relation to drug trafficking. McCowan was sentenced to concurrent prison terms of 121 months on the drug counts and a consecutive 60-month term on the firearm count. Upon McCowan's 28 U.S.C. § 2255 (1994) motion, the District Court¹ vacated his firearm conviction in light of Bailey v. United States, 516 U.S. 137, 143-44 (1995).

¹The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.

After imposing a two-level enhancement for the possession of a firearm, see U.S. Sentencing Guidelines Manual § 2D1.1(b)(1) (1995) (providing for two-level enhancement if firearm was involved), the Court resentenced McCowan to concurrent 151-month prison terms on the drug counts.

McCowan appeals, arguing that the District Court lacked jurisdiction to resentence him on the unchallenged drug convictions. This argument is foreclosed by United States v. Harrison, 113 F.3d 135, 137-38 (8th Cir. 1997). After carefully reviewing McCowan's remaining points on appeal, we conclude they are without merit.

Accordingly, the judgment is affirmed.

A true copy.

Attest:

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