

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-4356

United States of America,

Appellee,

v.

Gary John Cates,

Appellant.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: April 14, 1998

Filed: May 7, 1998

Before McMILLIAN, BOWMAN,¹ and MURPHY, Circuit Judges.

PER CURIAM.

Gary John Cates, who pleaded guilty to several federal criminal charges and was sentenced thereon, appeals. His sole contention is that the District Court² erred in declining to make a finding regarding his objection to information set forth in the presentence report to the effect that a 1985 conviction for aggravated battery was based on allegations of rape. As the District Court noted in ruling that it would not strike this

¹The Honorable Pasco M. Bowman became Chief Judge of the United States Court of Appeals for the Eighth Circuit on April 18, 1998.

²The Honorable Michael J. Melloy, Chief Judge, United States District Court for the Northern District of Iowa.

material from the report, it was not necessary for sentencing purposes to resolve the factual dispute raised by Cates's objection, for it had no effect on the length of Cates's sentence. Contrary to Cates's argument, the court's response to his objection satisfied Federal Rule of Criminal Procedure 32(c). See United States v. Beatty, 9 F.3d 686, 689 (8th Cir. 1993). Because no error of law appears, the judgment of the District Court is

AFFIRMED. See 8th Cir. R. 47B.

A true copy.

Attest:

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