

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-1575EM

United States of America,	*	
	*	
Appellee,	*	
	*	
v.	*	
	*	Appeal from the United States
Jane Ellen Byrne, also known as	*	District Court for the Eastern
Peaches, also known as Jane Sanchez,	*	District of Missouri.
also known as Jane Mills, also known as	*	
Janes Lehner, also known as Rose	*	
Byrne,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: September 22, 1998
Filed: September 30, 1998

Before McMILLIAN, HEANEY, and FAGG, Circuit Judges.

PER CURIAM.

A jury convicted Jane Ellen Byrne of several federal drug felonies and of using firearms during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c). After Byrne’s convictions, the Supreme Court held that using a firearm within the meaning of § 924(c) requires active employment of a firearm. See Bailey v. United States, 516 U.S. 137, 143 (1995). Thus, although we affirmed Byrne’s drug convictions in her direct appeal, we remanded her firearm conviction for consideration

in light of the Supreme Court's Bailey decision. See United States v. Byrne, 83 F.3d 984, 991-92 (8th Cir. 1996). After briefing and a hearing on the issue, the district court found the trial evidence was sufficient to support Byrne's firearm conviction under the Bailey standard. In her current appeal, Byrne challenges this finding. Byrne's challenge fails. The uncontested evidence showed Byrne had accepted the guns as collateral for a drug debt. This constitutes active employment of a firearm under § 924(c). See Bailey, 516 U.S. at 148; Smith v. United States, 508 U.S. 223, 228-30 (1993); United States v. Cannon, 88 F.3d 1495, 1509 (8th Cir. 1996). Accordingly, we affirm Byrne's firearm conviction.

A true copy.

Attest:

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