

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-2140

Derrick Jones,

Appellant,

v.

United States of America,

Appellee.

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Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: December 7, 1998

Filed: December 16, 1998

Before BEAM, FLOYD R. GIBSON, and MURPHY, Circuit Judges.

PER CURIAM.

Derrick Jones pleaded guilty to drug and firearms charges, including one count of using or carrying a firearm during and in relation to a drug trafficking offense, in violation of 18 U.S.C. § 924(c). He now brings a 28 U.S.C. § 2255 motion, seeking to vacate his sentence on the section 924(c) conviction under the Supreme Court's decision in Bailey v. United States, 516 U.S. 137 (1995). The district court denied relief, concluding that Jones's claim was procedurally defaulted. In light of the Supreme Court's subsequent decision in Bousley v. United States, 118 S.Ct. 1604, 1611 (1998), we grant a certificate of appealability on the issue of whether Jones is entitled to an opportunity to make a showing of actual innocence overcoming his

procedural default. We remand the case to the district court for further consideration in light of Bousley v. United States.

A true copy.

Attest:

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