

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

No. 97-1497

United States of America,

Appellee,

v.

Damon Julian,

Appellant.

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[UNPUBLISHED]

Submitted: September 29, 1999

Filed: October 7, 1999

Before WOLLMAN, Chief Judge, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

Damon Julian appeals the district court's¹ order denying his 28 U.S.C. § 2255 motion after an evidentiary hearing. Citing Bailey v. United States, 516 U.S. 137 (1995), Julian argued in his motion that no evidence supported his guilty plea to an 18 U.S.C. § 924(c) charge of using and carrying a firearm and that his plea was involuntary. Assuming without deciding that the government did not assert Julian's procedural default as a defense to the section 2255 motion, we conclude the district

¹The Honorable Michael J. Melloy, Chief Judge, United States District Court for the Northern District of Iowa.

court correctly rejected the merits of Julian’s claim, because there was an adequate factual basis for his plea to the “carry” offense. See United States v. Nelson, 109 F.3d 1323, 1324-26 (8th Cir. 1997). Julian admitted during the plea colloquy that he carried a firearm as part of his drug trafficking activity and that he helped stash drugs and his firearm at a motel room in anticipation of a police raid on the day of his arrest. In addition, the evidence adduced at the hearing on the section 2255 motion was consistent with Julian’s admissions at the plea hearing. See United States v. Ramos-Rodriguez, 136 F.3d 465, 468-69 (5th Cir.), cert. denied, 119 S. Ct. 413 (1998). The judgment is affirmed.

A true copy.

Attest:

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