

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 10, 2007
Decided October 1, 2007

Before

Hon. RICHARD A. POSNER,, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

Hon. TERENCE T. EVANS, *Circuit Judge*

No. 06-3007

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

RAYNARD McDOWELL,
Defendant-Appellant.

Appeal from the United States
District Court for the Northern
District of Illinois, Eastern Division.

No. 94 CR 787-1

Suzanne B. Conlon, *Judge.*

O R D E R

The defendant was convicted of drug-related offenses and given a long prison sentence. He appealed, and we remanded the case for an evidentiary hearing on his contention that the prison had destroyed tapes of a telephone call that would show that the government had promised to seek a sentence reduction for him under Fed. R. Crim. P. 35(b) for providing the government with substantial assistance, and the promise had been broken. On remand, the district court conducted an evidentiary hearing and found that no promise had been made. The finding is not clearly erroneous, and the judgment denying the motion to compel the government to file a Rule 35(b) motion is therefore

AFFIRMED.