

United States Court of Appeals
For the Eighth Circuit

No. 11-1356

United States of America

Plaintiff - Appellee

v.

Eldridge A. Sumlin

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - Cape Girardeau

Submitted: November 7, 2012

Filed: December 4, 2012
[Unpublished]

Before WOLLMAN, COLLTON, and BENTON, Circuit Judges.

PER CURIAM.

This case is on remand from the Supreme Court. In our opinion filed January 25, 2012, United States v. Sumlin, 453 F. App'x 668 (8th Cir. 2012), we affirmed Eldridge Sumlin's sentence for possession with intent to distribute five grams or more of cocaine base, in violation of 21 U.S.C. § 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(B). Sumlin then petitioned the Supreme Court for a writ of certiorari.

The Supreme Court granted the petition, vacated our judgment, and remanded the case for further consideration in light of Dorsey v. United States, 132 S. Ct. 2321 (2012).

In Dorsey, the Supreme Court held that the “more lenient penalty provisions” of the Fair Sentencing Act (FSA) “apply to offenders who committed a crack cocaine crime before August 3, 2010, but were not sentenced until after August 3.” Id. at 2326. Sumlin is entitled to relief under Dorsey because his offense occurred on July 22, 2010, and he was sentenced on February 8, 2011. Accordingly, we vacate Sumlin’s sentence and remand the case to the district court for resentencing consistent with Dorsey and the FSA.
