

United States Court of Appeals
For the Eighth Circuit

No. 13-1181

United States of America

Plaintiff - Appellee

v.

Elbert Jordan

Defendant - Appellant

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

Submitted: September 23, 2013

Filed: October 22, 2013

[Unpublished]

Before RILEY, Chief Judge, BYE and GRUENDER, Circuit Judges.

PER CURIAM.

On September 14, 2012, Elbert Jordan pled guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). On January 8, 2013,

the district court¹ sentenced Jordan to 70 months imprisonment. Jordan challenges the calculation of his sentence.

In his Presentence Investigation Report, Jordan's criminal history included a combined four points for a 1987 Missouri state conviction of one count of first degree robbery and one companion count of armed criminal action. During his sentencing in this case, Jordan objected and argued the state conviction should count as three points, although Jordan conceded the one point difference would not materially affect the applicable United States Sentencing Guidelines (Guidelines) range. The district court overruled the objection, noting the fourth point "has no impact on the Criminal History Category because even if we were to remove one point, the defendant would still be in Criminal History Category V." Jordan appeals this decision.

Jordan and the district court were correct that the fourth point, even if improperly assessed, has no bearing on the Guidelines range. Because the asserted error is harmless, we need not reach the merits of Jordan's argument. See Fed. R. Crim. P. 52(a); United States v. Casteel, 717 F.3d 635, 646-47 (8th Cir. 2013) (disregarding an asserted error in calculating criminal history points because the purported error had no impact on the length of the sentence).

We affirm.

¹The Honorable Audrey G. Fleissig, United States District Judge for the Eastern District of Missouri.