

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 28 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 16-10131

Plaintiff-Appellee,

D.C. No.

4:14-cr-01155-RCC-BGM-1

v.

EDWARD ALOYSIUS RZEWNICKI,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, Chief Judge, Presiding

Argued and Submitted July 13, 2017
San Francisco, California

Before: GRABER and FRIEDLAND, Circuit Judges, and FOGEL,** District
Judge.

Edward Rzewnicki appeals his conviction for being a felon in possession of
firearms and ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

He asserts that the district court erred in denying his motion to dismiss the

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The Honorable Jeremy D. Fogel, United States District Judge for the
Northern District of California, sitting by designation.

indictment. The motion was based on his claim that he reasonably believed that the order discharging him from probation on the predicate felony conviction had restored his right to possess firearms, and that the indictment therefore violated the “anti-mousetrapping” rule of 18 U.S.C. § 921(a)(20).

Rzewnicki argued that he was a first offender as defined by Arizona law and thus was statutorily entitled to automatic restoration of his civil rights upon discharge from probation. Ariz. Rev. Stat. § 13-912(A). Rzewnicki’s 2005 conviction involved three separate felony counts. Under controlling Arizona authority, the automatic restoration provision of Arizona Revised Statutes § 13-912(A) applies only to offenders who have been convicted of a single felony. *Rocking K Holdings, Ltd. v. Pima County*, 822 P.2d 487, 489 (Ariz. Ct. App. 1991). Accordingly, the district court correctly denied the motion to dismiss.

AFFIRMED.