

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-1292

United States of America,

Appellee,

v.

John F. McCaul Jr.,

Appellant.

*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: September 27, 2007

Filed: October 2, 2007

Before WOLLMAN, COLLOTON, and BENTON, Circuit Judges.

PER CURIAM.

John F. McCaul, Jr., pleaded guilty to possessing a firearm, which had traveled in interstate commerce, after having been previously convicted of attempted burglary and three counts of robbery, in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1). Finding that McCaul's prior convictions subjected him to enhanced sentencing as an armed career criminal, the district court¹ sentenced him to the statutory minimum of 15 years in prison. *See* 18 U.S.C. § 924(e)(1); U.S.S.G. § 4B1.4. On appeal, McCaul argues for the first time that the three robbery convictions, arising from robberies that

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

occurred on the same day, should not be counted as separate predicate offenses for enhancement purposes.

We find no plain error in the court's treatment of the robbery convictions. *See United States v. Patterson*, 481 F.3d 1029, 1034 (8th Cir. 2007) (failure to raise issue at sentencing results in plain-error review on appeal); *United States v. Deroo*, 304 F.3d 824, 828 (8th Cir. 2002) ("Crimes occurring even minutes apart can qualify . . . if they have different victims and are committed in different locations."); *United States v. Hamell*, 3 F.3d 1187, 1191 (8th Cir. 1993) (two assaults committed within minutes of each other were separate and distinct criminal episodes); *see also, e.g., United States v. Green*, 967 F.2d 459, 462 (10th Cir. 1992) (declining to depart from holding that two burglaries occurring on same date at different times and different places constitute separate criminal episodes).

Accordingly, the judgment is affirmed.
