

United States Court of Appeals
For the Eighth Circuit

No. 18-1744

United States of America,

Plaintiff - Appellee,

v.

Robert Oscar Schultz,

Defendant - Appellant.

Appeal from United States District Court
for the Southern District of Iowa - Council Bluffs

Submitted: May 23, 2019

Filed: June 5, 2019

[Unpublished]

Before COLLOTON, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Robert Schultz appeals the amended judgment entered by the district court¹ in his criminal case following the grant of relief on one of the claims raised in his post-

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

conviction proceeding under 28 U.S.C. § 2255. The district court vacated a conviction and a concomitant concurrent sentence and \$100 special assessment. For reversal, Schultz argues that the district court was required to conduct a hearing before taking this action. We disagree.

Section 2255 gives district courts “broad and flexible remedial authority” to correct a sentence as appropriate. *See United States v. Harrison*, 113 F.3d 135, 137 (8th Cir. 1997). In this case, the district court made statements at the original sentencing hearing reflecting the court’s awareness of a potential, but likely inconsequential, double jeopardy issue, given that the concurrent sentences were triggered by a more serious offense. Under those circumstances, we reject Schultz’s request to vacate the district court’s amended judgment and remand for a plenary resentencing hearing. *See United States v. Grimes*, 702 F.3d 460, 469 (8th Cir. 2012); *James v. United States*, 476 F.2d 936, 937 (8th Cir. 1973) (per curiam).

The judgment is affirmed.
