

PUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-4447

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

JERADA HENDERSON,

Defendant – Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Abingdon. James P. Jones, Senior District Judge. (1:20-cr-00047-JPJ-PMS-1)

Argued: December 8, 2023

Decided: May 7, 2025

Amended: May 7, 2025

Before AGEE, THACKER, and RUSHING, Circuit Judges.

Affirmed by published opinion. Judge Rushing wrote the opinion, in which Judge Agee and Judge Thacker joined.

ARGUED: Erin Margaret Trodden, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charlottesville, Virginia, for Appellant. Jonathan Patrick Jones, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee. **ON BRIEF:** Juval O. Scott, Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charlottesville, Virginia, for Appellant. Christopher R. Kavanaugh, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

RUSHING, Circuit Judge:

A jury convicted Jerada Henderson of possessing methamphetamine with intent to distribute and conspiring with others to do the same. He appeals the district court's decisions denying his motion to suppress evidence found on his cell phone, rejecting one of his proposed jury instructions, and calculating his sentence. Finding no reversible error, we affirm.

I.

The case begins with a traffic stop. In October 2018, a sheriff's deputy in Smyth County, Virginia, pulled Ashley Langley over for erratic driving. Langley told the deputy there were drugs in the vehicle, and a passenger informed the deputy she had a gun. A search of the vehicle recovered a few ounces of ice methamphetamine, distribution paraphernalia, and the firearm. Langley and her passengers told officers there was more methamphetamine at Langley's residence and that her out-of-state methamphetamine supplier was currently staying there, armed with a firearm.

With this information, Investigator Carol Smith sought a warrant to search Langley's home. Smith's sworn affidavit described the traffic stop that occurred earlier that day. She also explained, based on "training, experience, and conversations with other law enforcement officers," that drug traffickers "typically maintain methamphetamine, methamphetamine distribution paraphernalia . . . , notes, records, messages, and telephone numbers (pertaining to methamphetamine trafficking related contacts/co-conspirators/customers), . . . on their persons, inside their residences," or in other nearby locations. J.A. 128–129. Accordingly, Smith requested authorization to search Langley's

residence for items pertaining to methamphetamine distribution, including records, messages, photographs, and telephone numbers. Smith's warrant application specified that these items "may be stored in digital media," so digital devices "including . . . cellular telephones/smartphones . . . [were] to be seized and examined for th[ose] items." J.A. 127. The state judge issued the warrant.

Several hours after the traffic stop, officers searched Langley's home. They found a large amount of methamphetamine, drug paraphernalia, and a firearm inside. Henderson was there alone. Officers also discovered two cell phones belonging to Henderson and a duffel bag containing credit cards in his name and an empty holster that fit the recovered firearm. Upon searching the phones, officers found text messages suggestive of drug dealing, including conversations with Langley about Henderson's planned visit. They also found photographs of a hand holding a substance that appeared to be methamphetamine and Langley posing with a large amount of cash. The officers arrested Henderson.

In August 2021, a federal grand jury returned a superseding indictment charging Henderson with (1) unlawfully possessing a firearm as a felon, 18 U.S.C. §§ 922(g)(1), 924(a)(2); (2) conspiring to distribute and possess with the intent to distribute 50 grams or more of methamphetamine, 21 U.S.C. §§ 841(b)(1)(A), 846; (3) possessing with intent to distribute 50 grams or more of methamphetamine, *id.* § 841(a)(1), (b)(1)(A); and (4) possessing a firearm in furtherance of a drug-trafficking crime, 18 U.S.C. § 924(c)(1)(A)(i).

Before trial, Henderson moved to suppress the evidence obtained from his cell phones. He argued that the warrant was overbroad and that the supporting affidavit made

only generic, conclusory statements about cell phones without providing probable cause to believe Henderson owned a cell phone and evidence of drug trafficking would be found therein. The district court disagreed, finding the affidavit set forth reasons to believe that cell phones containing evidence of drug trafficking may be located at Langley's residence. Regardless, the court also determined that the officers who executed the search warrant could rely on its validity in good faith. The court therefore denied Henderson's motion to suppress.

At trial, Langley testified about her relationship with Henderson. She recalled meeting Henderson through a mutual friend, David Ingle. Langley testified that she regularly saw Henderson, his brother Bub, and his cousin Chris bringing drugs to Ingle's house and that Henderson routinely delivered methamphetamine from Georgia. According to Langley, she became involved in the operation and began selling around a kilogram of methamphetamine per week. For several months, she regularly obtained methamphetamine at Ingle's house from Bub, distributed it, and returned cash payments to Henderson or the others. Just before her arrest, Langley had a dispute with Bub and arranged to get methamphetamine directly from Henderson. Henderson came from Georgia to her Virginia home to deliver a grocery bag full of methamphetamine on the morning of her traffic stop. He was armed with a handgun. Langley left Henderson there to sleep while she went to sell some of the drugs, but her trip ended in the traffic stop.

At the close of evidence, Henderson asked the court to instruct the jury that evidence of a single drug transaction is insufficient to prove a conspiracy. The district court rejected

the instruction. The jury convicted Henderson on both drug charges—possession with intent to distribute and conspiracy—but acquitted him of both firearm charges.

Before sentencing, the probation office calculated Henderson’s Sentencing Guidelines range. Henderson objected to that calculation, specifically the drug weight attributed to him, use of the higher Guideline for ice methamphetamine, and a firearm enhancement. The district court agreed with Henderson that the Guideline for methamphetamine mixtures, rather than ice, applied to the drugs previously distributed by Langley. But the court overruled his other challenges. Accordingly, the court applied an offense level of 36, yielding a Guidelines range of 262 to 327 months. The court then varied downward, sentencing Henderson to 240 months’ imprisonment. Henderson timely appealed.¹

II.

We begin with the motion to suppress. “When the district court denies a motion to suppress, we review its legal conclusions de novo and factual findings for clear error,” considering the evidence “in the light most favorable to the government.” *United States v. Orozco*, 41 F.4th 403, 407 (4th Cir. 2022).

The Fourth Amendment commands that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. Evidence

¹ The district court subsequently reduced Henderson’s sentence to 235 months pursuant to Amendment 821 to the Sentencing Guidelines, which retroactively altered a provision regarding criminal history status points. *See* Amendment 821, § 4A1.1 (effective Nov. 1, 2023); *see also* U.S.S.G. § 1B1.10(d).

acquired in “a search conducted under the authority of a warrant” should not be suppressed “unless ‘a reasonably well trained officer would have known that the search was illegal despite the magistrate’s authorization.’” *United States v. Bynum*, 293 F.3d 192, 195 (4th Cir. 2002) (quoting *United States v. Leon*, 468 U.S. 897, 922 n.23 (1984)). That is true even when the warrant is subsequently “found to be unsupported by probable cause.” *Leon*, 468 U.S. at 900. Thus, “evidence obtained pursuant to a search warrant issued by a neutral magistrate does not need to be excluded if the officer’s reliance on the warrant was ‘objectively reasonable.’” *United States v. Perez*, 393 F.3d 457, 461 (4th Cir. 2004) (quoting *Leon*, 468 U.S. at 922). We therefore proceed directly to the question whether reliance on this warrant was reasonable. See *United States v. Andrews*, 577 F.3d 231, 235 (4th Cir. 2009); *United States v. Williams*, 548 F.3d 311, 317 (4th Cir. 2008).

Henderson contends it was not, because the “‘affidavit [was] so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.’” *Bynum*, 293 F.3d at 195 (quoting *Leon*, 468 U.S. at 923). He claims Smith filed a “bare bones affidavit” containing “no information supporting the search of the phone beyond conclusory statements.” Opening Br. 29.

Probable cause is “not a high bar.” *Kaley v. United States*, 571 U.S. 320, 338 (2014). It requires only a “fair probability that contraband or evidence of a crime will be found in a particular place.” *United States v. Sueiro*, 59 F.4th 132, 139 (4th Cir. 2023) (internal quotation marks omitted). When reviewing a warrant, we afford the issuing jurist “great deference” and “ask only ‘whether the judicial officer had a substantial basis for finding probable cause.’” *Id.* (quoting *United States v. Blakeney*, 949 F.3d 851, 859 (4th Cir.

2020)). Here, however, we are not assessing whether probable cause supported the warrant but whether Smith's affidavit was "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." *Leon*, 468 U.S. at 923 (internal quotation marks omitted). This is an even "less demanding showing than the 'substantial basis' threshold required to prove the existence of probable cause in the first place." *Bynum*, 293 F.3d at 195.

The affidavit here was not so lacking in indicia of probable cause as to prevent the officers from relying in good faith on the warrant to search Henderson's phones. In her affidavit, Smith described how law enforcement had recovered methamphetamine, distribution paraphernalia, and a firearm during the traffic stop earlier that day. She recounted the passengers' claim that there were more drugs at Langley's residence, where "the out of state source of supply" for the methamphetamine was staying. J.A. 128. Smith summarized her experience investigating methamphetamine trafficking and her work on similar cases. Based on this experience, she attested that individuals who distribute or conspire to distribute methamphetamine "typically maintain" notes, records, messages, and telephone numbers pertaining to drug trafficking and may store that information "in digital media" such as "cellular telephones/smartphones." J.A. 127, 129.

A reasonable officer reading Smith's affidavit would not be alerted to such an absence of probable cause as to prevent him from relying on the resulting warrant issued by the state judge. *See Bynum*, 293 F.3d at 197 (reasoning that the affidavit did not "send up . . . red flags"). Unlike the "bare bones" affidavits Henderson cites, Smith's affidavit provides supportive factual details and connects the places to be searched, including cell

phones, to the crimes being investigated. *See Leon*, 468 U.S. at 915, 926. Henderson insists that any nexus between the alleged crimes and cell phones in Langley’s home was so conclusory and nonspecific as to apply in any case involving illegal drugs. And, he reminds us, “the ubiquity of cell phones, *standing alone*, can[not] justify a sweeping search for such a device.” *Sueiro*, 59 F.4th at 141. However, “for crimes like drug trafficking that involve coordination,” it may “be reasonable to believe that [the suspect’s] cellphone will” contain evidence of his crimes. *Orozco*, 41 F.4th at 412 n.9; *see also Riley v. California*, 573 U.S. 373, 401 (2014) (“Cell phones have become important tools in facilitating coordination and communication among members of criminal enterprises”). That could be the case here, where the affidavit recounted that Henderson had traveled from out of state to deliver methamphetamine to Langley. *See Illinois v. Gates*, 462 U.S. 213, 240 (1983) (acknowledging “the authority of the magistrate to draw such reasonable inferences as he will from the material supplied to him by applicants for a warrant”).

At a minimum, officers executing this warrant, which a state judge authorized upon finding probable cause to search, had “reasonable grounds for believing that the warrant was properly issued.” *Leon*, 468 U.S. at 923. The district court therefore correctly refused to suppress the cell phone evidence.

III.

We next consider Henderson’s rejected jury instruction. We review for abuse of discretion a district court’s decision not to give a proposed jury instruction. *United States v. Raza*, 876 F.3d 604, 614 (4th Cir. 2017). That decision is reversible error only if the

instruction “‘(1) was correct, (2) was not substantially covered by the charge that the district court actually gave to the jury, and (3) involved some point so important that the failure to give the instruction seriously impaired the defendant’s defense.’” *Id.* (quoting *United States v. Bartko*, 728 F.3d 327, 343 (4th Cir. 2013)). A party challenging instructions “‘faces a heavy burden, for we accord the district court much discretion to fashion the charge.’” *Id.* (quoting *Noel v. Artson*, 641 F.3d 580, 586 (4th Cir. 2011)).

Henderson’s requested instruction concerned the relationship between the conspiracy charge and the charge for possession with intent to distribute. He asked the district court to instruct the jury as follows:

In addition to those instructions [about conspiracy], I note that mere evidence of a simple buy-sell transaction is sufficient to prove a distribution but not a conspiracy, because the buy-sell agreement, while illegal in itself, is not an agreement to commit an offense; it is the offense of distribution itself. But evidence of any understanding reached as part of the buy-sell transaction that either party will engage in or assist in further distribution is sufficient to prove a conspiracy violation. Any agreement made in addition to or beyond the bare buy-sell transaction may be taken to infer a joint enterprise between the parties beyond the simple distribution transaction and thereby support a finding of conspiracy.

J.A. 891. The district court rejected this instruction as contrary to longstanding Fourth Circuit precedent, given that the evidence in this case showed Henderson brought Langley methamphetamine “in excess of a user amount.” J.A. 813.

The district court did not abuse its discretion. This Court has “repeatedly recognized that evidence of a single buy-sell transaction involving a ‘substantial quantity of drugs’ can support a ‘reasonable inference’ of knowing participation in a distribution conspiracy.” *United States v. Seigler*, 990 F.3d 331, 338 (4th Cir. 2021) (quoting *United States v. Mills*,

995 F.2d 480, 485 n.1 (4th Cir. 1993)); *see also United States v. Allen*, 716 F.3d 98, 104 (4th Cir. 2013); *United States v. Hackley*, 662 F.3d 671, 679 (4th Cir. 2011). Given the large quantity of drugs Henderson delivered to Langley, apparently for further distribution, the district court was rightly concerned that Henderson's proposed instruction would mislead the jury.

IV.

Lastly, Henderson contends the district court made two procedural errors in calculating his advisory Sentencing Guidelines range. He argues the district court (1) should not have attributed to him drugs Langley sold during the conspiracy before his October 2018 delivery and (2) should not have imposed an enhancement for possessing a firearm.

We review sentences “under a deferential abuse-of-discretion standard.” *Gall v. United States*, 552 U.S. 38, 41 (2007). Applying that standard, we must “ensure that the district court committed no significant procedural error,” such as improperly calculating the Guidelines range or “selecting a sentence based on clearly erroneous facts.” *Id.* at 51. “‘We review the district court’s calculation of the quantity of drugs attributable to a defendant for sentencing purposes for clear error,’” giving “‘great deference’ to a district judge’s credibility determinations and how the court may choose to weigh the evidence.” *United States v. Williamson*, 953 F.3d 264, 272–273 (4th Cir. 2020) (first quoting *United States v. Randall*, 171 F.3d 195, 210 (4th Cir. 1999); and then quoting *United States v. Henry*, 673 F.3d 285, 292 (4th Cir. 2012)). When a defendant challenges a sentencing enhancement to the Guidelines calculation, “we review the district court’s factual findings

for clear error and its legal conclusions de novo.” *United States v. Arbaugh*, 951 F.3d 167, 173 (4th Cir. 2020).

We begin with the drug weight. “[I]n the case of a jointly undertaken criminal activity,” a defendant’s Guidelines base offense level may be determined on the basis of “all acts and omissions of others that were (i) within the scope of the jointly undertaken criminal activity, (ii) in furtherance of that criminal activity, and (iii) reasonably foreseeable in connection with that criminal activity.” U.S.S.G. § 1B1.3(a)(1)(B). In the context of a drug trafficking conspiracy, this means a defendant’s drug quantity may be determined on the basis of “the total amount of drugs in circulation that a defendant was aware of or were reasonably foreseeable.” *Williamson*, 953 F.3d at 272.

After reviewing all the facts, the district court found that Langley’s sales of methamphetamine she obtained from Bub in the summer and early fall of 2018 were within the scope of the conspiracy and that Henderson “would have reasonably known that street sellers like Langley would have been selling such quantities.” J.A. 1056. As the district court explained, the two Henderson brothers and their cousin Chris transported methamphetamine from Georgia to rural southwest Virginia, where the drugs were normally cut and prepared for sale at Ingle’s home before being distributed to various street sellers. On appeal, Henderson draws different inferences from the evidence and highlights text messages from September and October 2018 to suggest he was antagonistic toward Bub. None of his arguments, however, show clear error in the district court’s factual determination that Langley’s prior sales were within the scope of the conspiracy and reasonably foreseeable to Henderson.

As for the firearm enhancement, we again find no reversible error. The district court found by a preponderance of the evidence that Henderson possessed a firearm. U.S.S.G. § 2D1.1(b)(1). The court credited “Langley’s testimony that the defendant appeared at her home to deliver the drugs while possessing a pistol, which evidence is corroborated by the discovery of a pistol the next day in her home that fit the gun holster found in a duffle bag along with the defendant’s documents.” J.A. 1057. Henderson considers Langley’s testimony unreliable and the other evidence inconsequential without it.² Given our secondhand view of the record, we grant a district court’s factual findings “based upon assessments of witness credibility . . . the highest degree of appellate deference.” *United States v. Thompson*, 554 F.3d 450, 452 (4th Cir. 2009) (internal quotation marks omitted). We cannot conclude that the district court clearly erred in crediting Langley’s testimony and finding that Henderson possessed a firearm.

V.

For the foregoing reasons, we affirm Henderson’s convictions and sentence.

AFFIRMED

² Henderson also opposes the enhancement because the jury acquitted him on both firearm counts. But he acknowledges that precedent from the Supreme Court and this Court authorized the district court to consider acquitted conduct in determining his sentence. *See United States v. Watts*, 519 U.S. 148, 157 (1997); *United States v. Medley*, 34 F.4th 326, 335–336 (4th Cir. 2022). After Henderson’s sentencing, the Guidelines were amended to exclude acquitted conduct from the definition of relevant conduct. *See* Amendment 826, § 1B1.3(c) (effective Nov. 1, 2024). That amendment is not retroactive. *See* U.S.S.G. § 1B1.10(d).