

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-4241

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK LESLIE LIVELY,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Thomas E. Johnston, District Judge. (2:23-cr-00031-9)

Submitted: May 14, 2026

Decided: July 10, 2026

Before AGEE, THACKER and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Brendan S. Leary, Adrianna K. Walter, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Wheeling, West Virginia, for Appellant. Moore Capito, United States Attorney, Jeremy B. Wolfe, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mark Leslie Lively appeals from his convictions for conspiracy to distribute 50 grams or more of methamphetamine and possession with intent to distribute 50 grams or more of methamphetamine, both in violation of 21 U.S.C. § 841(a)(1). He argues that the district court erred in denying his motion to dismiss the indictment or suppress certain evidence obtained during a search of his vehicle due to the officers' alleged failure to preserve footage of the search. He also argues that the district court erred in denying (1) his motion for judgment of acquittal based on the Government's alleged failure to adduce sufficient evidence to support his convictions, and (2) his motion for a new trial based on an alleged *Brady/Giglio** error stemming from the Government's failure to disclose an interview it conducted the day before his trial.

We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *United States v. Lively*, No. 2:23-cr-00031-9 (S.D. W.Va. July 12, 2024) (denying Lively's motion to dismiss the indictment or suppress evidence); *United States v. Lively*, No. 2:23-cr-00031-9 (S.D. W.Va. Apr. 28, 2025) (denying Lively's motion for judgment of acquittal or a new trial). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid in the decisional process.

AFFIRMED

* *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972).