United States Court of Appeals
For the Eighth Circuit

No. 24-1629

United States of America

Plaintiff - Appellee

v.

Joshua Lee

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: April 18, 2025
Filed: August 18, 2025
[Unpublished]

Before ERICKSON, ARNOLD, and STRAS, Circuit Judges.

PER CURIAM.

After Joshua Lee pleaded guilty to illegally possessing a firearm, *see* 18 U.S.C. § 922(g)(1) (prohibiting possession by felons), he received an enhancement for "us[ing] or possess[ing] [it] in connection with the commission . . . of another offense." U.S.S.G. § 2K2.1(c)(1). Although he challenges the use of hearsay statements in making the finding, any error was harmless.

The district court[1] found that the other offense in this case was aggravated assault. *See id*. § 2A2.2 (setting the base level and enhancements for that offense); *id*. § 2K2.1 cmt. n.14(C) (defining "[a]nother offense" to include "any federal, state, or local offense . . . regardless of whether a criminal charge was brought"). Lee did it twice: once by "attempting to strangle" his girlfriend and then a second time by shooting her. *Id.* § 2A2.2 cmt. n.1. Even if the district court abused its discretion by relying on hearsay testimony about the shooting, there was no dispute at sentencing that he tried to strangle her just moments before. *See United States v. Regans*, 125 F.3d 685, 686 (8th Cir. 1997) (applying the cross-reference when the unlawful possession had "the potential of facilitating" the other offense (quoting *Smith v. United States*, 508 U.S. 223, 238 (1993))). It follows that any error was harmless because the undisputed evidence triggered the aggravated-assault cross-reference, regardless of whether he shot her too. *See United States v. McGrew*, 846 F.3d 277, 280 (8th Cir. 2017) (explaining that an error is harmless if it "did not substantially influence the outcome of the sentencing proceeding" (citation omitted)). We accordingly affirm the judgment of the district court.

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[1]The Honorable Audrey G. Fleissig, United States District Judge for the Eastern District of Missouri.