

United States Court of Appeals
For the Eighth Circuit

No. 25-1006

United States of America

Plaintiff - Appellee

v.

Jeremy Jantile Burton

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: October 24, 2025
Filed: August 25, 2026

Before L.R. SMITH, KELLY, and GRASZ, Circuit Judges.

GRASZ, Circuit Judge.

A jury found Jeremy Jantile Burton guilty of being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1), 924(d)(1), and 924(e). The district court¹ sentenced him, pursuant to his status as an armed career criminal, to 240

¹The Honorable Patrick J. Schiltz, then Chief Judge, United States District Court for the District of Minnesota, now District Judge.

months of imprisonment. Burton appeals, arguing the district court erred by excluding expert testimony and by imposing a substantively unreasonable sentence. We affirm.

I. Background

Sergeant Dusty Burton and Officer Tyler Rosnau of the Mille Lacs Tribal Police Department were dispatched to a residence in Onamia, Minnesota, for a possible drug overdose. The residence was owned by Diane Nickaboine, who lived there. Nickaboine allowed people to use illicit drugs in her home, and, during the relevant time, several drug users were staying there.

When the officers arrived, they encountered Justice Sorenson, who led them into a bedroom where Jeremy Burton was lying on the floor “unconscious, sweating profusely,” and breathing agonally. The officers observed drug paraphernalia in the bedroom, including “bindle-making material, bindles, a straw or snort tube, . . . and . . . a torch and a spoon next to each other.” Sorenson began administering CPR to Burton, and Sgt. Burton assisted her. While this occurred, Officer Rosnau left the residence to retrieve additional medical equipment from his vehicle. Sgt. Burton then administered a dose of Narcan, but Burton did not revive. So Sgt. Burton administered a second dose, which caused Burton to regain consciousness and lunge to his feet; though he appeared confused, unbalanced, and unresponsive. After reviving Burton, Sgt. Burton began to assess the scene for safety and noticed a handgun magazine protruding from Burton’s shorts’ pocket.² As a result, Sgt. Burton began patting Burton down to confirm that he had a firearm. But Sorenson suddenly became defensive of Burton and began swatting Sgt. Burton’s hands away and blocking Burton’s body with her own.

Medics then arrived at the scene and, while they treated Burton, Sgt. Burton told Officer Rosnau that Burton had a firearm in his pocket. Before the officers

²Later, law enforcement found narcotics, cash, drug packaging, and Burton’s identification information in his shorts.

could seize the firearm, Sorenson grabbed it out of Burton's pocket. In response, Officer Rosnau "jumped on the gun" and briefly struggled with Sorenson to get control of the weapon. Officer Rosnau eventually secured the firearm, handcuffed Sorenson, and removed her from the residence. Burton was later transported to the hospital, where he tested positive for amphetamine, methamphetamine, benzodiazepine, cocaine, and marijuana.

Burton was later charged in a one-count indictment for being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(d)(1). The indictment also alleged Burton was subject to enhanced penalties under the Armed Career Criminal Act, § 924(e), because he had previously been convicted of at least three violent felonies occurring on different occasions. As the case proceeded to trial, Burton gave notice under Federal Rule of Criminal Procedure 12.2(b) "that he intend[ed] to introduce expert testimony relating to a mental condition . . . bearing on the issue of guilt." Specifically, Burton intended to admit expert testimony from Dr. Peter Vos, a pharmacologist, who would "render a professional expert opinion on the impact of specific drugs upon the mental state of [Burton]." In response, the government filed a motion in limine to exclude Dr. Vos's testimony, arguing voluntary intoxication was not a defense to being a felon in possession of a firearm. The district court agreed and granted the government's motion.

At trial, Burton testified and presented a defense that someone planted a gun on him while he was unconscious from the drug overdose. The jury, however, found Burton guilty. The district court then sentenced Burton to 240 months of imprisonment, a 22-month downward variance from the bottom of Burton's Sentencing Guidelines range. Burton appeals.

II. Analysis

Burton argues the district court erred by excluding Dr. Vos's testimony and by imposing a substantively unreasonable sentence. We address each argument below.

A. Exclusion of Expert Testimony

First, Burton argues the district court erred by excluding Dr. Vos's expert testimony and the error violated his constitutional right to present a defense. Under the specific facts of this case, we disagree.

"We review a district court's evidentiary rulings for abuse of discretion." *United States v. Cavanaugh*, 30 F.4th 1139, 1142 (8th Cir. 2022). "However, where constitutional rights are implicated," we review the district court's evidentiary rulings de novo. *Id.* "[W]e will reverse a conviction on this basis only when the ruling affected substantial rights or had more than a slight influence on the verdict." *Id.* at 1142–43 (quoting *United States v. Gustafson*, 528 F.3d 587, 591 (8th Cir. 2008)).

The district court excluded Dr. Vos's testimony, finding "[v]oluntary intoxication is not a defense to a charge of being a felon in possession of a firearm . . . and thus any testimony offered *solely* to support such a defense will be excluded under Fed. R. Evid. 402 and 403." Burton argues this was error because Dr. Vos's expert testimony was relevant as to whether the government could prove that Burton knowingly possessed the firearm. But Burton's argument is foreclosed by precedent.

"Being a felon in possession of a firearm is a general intent crime." *United States v. Klein*, 13 F.3d 1182, 1183 (8th Cir. 1994). A general intent crime requires the government to prove "that the defendant possessed knowledge with respect to the *actus reus* of the crime." *United States v. Yockel*, 320 F.3d 818, 823 (8th Cir. 2003) (quoting *Carter v. United States*, 530 U.S. 255, 268 (2000)). Phrased differently, "a general intent crime requires only that the act was volitional (as opposed to accidental), and the defendant's state of mind is not otherwise relevant." *United States v. Lamott*, 831 F.3d 1153, 1156 (9th Cir. 2016); *see also United States v. Berrios-Centeno*, 250 F.3d 294, 299 (5th Cir. 2001). Voluntary intoxication is not a defense to general intent crimes, so we have repeatedly held that it is not a defense to being a felon in possession of a firearm. *See Klein*, 13 F.3d at 1183; *United States*

v. Collier, 533 F. App'x 690, 691 (8th Cir. 2013); *United States v. Archambeau*, 179 F. App'x 403, 405 (8th Cir. 2006). Thus, the district court did not abuse its discretion by concluding Dr. Vos's opinion about Burton's altered mental state was not relevant and its probative value was substantially outweighed by the risk that it would confuse the issues, mislead the jury, and needlessly present cumulative evidence. *See* Fed. R. Evid. 402, 403; *see also United States v. Fuller*, 436 F. App'x 167, 168 (4th Cir. 2011) (“[P]roposed testimony from the defense expert regarding the effect of intoxication on a defendant's mental state was not relevant to whether [the defendant] knowingly possessed the firearm.” (citing Fed. R. Evid. 401, 402)).

Burton, nevertheless, claims the exclusion was error because Dr. Vos's testimony was not offered “to argue that he could not form the *mens rea* necessary to ‘knowingly possess’ the charged firearm,” and, instead, was offered to support his defense that a third party had an opportunity to plant the firearm on him while he was unconscious. Specifically, Burton argues Dr. Vos would have testified he was unconscious for an extended period of time, so “the jury would have been more likely to accept [his] defense that someone planted the charged firearm while he was unconscious.” Citing dicta from the Seventh Circuit, Burton argues if “[he was] comatose and the evidence indicated someone dropped the gun in his lap,” then the government could not prove knowing possession. *United States v. Reed*, 991 F.2d 399, 401 (7th Cir. 1993). Even assuming we agree with the hypothetical premise,³ Burton's case does not fall under this exception.

To start, Burton did not offer Dr. Vos's testimony for the purpose of proving he was comatose for an extended period of time. *See United States v. Barta*, 888 F.2d 1220, 1224 (8th Cir. 1989) (“[W]e are constrained, as was the trial court, by [the defendant's] failure to demonstrate, by an appropriate offer of proof, the relevance of [the expert's] testimony . . .”). Burton's response to the government's motion in limine does not argue that Dr. Vos's testimony should be admitted because

³The district court and the government “agree[d] that planting a gun on an unconscious person would not actually satisfy knowing possession.”

it is relevant to the length of time that Burton was unconscious. Instead, it argues “Dr. Vos’s expert testimony will assist [the jury] in determining whether Mr. Burton knowingly possessed the firearm” because intoxication “undoubtedly impacts a person’s mental condition and is thus relevant to consider when assessing whether the government can prove knowing possession.” Burton doubled down on this theory at the final pretrial conference, stating it would be wrong for the court “to draw the line at unconsciousness” because “there are states before unconsciousness that can disrupt the ability to form the knowing possession.” Moreover, Dr. Vos’s expert report itself does not offer an opinion on the length of time that Burton was unconscious. Dr. Vos only offers an opinion about Burton’s mental state before the overdose and after his resuscitation.⁴ And, significantly, Burton failed to present any evidence, aside from speculation in his own testimony, that a third party planted the firearm on him. Therefore, the district court did not abuse its discretion by determining Dr. Vos’s testimony was inadmissible under Rules 402 and 403.

For similar reasons, the district court did not violate Burton’s constitutional right to present a defense. “[T]he Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense,’ which includes the right to present testimony of witnesses that is material and favorable to their defense and *complies with the rules of evidence.*” *United States v. Holmes*, 413 F.3d 770, 774 (8th Cir. 2005) (emphasis added) (quoting *Crane v. Kentucky*, 476 U.S. 683, 690 (1986)). But “[a] defendant ‘does not have an unfettered right to offer testimony that is . . . otherwise inadmissible under standard rules of evidence.’” *Lannert v. Jones*, 321 F.3d 747, 754 (8th Cir. 2003) (quoting *Taylor v. Illinois*, 484 U.S. 400, 410 (1988)). As explained above, the district court did not abuse its discretion by excluding Dr. Vos’s testimony under the rules of evidence. And, regardless, any

⁴At trial, Burton also made an offer of proof as to Dr. Vos’s testimony, claiming Dr. Vos would have shown “there was likely a period of time preceding the overdose in which [Burton] would have had an altered mental state.” Burton planned to “use that testimony to attack the ability of the government[] . . . to prove *knowing possession as an element of the offense.*”

alleged error was harmless beyond a reasonable doubt because Burton presented similar evidence supporting his theory at trial. See *United States v. Herbst*, 668 F.3d 580, 585 (8th Cir. 2012). For example, the jury heard that Burton had an altered mental state, was under the influence of several opioids, and was unconscious before law enforcement arrived and found the firearm. The district court also instructed the jury that if “someone planted the gun on Mr. Burton while he was unconscious . . . then you must find that Mr. Burton did not knowingly possess the firearm and therefore must find him not guilty.” So the district court did not violate Burton’s constitutional right to present a defense when it excluded Dr. Vos’s testimony.

B. Sentence

Second, Burton argues his 240-month sentence was substantively unreasonable. We disagree.

“We review substantive reasonableness for an abuse of discretion, taking into account the totality of the circumstances, including the extent of any variance from the Guidelines range.” *United States v. Wickman*, 988 F.3d 1065, 1067 (8th Cir. 2021) (cleaned up). “A district court abuses its discretion if it ‘fails to consider a relevant factor that should have received significant weight, gives significant weight to an improper or irrelevant factor, or considers only appropriate factors but nevertheless commits a clear error of judgment by arriving at a sentence that lies outside the limited range of choice dictated by the facts of the case.’” *United States v. Cutler*, 87 F.4th 893, 896 (8th Cir. 2023) (quoting *United States v. Fiorito*, 640 F.3d 338, 352 (8th Cir. 2011)). “Where a district court has sentenced a defendant below the advisory Guidelines range, it is nearly inconceivable that the court abused its discretion in not varying downward still further.” *Wickman*, 988 F.3d at 1067 (cleaned up).

The district court calculated Burton’s Guidelines range as 262 to 327 months of imprisonment, but it varied downward and sentenced Burton to 240 months of imprisonment. By doing so, the district court properly treated the Guidelines as a

“starting point,” and then carefully weighed the applicable § 3553(a) factors. For example, it considered aggravating factors, including Burton’s lengthy criminal history, the evidence indicating Burton repeatedly traveled to the Mille Lacs Reservation to sell fentanyl and methamphetamine, and Burton’s “terrible” prison and supervised release records. It also properly considered mitigating factors, including Burton’s difficult upbringing, his drug and alcohol addiction, and his mental illness, ultimately concluding that a downward variance was appropriate. Burton, however, claims the district court improperly held his trial testimony against him, misinterpreted the evidence about his alleged drug dealing on the Mille Lacs Reservation, and placed too much emphasis on his criminal history. Burton is incorrect. The district court neither punished Burton for testifying nor mischaracterized the evidence. Rather, it observed that Burton failed to take responsibility and that his testimony was not credible considering the other evidence presented at trial. The district court appropriately considered these facts under § 3553(a). And because the district court “has substantial latitude to determine how much weight to give the various factors under § 3553(a),” it did not abuse its discretion in imposing Burton’s below-Guidelines sentence. *United States v. Ruelas-Mendez*, 556 F.3d 655, 657 (8th Cir. 2009).

III. Conclusion

For these reasons, we affirm the district court’s judgment.

KELLY, Circuit Judge, dissenting.

As the court explains, under Eighth Circuit precedent, felon in possession of a firearm is considered a general intent crime; therefore, voluntary intoxication is not a permissible defense. See Klein, 13 F.3d at 1183; Collier, 533 F. App’x at 691; Archambeau, 179 F. App’x at 405; see also United States v. Gustus, 926 F.3d 1037, 1040 (8th Cir. 2019) (recognizing voluntary intoxication as a defense to specific intent, but not general intent, crimes). But no one disputes that Burton’s defense at trial was viable, and neither party objected to the instruction given to the jury on it:

“The defense in this case is that someone planted the gun on Mr. Burton while he was unconscious. If you find that this is true, then you must find that Mr. Burton did not knowingly possess the firearm and therefore must find him not guilty.” Regardless of whether § 922(g)(1) is a general intent crime, the testimony of Dr. Vos, Burton’s expert witness, was relevant to this defense.

Dr. Vos is a pharmacologist whose proposed testimony focused on the scientific explanation behind Burton’s reoccurring state of unconsciousness during and around the time of his arrest. He explained that Burton’s altered state could have both preceded the overdose and persisted after he was resuscitated. This evidence was relevant to whether it was plausible that someone planted the gun on Burton without his knowledge. More specifically, evidence of Burton’s inability to maintain consciousness lent credibility to the argument that he would not have been aware of someone placing the gun on him and therefore did not knowingly possess a firearm.

How Burton became unconscious does not affect his ability to present this defense. Say, for example, that Burton had fallen into an injury-induced coma. If someone had hidden a gun on his person while he was unresponsive, expert testimony describing Burton’s comatose condition would support the inference that he would not have awakened when someone planted the gun. Here, Burton became unconscious after consuming multiple controlled substances, but the defense is the same: I did not knowingly possess a firearm because I was unconscious when someone put it in my pocket. Burton’s argument was not that he was too high or too inebriated to form the necessary mens rea, as other defendants have argued in unlawful possession of firearm cases. See Klein, 13 F.3d at 1183 (reviewing that the defendant, although intoxicated, was driving, speaking with responding officers, and attempted to walk away from officers); Collier, 533 F. App’x at 691 (reviewing how the defendant was holding the firearm and engaging in a conversation with responding officers); see also Reed, 991 F.2d at 401 (reviewing that the defendant had been “awake and alert” and “was able to resist their attempts to pull him from [his] car” and “despite the plain indication that [the defendant] was drinking, probably even heavily, the evidence does not sufficiently support the extreme

intoxication required to establish the defense”). Burton asserted he was not conscious at all.

In this way, Burton’s defense was not simply a replicate of a voluntary intoxication defense. Instead, Burton sought to present Dr. Vos’s testimony to negate an element of § 922(g)(1), which he was permitted to do even if felon in possession is construed as a general intent crime. See United States v. Odeh, 815 F.3d 968, 976–81 (6th Cir. 2016) (concluding that “regardless of whether 18 U.S.C. § 1425(a) is a specific or general intent crime, [the clinical psychologist’s] proffered testimony [on the defendant’s ability to remember] is relevant to whether [the defendant] knew that her statements were false,” which is an element of § 1425, and “[t]he district court accordingly erred in categorically excluding this testimony” as the clinical psychologist’s “testimony is potentially exculpatory because it undermines an element of the crime”); see also Reed, 991 F.2d at 401 (recognizing a possibly viable defense if the defendant is “comatose and the evidence indicated someone dropped the gun in his lap”).

As the district court stated when grappling with whether to admit the expert testimony, “one of the things [the government] has to prove is that something was in Mr. Burton’s head.” And the Supreme Court has expressly stated, “[I]n a prosecution under 18 U.S.C. § 922(g) . . . , the Government must prove both that the defendant knew he possessed a firearm and that he knew he belonged to the relevant category of person barred from possessing a firearm.” Rehaif v. United States, 588 U.S. 225, 237 (2019); see also id. at 232 (“Applying the word ‘knowingly’ to the defendant’s status in § 922(g) helps advance the purpose of scienter, for it helps to separate wrongful from innocent acts.”). The district court also recognized that §922(g)(1) requires *knowledge* of possession of a firearm the defendant was prohibited from possessing—not specific intent. The court described the statute as a “specific knowledge” crime, an on-point characterization that gives one pause as to whether we have properly classified § 922(g) as a “general intent” crime, at least for purposes of the availability of a voluntary intoxication defense.

But Burton does not ask us to abandon our precedent to resolve his appeal. Instead, he asks that he be allowed to introduce expert testimony relevant to a defense both the government and the district court agreed was a permissible one. Because I believe that he should be permitted to do so, I would reverse Burton's conviction and remand for a new trial.
