

United States Court of Appeals
For the Eighth Circuit

No. 25-1785

United States of America

Plaintiff - Appellee

v.

Nicholas Emery Young

Defendant - Appellant

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

Submitted: May 15, 2026

Filed: August 31, 2026

[Unpublished]

Before L.R. SMITH, BENTON, and STRAS, Circuit Judges.

PER CURIAM.

Nicholas Young shot at his girlfriend's fleeing car while on drugs. Based in part on an attempted-first-degree-murder cross-reference, *see* U.S.S.G. § 2A2.1(a)(1), he received a 72-month prison sentence for illegally possessing a gun, *see* 18 U.S.C. § 922(g)(3). Although he claims he was not aiming at her, much of the evidence was to the contrary.

The cross-reference gave Young a higher base offense level. See U.S.S.G. §§ 2A2.1(a)(1), 2K2.1(c)(1); *United States v. Angel*, 93 F.4th 1075, 1077–79 (8th Cir. 2024) (describing how it works). So high, in fact, that it resulted in a roughly tenfold increase in the lower and upper ends of the advisory range. Although mitigating factors led the district court¹ to vary downward, our task is to figure out whether it should have used the cross-reference in the first place.

What is missing, at least in Young’s view, is proof that he had the mental states for first-degree murder: an intent to kill and premeditation, both of which the district court found by a preponderance of the evidence. See *Angel*, 93 F.4th at 1078–79; see also 18 U.S.C. § 1111(a) (stating the elements). We owe deference to its findings. See *United States v. Greer*, 57 F.4th 626, 628 (8th Cir. 2023) (applying the clear-error standard). Only a “definite and firm conviction that a mistake has been committed” would allow us to set them aside. *United States v. Red Elk*, 132 F.4th 1100, 1105 (8th Cir. 2025) (citation omitted).

Nothing here suggests the district court made a mistake. On the contrary, two witnesses, including his girlfriend, said that Young shot directly at her from at most “a block and a half” away. See *Angel*, 93 F.4th at 1079 (“[S]hooting at a particular person . . . demonstrates a specific intent to kill.” (alteration in original) (citation omitted)); *United States v. Williams*, 41 F.4th 979, 986 (8th Cir. 2022) (noting, when upholding an intent-to-kill finding, that the defendant shot “at close range”). Also significant was that he chased her in another car and paused between shots, giving him time to premeditate. See *Angel*, 93 F.4th at 1079 (requiring a person “to be fully conscious of his intent[] and to have thought about the killing” (citation omitted)); *Williamson v. Jones*, 936 F.2d 1000, 1003 (8th Cir. 1991) (“Premeditation need exist but for a moment only.”). The fact that he went after her following an argument only underscored that he planned and “inten[d] . . . to take [her] life.” *United States v. Cooper*, 176 F.4th 582, 585 (8th Cir. 2026) (citation omitted).

¹The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

To be sure, police did not see bullet holes in his girlfriend’s car or in any of the surrounding houses, cars, or mailboxes, which supports his argument that he shot into the sky. The problem is that both witnesses claimed the opposite. *See United States v. Smith*, 681 F.3d 932, 935 (8th Cir. 2012) (declining to conclude the district court committed a clear error when it “credit[ed] . . . two eyewitness[.]” accounts of what happened). The district court was free to believe them over him.² *See United States v. Maupin*, 3 F.4th 1009, 1017 (8th Cir. 2021) (explaining that a district court can “reject [a] self-serving characterization and credit” contrary evidence).

We accordingly affirm the judgment of the district court.

²Nor, just because the district court *could* have applied an aggravated-assault cross-reference, should it have done so. *See* U.S.S.G. § 2A2.2(b)(2)(A); *see also* U.S.S.G. § 1B1.1, cmt. n.5 (stating that, when multiple “guideline provisions [may be] equally applicable” to the same conduct, courts should “use the [one] that results in the greater offense level”).