

United States Court of Appeals
For the Eighth Circuit

No. 25-2005

United States of America,

Plaintiff - Appellee,

v.

Kentrell Vantrice Powell,

Defendant - Appellant.

Appeal from United States District Court
for the Northern District of Iowa - Eastern

Submitted: June 8, 2026

Filed: August 20, 2026

Before COLLOTON, Chief Judge, ARNOLD and GRASZ, Circuit Judges.

COLLOTON, Chief Judge.

Kentrell Powell pleaded guilty to unlawful possession of a firearm as a felon. *See* 18 U.S.C. § 922(g)(1). At sentencing, the district court* applied a six-level increase under the sentencing guidelines after finding that Powell assaulted an officer

*The Honorable C.J. Williams, Chief Judge, United States District Court for the Northern District of Iowa.

during the course of the offense or immediate flight therefrom. *See* USSG § 3A1.2(c)(1). The district court calculated an advisory guideline range of 135 to 168 months' imprisonment and sentenced Powell to 150 months' imprisonment. Powell challenges the district court's application of the six-level increase under the guidelines. We affirm.

The relevant events occurred on August 22, 2024, when law enforcement officers responded to a disturbance at a convenience store in Dubuque, Iowa. Powell was in the parking lot and walked away upon the arrival of officers. Officer Manders pursued Powell and repeatedly ordered him to stop.

Manders and another officer eventually arrested Powell. Manders testified that as the officers searched Powell's person, he repeatedly reached for his back pockets. Manders testified that he then heard a "click" and looked down to find Powell holding a firearm in his palm with the barrel pointed at Manders. The officer seized the weapon.

Powell pleaded guilty to the firearms offense, and the case proceeded to sentencing. At the sentencing hearing, Manders testified that an inspection of Powell's firearm revealed that the safety was in the "push to fire" position when it was seized. He explained that the firearm contained one round of ammunition, and the round had a puncture mark on the back. Another officer with expertise in firearms testified that the "click" heard by the officer represented the sound of a firearm's hammer dropping on a flash plate after the trigger was pulled. He opined that a misfire caused the mark on the bullet in Powell's firearm.

The district court credited the testimony of the officers and found that Powell assaulted the officer:

First, I do find that the defendant had intentionally pointed the firearm at the officer. It doesn't matter at that point whether it was pointed at

the officer at the time he pulled the trigger. Pointing the firearm at the officer even without pulling the trigger constitutes an assault with a firearm. And so I don't have to really figure out exactly where the gun was pointed at the time that the firearm was discharged. But in any event, I find by a preponderance of the evidence that the firearm was pointed at the officer when it was discharged, and I do find it was intentionally discharged.

The court further found that Powell's conduct "constitute[d] assault in both aspects of placing an officer in danger and also put[ting] him in fear of immediate harm or menacing him with a firearm. And obviously, discharge of a firearm constitutes a serious risk of bodily injury." On that basis, the district court applied the six-level increase for assaulting an officer under USSG § 3A1.2.

Powell contends that there is insufficient evidence to show that he assaulted the officer, and that the court procedurally erred by applying the six-level increase. The relevant sentencing guideline does not define "assault," and the common-law meaning applies. *United States v. Olson*, 646 F.3d 569, 572 (8th Cir. 2011). Common-law criminal assault embraces attempted battery, which is "an intended effort to cause bodily harm to another which falls short of success . . . regardless of whether the intended victim knows of the attempt." *Id.* at 573 (omission in original) (internal quotation omitted). Common-law criminal assault also includes an act that is intended to, and reasonably does, cause the victim to fear immediate bodily harm. *Id.*

We conclude, at a minimum, that there was no clear error in finding that Powell committed assault by attempted battery. Officer Manders testified that he heard a "click" and looked down to see Powell holding a firearm in his palm with the barrel pointed at Manders. The firearms expert explained that a "click" was consistent with the sound of the hammer dropping, and that the marking on the bullet was caused by a misfire. The district court did not clearly err by crediting the testimony of the officers and by inferring that the firearm was pointed at Manders when Powell pulled

the trigger, even if Manders did not see the gun until a moment after the “click.” Pointing a loaded firearm at an officer and pulling the trigger constitutes an assault by attempted battery. We therefore conclude that sufficient evidence supports the increase under USSG § 3A1.2, and there was no procedural error at sentencing.

The judgment of the district court is affirmed.
