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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4919

UNITED STATES OF AMERICA,
Plaintiff - Appellee,
v.
ERIC CHRISTOPHER HALL,
Defendant - Appellant.

Appeal from the United States District Court for the
Eastern District of North Carolina, at Wilmington. Ter-
rence W. Boyle, Chief District Judge. (7:17-cr-00003-
BO-1)

Submitted: January 31, 2020
Decided: February 13, 2020

Before GREGORY, Chief Judge, and QUATTLEBAUM
and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

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Richard Croutharmel, RICHARD CROUTHARMEL, ATTORNEY AT LAW, Raleigh, North Carolina, for Appellant. Brian A. Benczkowski, Assistant Attorney General, Matthew S. Miner, Deputy Assistant Attorney General, Thomas E. Booth, Criminal Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Robert J. Higdon, Jr., United States Attorney, Jennifer May-Parker, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Christopher Hall was convicted of possessing with intent to distribute cocaine,¹ in violation of 21 U.S.C. §§ 841(a), (b)(1)(C) (2018), possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A), (c)(1)(A)(i) (2018), and possessing a firearm as a felon, in violation of 18 U.S.C. §§ 922(g)(1), 924 (2018). Hall received a 240-month sentence. On appeal, he challenges the denial of his Fed. R. Crim. P. 28 motion for a judgment of acquittal on his § 922(g)(1) conviction and argues that the court

¹ Hall’s criminal judgment erroneously describes this conviction as possession with intent to distribute “a Quantity of Cocaine Base (Crack) and Cocaine.” Hall has not asserted the error, and the error does not affect our disposition of the issues asserted on appeal. The district court may correct a clerical error in a criminal judgment at any time under Fed. R. Crim. P. 36.

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failed to adequately rule on his objection to the drug weight attributed to him at sentencing, in violation of Fed. R. Crim. P. 32(i)(3)(B). We affirm.

Hall first argues that the Government failed to present sufficient evidence that he constructively possessed the firearms found in the trunk of a vehicle immobilized near his residence. We review *de novo* a district court's denial of a motion for judgment of acquittal. *United States v. Young*, 916 F.3d 368, 384 (4th Cir.), *cert. denied*, 140 S. Ct. 113 (2019). We will sustain the jury's verdict if, viewing the evidence in the light most favorable to the Government, substantial evidence supports the verdict. *United States v. Burfoot*, 899 F.3d 326, 334 (4th Cir. 2018). "Substantial evidence is evidence that a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." *United States v. Edlind*, 887 F.3d 166, 172 (4th Cir.) (internal quotation marks omitted), *cert. denied*, 139 S. Ct. 203 (2018). In conducting this inquiry, "we are not entitled to assess witness credibility, and we assume that the jury resolved any conflicting evidence in the prosecution's favor." *United States v. Savage*, 885 F.3d 212, 219 (4th Cir.) (internal quotation marks omitted), *cert. denied*, 139 S. Ct. 238 (2018).

To establish a violation of 18 U.S.C. § 922(g)(1), the Government was required to prove, beyond a reasonable doubt, that Hall (1) "previously had been convicted of a crime punishable by a term of imprisonment exceeding one year;" (2) "knowingly possessed, transported, shipped, or received[] the firearm; and (3) the

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possession was in or affecting commerce, because the firearm had travelled in interstate or foreign commerce at some point during its existence.”² *United States v. Moye*, 454 F.3d 390, 395 (4th Cir. 2006) (en banc) (internal quotation marks omitted). Proof of actual or exclusive possession is not necessary; constructive possession is sufficient. *United States v. Lawing*, 703 F.3d 229, 240 (4th Cir. 2012). Where, as here, the Government sought to establish constructive possession of the firearms, the Government must show that the defendant “intentionally exercised dominion and control over the firearm, or had the power and the intention to exercise dominion and control over the firearm.” *United States v. Al Sabahi*, 719 F.3d 305, 311 (4th Cir. 2013). The Government can achieve this through direct or circumstantial evidence. *Id.*

“A person may have constructive possession of contraband if he has ownership, dominion, or control over the contraband or the premises or vehicle in which the contraband was concealed.” *United States v. Herder*, 594 F.3d 352, 358 (4th Cir. 2010); *see also United States v. Burgos*, 94 F.3d 849, 873 (4th Cir. 1996) (en banc) (explaining that constructive possession “may be sole or joint” (internal quotation marks omitted)). Here, the Government adduced sufficient circumstantial

² On appeal, Hall does not argue that the Government was required to prove that “he knew he belonged to the relevant category of persons barred from possessing a firearm.” *Rehaif v. United States*, 139 S. Ct. 2191, 2200 (2019). Additionally, Hall concedes that he was previously convicted of a felony and that the weapons recovered from the vehicle’s trunk had travelled in interstate commerce.

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evidence from which a jury could conclude that Hall constructively possessed the firearms found in the trunk of the vehicle. The butt stock of a firearm found in the trunk, and the saw used to sever the butt stock, were recovered from Hall’s residence; this evidence supported the inference that Hall severed the butt stock from the firearm and, in doing so, previously exercised control over the firearm. Moreover, the weapon was accessible to Hall, as the trunk of the vehicle was not secured in a manner that would have prevented Hall from gaining entry to the trunk. We therefore conclude substantial evidence supported Hall’s constructive possession of the firearms in the vehicle’s trunk.

Hall next asserts that the district court failed to comply with Rule 32(i)(3)(B) at sentencing because it did not rule on the credibility of the evidence he presented while objecting to the 198 ounces of cocaine the probation officer attributed to him. Because Hall did not object to the district court’s alleged failure to rule on his objection, we review for plain error. *United States v. Cook*, 550 F.3d 1292, 1297-98 (10th Cir. 2008) (applying plain error review where defendant fails to make Rule 32(i)(3)(B) objection in district court); *see also United States v. Bolden*, 325 F.3d 471, 497 (4th Cir. 2003) (noting that sentencing courts “may simply adopt the findings contained in a PSR, provided that it makes clear which disputed issues were resolved by its adoption.” (internal quotation marks omitted)). Our review of the record reveals that the district court did not plainly err in denying Hall’s objection because the

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findings contained in the presentence report were supported by a preponderance of the evidence.

We affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the material before this court and argument will not aid the decisional process.

AFFIRMED

IT IS FURTHER ORDERED that these modifications to the Court's Rules and practices do not apply to cases to which certiorari has been granted or a direct appeal or original action has been set for argument.

These modifications will remain in effect until further order of the court.

THE DEFENDANT:

- pleaded guilty to count(s) _____
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) 2,3,4 and 6 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1) and § 841(b)(1)(C)	Possession With Intent to Distribute a Quantity of Cocaine Base (Crack) and Cocaine.		2
18 U.S.C. § 924(c)(1)(A) and 18 U.S.C. § 924(c)(1)(A)(i)	Possession of a Firearm in Furtherance of a Drug Trafficking Crime.		3

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The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)
1 and 5

Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

12/13/2018

Date of Imposition of Judgment

/s/ Terrence W. Boyle
Signature of Judge

Terrence W. Boyle, Chief US District Judge
Name and Title of Judge

12/13/2018

Date

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

Count 2-180 months: Counts 4 and 6-120 months and shall run concurrent with Count 2. Count 3-60 months and shall run consecutive to Count 2. The defendant shall receive credit for time served while in federal custody.

The court makes the following recommendations to the Bureau of Prisons:

The Court recommends FCI Butner for incarceration.

The Court also recommends the defendant participate in a program for substance abuse treatment and counseling while incarcerated.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL
By _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Counts 2,4 and 6-3 years per count – concurrent

Count 3-3 years and shall run concurrent with Counts 2,4 and 6

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

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- The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check, if applicable)*
- 4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check, if applicable)*
- 5. You must cooperate in the collection of DNA as directed by the probation officer. *(check, if applicable)*
- 6. You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check, if applicable)*
- 7. You must participate in an approved program for domestic violence. *(check, if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish

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the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

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6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing

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bodily injury or death to another person such as nunchakus or tasers).

11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation office.

The defendant shall provide the probation office with access to any requested financial information.

The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

The defendant shall support the defendant's dependent(s) and meet other family responsibilities.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	JVTA	
	<u>Assessment</u>	<u>Assessment*</u>
TOTALS	\$ 400.00	\$ \$

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal*

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

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Case (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Restitution Priority or Ordered</u>	<u>Restitution Priority or Ordered Percentage</u>
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TOTALS \$ 0.00 \$ 0.00

Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** Lump sum payment of \$ _____ due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B** Payment to begin immediately (may be combined with C, D, or F below); or
- C** Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or
- D** Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or
- E** Payment during the term of supervised release will commence within _____ (*e.g.,*

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30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:

Payment of the special assessment shall be due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant. Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

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Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

TO: The Grievance Committee [Submit via Email]
The North Carolina State Bar [LOGO]
PO Box 25908
Raleigh, NC 27611 NORTH CAROLINA
Telephone: (919) 828-4620 STATE BAR

NC State Bar Complaint Form
(rev'd May 12, 2016)

I am filing a complaint against (Name of Lawyer)
Richard Crouthamel (Lawyer's Address) 5 West
Hargett Street (city/county) Raleigh, State N.C.
(Zip) 27601

I am reporting alleged misconduct of the above-named lawyer. I agree to provide to the State Bar all pertinent information and records in my possession concerning the alleged misconduct. If a hearing or inquiry is ordered concerning the alleged misconduct of the lawyer, I will testify if requested. I understand that the immunity granted by N.C. General Statute 84-28.2 applies only to those statements made to the State Bar without malice.

- *I understand that the North Carolina State Bar may reveal this information to the accused lawyer and to others pursuant to the Rules of the State Bar. Initial ECH*
- *I understand that the State Bar cannot give me legal advice, cannot represent me or intervene on my behalf in a court proceeding, cannot remove a lawyer from a case, cannot determine whether a lawyer committed malpractice or is indebted to me, and cannot*

*change court orders. I understand that if I believe I have suffered damages because of an act or omission of a lawyer, I should not wait for the State Bar's disposition of a complaint before pursuing any legal claim or seeking legal advice. **Initial ECH***

- *My electronic or physical signature below confirms that the information I am providing on this form is, to the best of my knowledge, accurate. **Initial ECH***

Signature: /s/ Eric C. Hall **Date:** 6/1/2020

MY NAME AND ADDRESS

[Mr.] Mrs., or Ms. Eric C. Hall

Address: P.O. Box 725 City: Edgefield State: SC

Zip: 29824 Telephone: () N/A Alternate Telephone: ()

Email: _____

DESCRIPTION OF THE COMPLAINT

Either in the space on the next page, or on a single attached page, tell us what the complaint is about. Include all the facts that you want the State Bar to consider, including names, dates and places.

Please attach any electronic documents that support the complaint to the email that will be generated when you click the "Submit via Email" button at the top of this page.

I will attach electronic documents that support the complaint to the email generated when

I click the “Submit via Email” button at the top of this page.

I was unable to submit supporting documents electronically. The supporting documents will be sent by mail with a copy of this completed complaint form.

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(Filed May 7, 2019)

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4919
(7:17-cr-00003-BO-1)

UNITED STATES OF AMERICA
Plaintiff – Appellee
v.
ERIC CHRISTOPHER HALL
Defendant - Appellant

ORDER

The court denies counsel's motion to withdraw from further representation on appeal. Counsel is directed to advise his client that he may move for leave to file a pro se supplemental brief, accompanied by the brief.

For the Court – By Direction
/s/ Patricia S. Connor, Clerk

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[Filed: 05/06/2019]

4/30/19

I'm Eric C. Hall. I'm writing the court of appeals about the brief attorney Richard Croutharmel did for my cases. Attorney Croutharmel lied through out the opening brief. He also didn't argue nothing I asked him to that he told me he would or anything he told me he was. (I'm inclosing a letter he sent me.) I know that he isn't in my best interest so I asked him to withdraw from my case. I would like to object to everything he said. In the opening brief on (pg. 5) in court two, he said Emily Barnes said that I was her pimp and she was a prostitute. That wasn't in her statement or in a police statement. (Court two was on Feb. 19, 2016) On (pg. 8) Attorney Croutharmel said I a told the police them guns they got out that car belong to Mooda. Everything is documented that wasn't know where in my transcripts. Attorney Richard Croutharmel lied!

I wanted attorney Richard to argue that in court two they said they wasn't know crack cocaine but I got convicted for cocaine base crack. (Joint appendix pg. 22) D.A. Bennett told the judge that count two was not crack but heroin. But in his opening statement to the jury he told them they was six ounces of powder cocaine and a small quantity of crack in the bag. D.A. Bennett lied to the jury. (Opening statement 13 pg. 32) the government didn't show know evidence I knew

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about those drugs in that bag or I ever possess that bag. I want to fight my hole case cause law is law and they didn't go by law in my case.

Thank You,
Eric C. Hall
