

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOEL LATRENT FLETCHER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

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Northern District of Texas

APPENDIX A

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 19, 2020

Lyle W. Cayce
Clerk

No. 19-10666
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

JOEL LATRENT FLETCHER,

Defendant - Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:19-CR-6-1

Before BARKSDALE, HAYNES, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

Joel Latrent Fletcher appeals his guilty-plea conviction in June 2019 for possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). He contends that, in the light of *Rehaif v. United States*, 139 S. Ct. 2191 (2019) (rendered while this appeal was pending), the factual basis before the district court was insufficient to support his guilty plea because it failed to establish an essential element of the offense: that, prior to possessing the firearm

* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

charged in the indictment, Fletcher knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

Because Fletcher did not raise this issue in district court, review is only for plain error (as defendant concedes). *E.g.*, *United States v. Broussard*, 669 F.3d 537, 546 (5th Cir. 2012). Under that standard, Fletcher must show a forfeited plain error (clear or obvious error, rather than one subject to reasonable dispute) that affected his substantial rights. *Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes that showing, we have the discretion to correct such reversible plain error, but generally should do so only if it “seriously affect[s] the fairness, integrity or public reputation of judicial proceedings”. *Id.*

Before accepting a guilty plea, the district court “must determine that there is a factual basis for the plea”. Fed. R. Crim. P. 11(b)(3). To do so, “the district court must compare: (1) the conduct to which the defendant admits; and (2) the elements of the offense charged in the indictment”. *Broussard*, 669 F.3d at 546 (citation omitted). The court must then verify “that the factual conduct admitted by the defendant is sufficient as a matter of law to establish a violation of the statute to which he entered his plea”. *United States v. Trejo*, 610 F.3d 308, 313 (5th Cir. 2010) (emphasis and citations omitted).

“In assessing factual sufficiency under the plain error standard, we may look beyond those facts admitted by the defendant during the plea colloquy and scan the entire record for facts supporting his conviction.” *Id.* (citation omitted). In this regard, our court may consider, *inter alia*, “the factual findings relied upon in the presentence [investigation] report[,] . . . as well as fairly drawn inferences from the evidence presented both post-plea and at the sentencing hearing”. *Id.* at 317 (internal quotation marks and citations omitted).

Although the plea documents and colloquy, standing alone, do not establish Fletcher's knowledge at issue, the record in its entirety shows it is at least subject to reasonable dispute that there was a sufficient factual basis to support finding Fletcher had such knowledge. There is, therefore, no plain (clear or obvious) error. *See Puckett*, 556 U.S. at 135; *United States v. Alvarado-Casas*, 715 F.3d 945, 952 (5th Cir. 2013). In any event, given the substantial benefit Fletcher received from his plea agreement (including dismissal of other substantial charges), he has failed to show any error affected his substantial rights. *See Puckett*, 556 U.S. at 135; *Alvarado-Casas*, 715 F.3d at 954–55.

AFFIRMED.

APPENDIX B

United States District Court

Northern District of Texas

Lubbock Division

UNITED STATES OF AMERICA

v.

JOEL LATRENT FLETCHER
Defendant.

Case Number: 5:19-CR-00006-C(01)
USM No. 58258-177

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, JOEL LATRENT FLETCHER, was represented by Lara M. Wynn.

On motion of the United States, the court has dismissed the the remaining counts of the indictment as to the defendant.

The defendant pleaded guilty to count 2 of the indictment filed January 9, 2019. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Convicted Felon In Possession Of A Firearm	10/14/2018	2

As pronounced on June 7, 2019, the defendant is sentenced as provided in pages 1 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count 2 of the indictment, which shall be due immediately. Said special assessment shall be made to the Clerk, U.S. District Court.

It is further 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 change in the defendant's economic circumstances.

Signed this the 7th day of June, 2019.



SENIOR DISTRICT JUDGE SAM R. CUMMINGS
UNITED STATES DISTRICT COURT

DEFENDANT: JOEL LATRENT FLETCHER
CASE NUMBER: 5:19-CR-00006-C(01)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 87 months as to count 2 to run concurrent with any sentence imposed in Case Nos. 7544 and 7545 pending in Terry County, Texas; and to run consecutive to any revocation sentence in Case No. DCR-5626-17 in Lamb County, Texas.

The defendant shall remain in the custody of the U.S. Marshal Service.

The Court recommends incarceration at FCI Texarkana, Texas.

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

DEFENDANT: JOEL LATRENT FLETCHER
CASE NUMBER: 5:19-CR-00006-C(01)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall 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.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer.
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.
- ☐ The defendant shall participate in an approved program for domestic violence.
- ☐ The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Fine and Restitution sheet of the judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JOEL LATRENT FLETCHER
CASE NUMBER: 5:19-CR-00006-C(01)

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall abstain from the use of alcohol and all other intoxicants during the term of supervision.
2. The defendant shall participate in a program (inpatient and/or outpatient) approved by the U.S. Probation Office for treatment of narcotic, drug, or alcohol dependency, which will include testing for the detection of substance use or abuse. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$40.00 per month.