NOT RECOMMENDED FOR PUBLICATION

No. 22-5291

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. QUINTON TROY HALL, Defendant-Appellant.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

ORDER

Before: SILER, COLE, and DAVIS, Circuit Judges.

Quinton Troy Hall, proceeding through counsel, appeals his conviction and sentence. The parties have waived oral argument, and this panel unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). For the reasons discussed below, the judgment is affirmed.

Hall and 11 coconspirators were charged in a superseding indictment with conspiracy to distribute 500 grams or more of methamphetamine, in violation of 21 U.S.C. § 846, and Hall was charged with possession of a firearm in furtherance of a drug-trafficking offense, in violation of 18 U.S.C. § 924(c)(1)(A). The charges against one of Hall's coconspirators were dismissed, and his remaining coconspirators entered guilty pleas. Hall retained out-of-state attorneys Hilton Napoleon II and Joseph P. Klock, Jr., from Coral Gables, Florida, to represent him and proceeded to trial. The jury found him guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine and the firearm-possession offense. He was sentenced to serve 360 months in prison—consecutive terms of 300 months for the conspiracy conviction and 60 months for the firearm conviction—followed by five years of supervised release, and he was fined $30,000.

A

On appeal, Hall argues that the district court erroneously (1) denied his motions to continue the jury trial, (2) based his sentence on a drug quantity greater than that found by the jury and applied an aggravating-role sentence enhancement, (3) denied his motions for a judgment of acquittal for the firearm offense, (4) admitted a picture of him holding a lot of cash and pictures of guns seized from his home when he was arrested, and (5) instructed the jury on flight.

Continuance

Hall challenges the denial of his motions to continue the jury trial that he made at the June 24, 2021, final pretrial conference and on June 28, 2021, the first day of trial. Hall argues that a continuance was warranted because attorney Klock was not present on the first day of trial despite his expectation—and Napoleon's representation at the final pretrial conference—that Klock would be there. He further argues that a continuance was justified to effectively prepare cross-examination of witnesses and review discovery in person with counsel. Hall asserts that he had never met Klock in person, having had only brief conversations with him on the video platform, Zoom, and that he had met Napoleon in person only once, with most of their meetings occurring on Zoom.

At the final pretrial conference, at which Hall and Napoleon were present for the defense, Hall orally moved for a continuance of the trial. He claimed that he needed more time to prepare for trial, obtain and review discovery, and meet with and review his case in person with counsel. He also claimed that he was unaware that his case had been set for trial. The district court denied the motion after confirming that Napoleon was ready for trial, discovery had been provided to the defense, and Napoleon had not been denied visitation or communication with Hall at the jail. The district court emphasized that the trial had been scheduled for some time, defense counsels' previous requests for continuances had been granted, and Hall's decision to retain out-of-state attorneys probably contributed to limited in-person meetings between him and counsel. The district court also confirmed that Napoleon had informed Hall of the trial date.

On the first day of trial, Hall again moved to continue the trial. He explained that he needed a haircut, he had been unable to review some of the discovery, and Klock was not present for trial. The district court called Klock on the record and discussed these issues. Regarding discovery, the

district court determined that defense counsel had received all the discovery, that Hall had access to most of the discovery, and that counsel and Hall were responsible for reviewing the discovery. The district court determined that the haircut issue should have been raised earlier but that if the jail could accommodate a haircut that evening, then Hall should get one; the court did not order a special haircut accommodation. Regarding the counsel issues, the district court noted that the trial date had been set for months, the trial had been continued previously at defense counsels' request, and Napoleon had handled most of the trial preparation and had expressed his readiness for trial. The district court further noted that, at the final pretrial conference, Hall and Napoleon both said they expected Klock to be present at trial and Napoleon advised that Klock would be present at trial; the court appreciated Hall's strategic reason for wanting Klock to question certain witnesses. The district court also noted that the public had an interest in a timely trial, the jurors were assembled, and the court and the parties were ready for trial.

Klock explained that he did not intend to appear for trial, that one attorney was sufficient to represent Hall, and that Napoleon was adequately prepared to try the case. The district court denied a continuance. It ordered the trial to begin with Napoleon for the defense, deferred until the next day the government's presentation of witnesses that Hall expressed a strategic reason for Klock to question, and directed Klock to appear for trial the next day and every day thereafter.

District courts have broad discretion to grant or deny a motion for a continuance. *Morris v. Slappy*, 461 U.S. 1, 11 (1983). District courts bear the burden of scheduling trials and ensuring the presence of all participants, "and this burden counsels against continuances except for compelling reasons." *Id.*

The district court thoroughly addressed Hall's reasons for a continuance and found that they did not compel delaying the trial. Hall's attorneys filed two prior motions to continue the trial, citing change-of-counsel, trial preparation, and discovery issues as reasons, and the district court granted those motions. At the final pretrial conference, the district court confirmed that Napoleon was ready for trial and that the government had provided all discovery to the defense. The district court balanced Hall's expectation of Klock's presence at trial against Klock's absence by ordering Klock to appear for trial the next day and every day thereafter and requesting the

government to rearrange some of its witnesses to accommodate Klock's presence at trial. Notably, due to travel issues, Klock did not appear for trial until the afternoon on the second day, and his absence was discussed at length. Ultimately, Hall elected to proceed with Napoleon at counsel table and Klock in the courtroom. The district court did not abuse its discretion in denying Hall's motions for a continuance.

Sentence

Hall challenges the procedural reasonableness of his sentence. He argues that (a) the district court's drug-quantity determination far exceeded the quantity represented by the jury's verdict, (b) the court's determination was not supported by a preponderance of the evidence, and (c) the evidence did not support his aggravating-role enhancement.

We review a district court's sentencing decision for procedural reasonableness under an abuse-of-discretion standard. *United States v. Cunningham*, 669 F.3d 723, 728 (6th Cir. 2012). Procedural reasonableness requires the court to "properly calculate the guidelines range, treat that range as advisory, consider the sentencing factors in 18 U.S.C. § 3553(a), refrain from considering impermissible factors, select the sentence based on facts that are not clearly erroneous, and adequately explain why it chose the sentence." *United States v. Rayyan*, 885 F.3d 436, 440 (6th Cir. 2018) (citing *Gall v. United States*, 552 U.S. 38, 51 (2007)).

In Hall's presentence report, a United States probation officer determined that the base offense level for the conspiracy offense was 34 under the 2018 version of USSG § 2D1.1(c)(3) because his offense involved between 5 and 15 kilograms of methamphetamine. The base offense level was increased by three under USSG § 3B1.1(b) because Hall was a manager or supervisor of criminal activity involving at least five participants. The adjusted offense level was therefore 37. The probation officer determined that the advisory sentencing guidelines range for the firearm offense was five years in prison under USSG § 2K2.4(b) and § 924(c)(1)(A)(i) because that is "the minimum term of imprisonment required by statute" for that offense.

Hall was placed in criminal history category V because he had 10 criminal history points. With a total offense level of 37 and a criminal history category of V, the sentencing guidelines recommended a sentencing range of 324 to 405 months in prison for the conspiracy conviction.

See USSG Ch. 5, Pt. A. The probation officer noted that Hall was subject to a 60-month consecutive sentence for the firearm conviction.

(a) Inconsistency between verdict and drug-quantity determination

Hall first argues that the district court erroneously found him responsible for a greater quantity of methamphetamine than the jury did. But "a sentencing judge may find (by a preponderance of the evidence) that a defendant is responsible for a greater quantity of drugs than determined by the jury (applying the higher beyond-a-reasonable-doubt standard)." *United States v. Castro*, 960 F.3d 857, 868 (6th Cir. 2020) (citing *United States v. Watts*, 519 U.S. 148, 157 (1997) (per curiam); *United States v. White*, 551 F.3d 381, 384–85 (6th Cir. 2008) (en banc)). Here, the district court expressly applied the preponderance-of-the-evidence standard to its drug-quantity findings—stating, for example, "I'm applying a preponderance of the evidence standard" and "I'm not bound by the beyond a reasonable doubt concept.".

(b) District court's application of preponderance-of-evidence standard

Hall next argues that the district court's finding that he was responsible for five to 15 kilograms of methamphetamine is not supported by a preponderance of the evidence. He argues that the lab reports support only 34 grams of methamphetamine, the coconspirators' testimony regarding his role in the conspiracy and drug quantity was contradictory, the record contained little objective evidence, and no drugs were found in his possession in Kentucky.

When determining a defendant's base offense level based on drug quantity, the district court considers the defendant's relevant conduct. USSG § 1B1.3; *see United States v. McReynolds*, 964 F.3d 555, 562 (6th Cir. 2020). In a case involving joint criminal activity, such as Hall's, relevant conduct includes conduct of others that is "within the scope of," "in furtherance of," and "reasonably foreseeable in connection with that criminal activity." USSG § 1B1.3(a)(1)(B). But to hold a defendant responsible for "conspiracy-wide drug amounts at sentencing," the district court must make particularized findings that the defendant agreed to participate in and could foresee the coconspirators' acts. *McReynolds*, 964 F.3d at 564.

The district court's determination that Hall was responsible for between five and 15 kilograms of methamphetamine is supported by a preponderance of the evidence. The district court discussed Angelia Hammons's testimony that Hall supplied her with methamphetamine to

sell 12 times. It recognized that Angelia had credibility issues but considered only her testimony about drug quantities that could be objectively corroborated. It noted that hotel receipts supported 12 trips to Kentucky by Hall and coconspirator Tramone Horne and that Angelia testified that she received two pounds of methamphetamine on one of those trips and 10 to 18 ounces every other time. It also noted that Angelia's testimony was corroborated by money-transfer receipts, a recorded phone call in which she talked to Hall about a money transfer, and the use of nominees for the money transfers, including coconspirator Krysten Powell and Joshua Good. It also noted that text messages between Angelia and Hall corroborated that Hall provided Angelia with the information to use for money transfers. It conservatively measured the drug quantity associated with Angelia as four kilograms—one deal involving two pounds and 11 deals involving a minimum of 10 ounces. The district court also noted that Angelia corroborated Glennis Reed Nantz's testimony that he purchased two pounds and eight ounces of methamphetamine from Hall and Horne at his home, totaling 1.1 kilograms.

Further, the district court discussed the testimony of Larry Hammons, Angelia's son, and found it "very credible." Larry testified that Hall supplied him eight ounces of methamphetamine three times, or 670 grams. It found Larry's testimony corroborated by recorded jail calls. The district court also discussed Powell's testimony that she was involved with Angelia for quite some time, was a nominee for money transfers, and was involved with about one kilogram of methamphetamine over a two-week period. It noted that Powell's testimony was corroborated by Larry's testimony and recorded jail calls. Coconspirator testimony "may be sufficient to determine the amount of drugs for which another coconspirator should be held accountable," and we afford "great deference" to a district court's credibility determinations. *United States v. Jeross*, 521 F.3d 562, 570 (6th Cir. 2008) (citations omitted).

That the record lacks lab reports and "objective" evidence that Hall possessed drugs in Kentucky to support the drug quantity does not matter here. Drug quantity may be established by a preponderance of the evidence for sentencing purposes. *Castro*, 960 F.3d at 868. "We permit estimated drug quantities, so long as the district court erred on the side of caution." *United States v. Dukes*, 802 F. App'x 966, 971 (6th Cir. 2020). Here, the district court was clearly cautious in its drug-quantity calculation, considering only the quantities that were supported by credible or corroborated testimony.

(c) Aggravating-role enhancement

Finally, Hall argues that the evidence did not support application of the § 3B1.1 aggravating-role sentence enhancement. Hall contends that coconspirator Powell's testimony supported an aggravating-role enhancement for coconspirator Horne, not him. He also suggests that he was a drug supplier rather than a leader in the conspiracy.

"A district court's application of a § 3B1.1 enhancement 'traditionally has been subject to de novo review for legal conclusions and clear-error review for factual findings.'" *United States v. Demerovic*, 811 F. App'x 967, 968 (6th Cir. 2020) (quoting *United States v. Kamper*, 748 F.3d 728, 748 (6th Cir. 2014)). But the district court's application "of the Sentencing Guidelines to the facts" is reviewed deferentially. *United States v. McCloud*, 935 F.3d 527, 530 (6th Cir. 2019) (quoting *United States v. Simmerman*, 850 F.3d 829, 832 (6th Cir. 2017)).

Under § 3B1.1(b), a three-level enhancement is applied to a defendant's offense level if he "was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants or was otherwise extensive." To qualify as a manager or supervisor, the "defendant must have exerted control over at least one individual within [the] criminal organization." *Demerovic*, 811 F. App'x at 969 (quoting *United States v. Lalonde*, 509 F.3d 750, 765 (6th Cir. 2007)). In addition, a defendant manages or supervises by recruiting people to sell drugs, coordinating drug deliveries, and directing drug sales. *See id.*

The district court found that the aggravating-role enhancement applied, based on the following evidence: (1) Nantz testified that Horne and Hall came to his home to negotiate a drug deal and that Horne had to consult with Hall before Horne could agree to a price, indicating Hall's "management authority"; (2) text messages showed that Hall directed Angelia which names to use for money transfers after her methamphetamine sales and in a recorded call between Angelia, Hall, and Horne, Hall instructed Angelia about the name to use for a money transfer, indicating "supervision and control"; (3) after Angelia's arrest, Hall and Horne recruited Larry and Powell to sell methamphetamine in Angelia's place, and in Larry's situation, they recruited him by force with threats and "a gun to his head," indicating management, supervision, and control; and (4) Larry and Powell were forced to drive to Georgia to deliver drug-sales proceeds on Thanksgiving over their protests, indicating control and supervision. These facts support the district court's determination that Hall qualified as a manager or supervisor under § 3B1.1(b).

Hall also points out that Larry and Powell could not identify Hall from a photographic lineup when they were arrested, but their uncertainty about lineup photos does not overcome the evidence listed above. Larry testified that he did not identify Hall from the lineup because he "was 50-50." Powell testified that she did not identify Hall from the lineup because she "was high, and [she] really couldn't see his mouth in the pictures." And Powell testified that she described Hall to law enforcement officers as "a black male" with gold teeth.

Firearm Conviction

Hall challenges the denial of his motions for a judgment of acquittal for the firearm offense. He emphasizes that no firearms were seized from him in Kentucky and that three witnesses who testified that he possessed firearms—Angelia, Larry, and Nantz—had credibility issues. He acknowledged that firearms were seized from his home, but argues that the seizure occurred "more than thirty days after the conspiracy allegedly ended" and therefore that the firearms lacked a nexus to a drug-trafficking crime.

Hall moved under Federal Rule of Criminal Procedure 29 for a judgment of acquittal at the close of both the government's case and all the evidence. *See United States v. Sease*, 659 F.3d 519, 522 (6th Cir. 2011). The district court denied Hall's motions.

When reviewing a conviction for sufficient evidence, "the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). "*Jackson* leaves juries broad discretion in deciding what inferences to draw from the evidence presented at trial, requiring only that jurors 'draw reasonable inferences from basic facts to ultimate facts.'" *Coleman v. Johnson*, 566 U.S. 650, 655 (2012) (per curiam) (quoting *Jackson*, 443 U.S. at 319). We will not "reweigh the evidence, reevaluate the credibility of witnesses, or substitute our judgment for that of the jury." *United States v. Martinez*, 430 F.3d 317, 330 (6th Cir. 2005).

To secure a conviction for possession of a firearm in furtherance of a drug trafficking crime under § 924(c)(1)(A), the government had to prove that Hall possessed firearms, he committed a drug-trafficking crime, and his possession of the firearms furthered the drug-trafficking crime. *See*

United States v. Simpson, 845 F. App'x 403, 413 (6th Cir. 2021). Factors relevant to determine whether the possession of firearms furthered a drug-trafficking crime include "(1) whether the firearm was 'strategically located so that it is quickly and easily available for use'; (2) 'whether the gun was loaded'; (3) 'the legality of its possession'; (4) 'the type of drug activity conducted'; and (5) 'the time and circumstances under which the firearm was found.'" *Id.* at 414 (quoting *United States v. Mackey*, 265 F.3d 457, 462 (6th Cir. 2001)).

The government presented testimony that Hall possessed firearms during drug transactions, traded drugs for firearms, and used firearms to intimidate a person during a drug transaction and to coerce another person to participate in drug activity. For example, Dustin Walters testified that he, Angelia, and an armed Hall drove around delivering methamphetamine that Hall had supplied and collecting money. Nantz testified that he bought methamphetamine from Angelia, Hall, and Horne, and during the price negotiation, Hall put a gun on the dashboard of his car in what Nantz referred to as an act of intimidation. Nantz bought methamphetamine from Angelia, Hall, and Horne two more times. Angelia testified that she sold methamphetamine for Hall. She stated that Hall would deliver methamphetamine to her and she would sell it and give Hall money. She stated that she traded Hall firearms for methamphetamine, including "a couple of Judge .45s." She also saw Hall carry firearms during drug transactions.

Larry testified that Horne and Hall came to his home after Angelia's arrest and told him that Angelia, his mother, owed them money for drugs, and that he was going to sell drugs for them to pay his mother's debt. He stated that Hall and Horne were armed and forced him to his knees and that Hall held a gun to the back of his head. He stated that he did not want to sell drugs but felt he had no choice, so he sold methamphetamine for Hall and Horne. Powell testified that Hall and Horne brought her methamphetamine to sell, and after she sold it she gave them the money.

Officer Garrick Gleaton testified that he and other officers executed a warrant at Hall's residence in Ellenwood, Georgia, on January 24, 2020. A search of the home's primary bedroom yielded a cell phone with Hall's picture on the home screen; pictures of Hall; multiple firearms, including a Sig Sauer pistol, a Kel-Tec firearm, a pistol inside a Louis Vuitton bag, and an AR-15 rifle in the primary-bedroom closet; a safe; a vacuum sealer; mail addressed to Hall at the

Ellenwood address; Ziploc baggies; loaded firearm magazines; and ammunition. Inside the safe was a .45 caliber Judge pistol and Hall's identification. Additional baggies and a digital scale were in the kitchen of the home.

Viewing the evidence in the light most favorable to the government, sufficient evidence was presented from which a rational trier of fact could find Hall guilty of the § 924(c)(1)(A) offense. *See Jackson*, 443 U.S. at 319. Angelia's testimony that she traded Hall firearms for drugs establishes a sufficient nexus between the firearms and drugs to support Hall's § 924(c) conviction. *See United States v. Frederick*, 406 F.3d 754, 764 (6th Cir. 2005). "As a matter of logic, a defendant's willingness to accept possession of a gun as consideration for some drugs he wishes to sell *does* 'promote or facilitate' that illegal sale." *Id.* Moreover, one of the guns seized from Hall's home at the time of his arrest was a .45 caliber Judge model and could have been one of the guns that Angelia traded Hall for methamphetamine. And Walters, Nantz, and Angelia witnessed Hall carry a gun during drug transactions. Because the evidence showed that Hall routinely possessed firearms when conducting drug deals, a rational jury could have concluded that the firearms were present to further Hall's drug-trafficking crime. *See Simpson*, 845 F. App'x at 414.

Hall questions the credibility of Angelia, Larry, and Nantz. Hall points to Larry's testimony that Angelia "is a liar and manipulator", Larry's inability to identify Hall in a photographic lineup in January 2020 shortly after the conspiracy ended, and the absence of Hall's appearance on Nantz's DVR recording (contrary to Nantz's testimony that the recording would show that Hall came to Nantz's home). But credibility questions are for the jury, not for our review on appeal. *See Martinez*, 430 F.3d at 330. Notably, Larry testified that he did not identify Hall from a photographic lineup because he "was 50-50." And Corbin Police Officer Glenn Taylor testified that Nantz's DVR recording showed a person in a car at Nantz's home but that he "couldn't tell anything about the person in the car" from the recording.

Although Hall's arrest and the seizure of firearms from his home occurred approximately 30 days after the conspiracy end date stated in the superseding indictment, the dates set forth in the indictment were "on or about" dates, stating "[b]eginning on or about December of 2018, the exact date unknown, and continuing until on or about December 13, 2019." "When 'on or about'

language is used in an indictment, proof of the exact date of an offense is not required as long as a date reasonably near that named in the indictment is established." *United States v. Ford*, 872 F.2d 1231, 1236 (6th Cir. 1989).

Admission of Evidence

Hall challenges the admission of a picture of him holding a large sum of cash and pictures of firearms seized from his home when he was arrested. He argues that the picture with cash, from his Facebook page in March 2019, was taken before the conspiracy. He argues that the pictures of firearms seized from his home when he was arrested were erroneously admitted because his arrest and the gun seizure occurred 30 days after the conspiracy ended. He argues that the pictures were improper character evidence under Federal Rule of Evidence 404(b) and that there was no evidence that the Judge firearm seized from his home was the same one that Angelia traded to him for drugs.

In overruling Hall's objections to the admission of these pictures , the district court found that the picture of Hall with cash was probative, either within or "very close in temporal proximity" to the charged conspiracy, and not unfairly prejudicial. It found that the pictures of the firearms had a "temporal relationship" to the conspiracy in that Hall's arrest and their seizure occurred "temporally quite close" to the arrests of the coconspirators who had taken the place of Angelia after her arrest and coconspirator Horne's arrest; that the start and end dates of the conspiracy, as set forth in the superseding indictment, were not "fixed points," but that "there's certainly a margin there in play"; that the guns were relevant to witness testimony, specifically Angelia's testimony regarding a Judge firearm; and that the pictures were not unfairly prejudicial.

We review a district court's evidentiary rulings for an abuse of discretion. *United States v. Kettles*, 970 F.3d 637, 642 (6th Cir. 2020). An abuse of discretion occurs if the court makes "errors of law or clear errors of factual determination." *United States v. Daneshvar*, 925 F.3d 766, 775 (6th Cir. 2019) (quoting *United States v. Baker*, 458 F.3d 513, 517 n.6 (6th Cir. 2006)). "Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Fed. R. Evid. 401. Relevant evidence may be excluded "if its probative value is substantially outweighed

by a danger of . . . unfair prejudice." Fed. R. Evid. 403. But "when the government is attempting to prove that a defendant was part of a criminal conspiracy to distribute drugs, it is generally not 'unfairly prejudicial' for the jury to see proof that the defendant and/or their co-conspirators associated themselves with cash, guns, and drugs." *United States v. Whyte*, 795 F. App'x 353, 361 (6th Cir. 2019).

Angelia and Powell testified that, in addition to wire and money card transfers, they gave cash from the sale of drugs to Hall. The picture of Hall holding a large amount of cash in March 2019 was relevant and probative, giving context to and corroborating these witnesses' testimony. Nor was the picture unfairly prejudicial because it was evidence from which the jury could conclude that Hall associated himself with the cash proceeds from his participation in a drug conspiracy. *See id.* at 361-62; *see also United States v. Anderson*, 333 F. App'x 17, 23 (6th Cir. 2009) (finding that photographs of cash were admissible to prove the defendant's role in a conspiracy rather than his character and were not unfairly prejudicial).

Gleaton testified that Hall was arrested on January 24, 2020, and at that time, multiple firearms were seized from his home. The pictures of the guns were relevant and probative, giving context to not only Gleaton's testimony but also the testimony of Walters, Nantz, and Angelia, who testified that they saw Hall carry a gun during drug transactions. Moreover, the pictures of the firearms were not improper character evidence under Rule 404(b), but direct evidence of his crimes, corroborating witness testimony that Hall possessed guns during drug transactions and traded methamphetamine for guns. "Rule 404(b) 'does not apply to evidence that itself is probative of the crime charged[.]'" *United States v. Sumlin*, 956 F.3d 879, 889 (6th Cir. 2020) (quoting *United States v. Price*, 329 F.3d 903, 906 (6th Cir. 2003)).

As for the Judge firearm connection, there was no definitive evidence that the Judge firearm seized from Hall's home was the same Judge firearm traded to Hall by Angelia for methamphetamine; however, a rational jury could make that inference. Although the seizure occurred after the end date of the conspiracy as set forth in the superseding indictment, the indictment stated that the conspiracy ended "on or about December 13, 2019." "'On or about' indicates that time is not an essential element of the offense, so long as the unlawful conduct

occurred 'reasonably near' the date on the indictment." *United States v. Houston*, 813 F.3d 282, 291 (6th Cir. 2016) (quoting *United States v. Ford*, 872 F.2d 1231, 1236 (6th Cir. 1989)). Here, the district court found, and we agree, that Hall's arrest and the seizure of guns from his home occurred "temporally quite close" to the conspiracy end date specified in the indictment. We find no abuse of discretion in the challenged evidentiary rulings.

Flight Instruction

Hall challenges the jury instruction on flight. He argues that law enforcement officers arrested him for an unrelated probation violation, so his flight at the time of his arrest was not connected to this case.

"We review a district court's determination regarding the admissibility of evidence of flight for abuse of discretion." *United States v. Atchley*, 474 F.3d 840, 853 (6th Cir. 2007). We employ a four-step analysis to determine the admissibility of flight evidence:

> [T]he probative value of flight evidence "depends upon the degree of confidence with which four inferences can be drawn: (1) from the defendant's behavior to flight; (2) from flight to consciousness of guilt; (3) from consciousness of guilt to consciousness of guilt concerning the crime charged; and (4) from consciousness of guilt concerning the crime charged to actual guilt of crime charged."

Id. (quoting *United States v. Dillon*, 870 F.2d 1125, 1127 (6th Cir. 1989)). "For flight evidence to be admissible, the timing of flight must itself indicate the sudden onset or the sudden *increase* of fear in the defendant's mind that he or she will face apprehension for, accusation of, or conviction of the crime charged." *Dillon*, 870 F.2d at 1128.

Gleaton testified that when law enforcement officers executed a warrant at Hall's home on January 24, 2020, Hall fled into the attic. The disorder in the primary-bedroom closet caught Gleaton's attention—clothes covered the floor, and shelves were pulled out of the wall. Also, "it appeared that someone had went up into the access to the attic." Gleaton went into the attic and saw a person lying down under cardboard boxes. Gleaton directed the person to come out and show his hands but the person did not do so. Instead, the person kicked through the insulation and ceiling where other officers could see and grab his leg. The person resisted and pulled away while holding onto the attic rafters. After pepper spray and a taser were deployed, the person finally released the rafters and officers pulled him down from the attic. Gleaton identified Hall as the

person he saw in the attic that day. Evidence seized from the primary bedroom in the home was linked to Hall, including mail and identification.

At trial, the district court instructed the jury on flight as follows:

> You have heard testimony that after the crimes alleged were supposed to have been committed, the defendant, Quinton Troy Hall, fled from Henry County law enforcement as they lawfully entered the residence 1207 Strawberry Trail. Ellenwood, Georgia 30294.
>
> If you believe that the defendant fled as alleged, you may consider this conduct, along with all of the other evidence, in deciding whether the government has proved beyond a reasonable doubt that he committed the crimes charged. This conduct may indicate that he thought he was guilty and trying [to] avoid punishment. On the other hand, sometimes an innocent person, perceiving entrance by others into his home or location may flee for some other reason. The defendant has no obligation to prove that he had an innocent reason for his conduct. You could believe the defendant fled for an innocent reason or without any thought of his possible guilt in this case.
>
> Of course, this is all for you to evaluate and decide.

The evidence supports the flight instruction. As described above, after officers entered Hall's home to execute a warrant, Hall fled to the attic and hid. Although Hall argues that his arrest and alleged flight were unrelated to this case, Gleaton testified that a federal agent from this case was present when the warrant was executed. Additionally, the district court limited the jury's consideration of the evidence of flight, instructing that, while flight may indicate guilt, "sometimes an innocent person . . . may flee for some other reason." *See United States v. Wilson*, 385 F. App'x 497, 501-02 (6th Cir. 2010) (noting that similar "limiting instructions in the jury charge minimized the potential for prejudice to" the defendant). The district court did not abuse its discretion in instructing the jury on flight.

For these reasons, we **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Eastern District of Kentucky – Southern Division at London

UNITED STATES OF AMERICA
v.
Quinton Troy Hall

JUDGMENT IN A CRIMINAL CASE

Case Number: 6:20-CR-002-S-REW-03
USM Number: 23108-032
Steven N. Howe
Defendant's Attorney

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) 1 and 3 of the Superseding Indictment [DE 207] after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21:846	Conspiracy to Distribute 50 Grams or More of a Mixture or Substance Containing a Detectable Amount of Methamphetamine, a Schedule II Controlled Substance	December 13, 2019	1S
18:924(c)(1)(A)	Possession of a Firearm in Furtherance of a Drug Trafficking Offense	December 13, 2019	3S

The defendant is sentenced as provided in pages 2 through 7 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) _____

☒ Count(s) Underlying Indictment [DE 1] ☒ 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.

April 7, 2022
Date of Imposition of Judgment

Signed By:
Robert E. Wier
United States District Judge

Honorable Robert E. Wier, U.S. District Judge
Name and Title of Judge

April 8, 2022
Date

B

DEFENDANT: Quinton Troy Hall
CASE NUMBER: 6:20-CR-002-S-REW-03

IMPRISONMENT

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

Three Hundred (300) Months as to Count 1S and Sixty (60) Months as to Count 3S, to run consecutively, for a total term of:

THREE HUNDRED SIXTY (360) MONTHS

The federal sentence shall run concurrently with any sentence imposed in North Carolina Superior Court, #19CRS052485 and Henry County, Georgia, Superior Court, #2020-SU-649-PP, per §5G1.3(d). The BOP shall assign credit per the standards of § 3585.

☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant participate in any substance abuse treatment for which he may qualify based on his documented history of abuse (¶123 of the PSI).
That the defendant participate in any available, appropriate educational and/or vocational training, for which he qualifies.
That the defendant participate in a full medical screening, with apt treatment to follow.
That the defendant be evaluated for and participate in any appropriate mental and emotional health treatment programs for which he may qualify.
That the defendant be designated to a facility for which he qualifies nearest his Atlanta, Georgia home.

☒ 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

DEFENDANT: Quinton Troy Hall
CASE NUMBER: 6:20-CR-002-S-REW-03

SUPERVISED RELEASE

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

Five (5) Years on each of Counts 1S & 3S, to run concurrently, for a total term of

FIVE (5) YEARS

STATUTORILY MANDATED CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess or use a controlled substance.
3. You must submit to a drug test within 15 days of supervision commencement. USPO shall subsequently test Defendant at least twice thereafter and may test Defendant as frequently as ***weekly*** during the supervision term. USPO may seek Court permission for more frequent testing, if warranted. USPO may re-test if any test sample is invalid.
   - ☐ 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 (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 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 pages. The Court has considered§ 3583(d)(l)-(3) in formulating all additional conditions.

DEFENDANT: Quinton Troy Hall
CASE NUMBER: 6:20-CR-002-S-REW-03

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 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.
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 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.
8. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
9. 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 bodily injury or death to another person such as nunchakus or tasers).
10. 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.
11. 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.
12. 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 _____

DEFENDANT: Quinton Troy Hall
CASE NUMBER: 6:20-CR-002-S-REW-03

SPECIAL CONDITIONS OF SUPERVISION

1. You must not use alcohol.
2. The Court does not, at this time, order substance abuse or mental health treatment upon release from custody. USPO shall promptly assess Defendant post-release and may seek Court modification of conditions if USPO determines (then or at any later time) that Defendant's condition warrants any such treatment.
3. You must refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing which is required as a condition of release.
4. You (given crime gravity and the offenses occurring on parole) must submit your person, house, residence, office, vehicle, papers, computers (as defined in 18 U.S.C. 1030(e)(1)), and other electronic communications / data storage devices and media to a search conducted by a United States Probation Officer, who may conduct a search pursuant to this condition only when he or she has reasonable suspicion that you have violated one or more conditions of your supervised release and that the area(s) or thing(s) to be searched contain evidence of the suspected violation(s). The USPO must conduct any such search at a reasonable time and in a reasonable manner. Failure to submit to such a search would be a violation of your supervised release and may be grounds for revocation. You must inform other occupant(s) of any area potentially subject to such a search of that status.

DEFENDANT: Quinton Troy Hall
CASE NUMBER: 6:20-CR-002-S-REW-03

CRIMINAL MONETARY PENALTIES

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

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 200.00 ($100/Count)	$ Community Waived	$ 30,000.00	$ N/A	$ N/A

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal 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 nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage

TOTALS	$ _____	$ _____

☐ 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 the 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).

☒ 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:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** 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.

DEFENDANT: Quinton Troy Hall
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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 $ 30,200.00 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., 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:

Criminal monetary penalties are payable to:
Clerk, U. S. District Court, Eastern District of Kentucky
310 S. Main Street, Room 215, London, KY 40741

INCLUDE CASE NUMBER WITH ALL CORRESPONDENCE

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

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	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:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.
While at the BOP, Hall shall pay toward the fine and financial obligations 50% of any amounts earned over $75 per month in BOP wages. This does not limit the Government's ability to collect from other sources. If the fine remains, in any part, on release, the Court will impose a payment schedule during supervised release.