

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Kelly L. Stephens
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: February 03, 2025

Mr. Mark Steven Bilkovic
Ms. Barbara Lanning
Office of the U.S. Attorney
Eastern District of Michigan
211 W. Fort Street, Suite 2001
Detroit, MI 48226

Mr. Manuel B. Russ
340 21st Avenue, N.
Nashville, TN 37203

Re: Case No. 24-1245, *USA v. Mario Jackson*
Originating Case No. : 2:19-cr-20425-1

Dear Counsel,

The Court issued the enclosed opinion today in this case.

Enclosed are the court's unpublished opinion and judgment, entered in conformity with Rule 36, Federal Rules of Appellate Procedure.

Sincerely yours,

s/Cathryn Lovely
Opinions Deputy

cc: Ms. Kinikia D. Essix

Enclosures

Mandate to issue

NOT RECOMMENDED FOR PUBLICATION

File Name: 25a0062n.06

No. 24-1245

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**

Feb 03, 2025

KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MARIO KEERAM JACKSON,

Defendant-Appellant.

ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF MICHIGAN

OPINION

Before: SUTTON, Chief Judge; KETHLEDGE and MURPHY, Circuit Judges.

KETHLEDGE, Circuit Judge. A jury convicted Mario Jackson of four armed robberies in the Detroit area. Jackson now appeals the district court's denial of his pretrial motions to suppress, his motion to exclude the government's trial expert, and his post-trial motion for a competency hearing. We affirm.

I.

In December 2018, the FBI began to investigate a string of armed robberies of Walgreens stores around Detroit. Agents soon determined they were after a single suspect: for each robbery, footage from security cameras showed a suspect opening a cooler door, climbing through it to the room behind, lying in wait there, and eventually forcing an employee to open a safe at gunpoint. In one of the robberies, the suspect stole substantial amounts of prescription drugs (mostly opioids). A video from one robbery showed that the suspect had a cellphone, so the agents obtained a search warrant for cell-tower records that might show whether any phones had been

No. 24-1245, *United States v. Jackson*

present near more than one of the robberies. Those records showed that one phone—assigned to (313) 742-1482—had been near two of the stores when they were robbed. Several law enforcement databases linked that number to Mario Jackson.

In April 2019, agents obtained a second search warrant—this time for the historical-location and call records of Jackson’s phone specifically. These records showed that Jackson’s phone had been near three of the four robberies when they occurred. This data also helped the agents identify Jackson’s likely home address, where they later watched him use a key to enter the home.

Agents then obtained and executed a search warrant for the home, where they seized Jackson’s cellphone and found clothing that matched what the suspect had been wearing in several of the security videos. The agents also found a loaded handgun in the attic. Jackson was home when the agents executed the warrant, so they arrested him.

A federal grand jury later indicted Jackson on robbery, drug, and firearms charges. Jackson challenged the warrants to obtain cellphone records and the warrant to search his home. He also moved to exclude expert testimony regarding the cell-tower data that placed his phone near several of the robberies. The court denied all those motions. While the case was pending, the government learned that a prison inmate had placed several calls to Jackson’s phone. During one call, Jackson told the inmate that he was at the Rolex store in Somerset Mall in Troy. Video footage from the mall showed Jackson inside a jewelry store, using the phone—which was further proof that the phone (whose records agents had obtained) was his. Jackson moved to exclude those recordings and videos, but the court denied his motion. Eventually—after a six-day trial at which Jackson testified—the jury convicted him on all counts.

No. 24-1245, *United States v. Jackson*

Before sentencing, Jackson moved for a competency hearing. The district court denied the motion based on its interactions with Jackson during pretrial hearings and at trial. The court later sentenced Jackson to 336 months in prison. This appeal followed.

II.

“When a party comes to us with nine grounds for reversing the district court, that usually means there are none.” *Fifth Third Mortg. Co. v. Chicago Title Ins. Co.*, 692 F.3d 507, 509 (6th Cir. 2012). Such is the case with the litany of arguments here.

A.

Jackson makes six arguments regarding the district court’s denial of his motions to suppress. We review the district court’s factual findings for clear error and its legal conclusions de novo. *United States v. Pacheco*, 841 F.3d 384, 389 (6th Cir. 2016).

Jackson argues that the warrant for cell-tower records was invalid because, he says, the affiant omitted facts regarding the data’s precision as to the phone’s location. A warrant is invalid if the affiant intentionally or recklessly omitted information that would have “undermined the showing of probable cause.” *United States v. Carpenter*, 360 F.3d 591, 597 (6th Cir. 2004) (en banc) (emphasis omitted). Jackson had made no attempt to show such intent or recklessness here, so we reject this argument. *See, e.g., United States v. Fowler*, 535 F.3d 408, 415 (6th Cir. 2008).

Jackson also makes two arguments that are derivative of arguments we reject here. To wit, he argues that the warrant to search his phone records was a poisonous fruit of the warrant to search the cell-tower records. But (per the above) we rejected his argument as to the search of those records, so we reject his argument as to the phone records too. And that in turn defeats his next argument, which is that the search of his home was unlawful because it was based on the search of the phone records. We reject this argument.

No. 24-1245, *United States v. Jackson*

That leaves two other arguments regarding the validity of the warrant to search Jackson's home. First, as to that warrant, the affiant explained that agents had found a glove at the scene of one of the robberies and that "a female was the main contributor of the DNA along with two other unknown male contributors." Jackson says that statement inaccurately implied that Jackson was one of the "unknown male contributors." But he has not shown that the statement itself is false, much less intentionally or recklessly so. We therefore reject this argument. *See United States v. Ardd*, 911 F.3d 348, 353-54 (6th Cir. 2018). Likewise meritless is his argument that the affiant "neglected to inform the magistrate" that Jackson had gotten a new phone—and thus, he says, was no longer in possession of the "target cell phone" described in the affidavit. The affiant defined "target cell phone" as "the cellular device associated with" Jackson's phone number. Thus, when Jackson connected a new phone to his existing phone number, that new phone became the "target cell phone."

Jackson also challenges the denial of his motion to suppress the recordings of his calls with the prison inmate, and the videos that agents found as a result of them. Suffice it to say that Jackson had no expectation of privacy in those phone calls—not least because they began with a recording that told him the calls were "subject to recording and monitoring." *See, e.g., United States v. Hadley*, 431 F.3d 484, 489 (6th Cir. 2005).

B.

Jackson next challenges the admission of certain expert testimony elicited by the government at trial. That testimony concerned the cell-tower data that the agents used to put Jackson's phone in proximity to some of the robberies. Jackson did not object to the expert's testimony at trial, so we review its admission for plain error. *See United States v. Poulsen*, 655 F.3d 492, 510-11 (6th Cir. 2011). There was none here: Jackson argues that cell-tower data is

No. 24-1245, *United States v. Jackson*

categorically unreliable as a means to identify a cellphone’s location. Suffice it to say that he has not remotely established that proposition here.

C.

Finally, Jackson challenges the denial of his post-trial motion for a competency hearing. “[T]he conviction of an accused person while he is legally incompetent violates due process.” *Pate v. Robinson*, 383 U.S. 375, 378 (1966). A district court must hold a competency hearing if it finds “reasonable cause to believe” that the defendant is “unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.” 18 U.S.C. § 4241(a). Where, as here, the district court expressly finds the defendant to be competent, we review for clear error. *Mackey v. Dutton*, 217 F.3d 399, 407, 412-13 (6th Cir. 2000).

Jackson argues that the district court had reasonable cause to doubt his competency because Jackson chose to wear his jail uniform and shackles while testifying. But the district court found Jackson to be competent based on its interactions with him before and during the trial. The court thus viewed Jackson’s choice as a calculated gamble, rather than evidence that he was incompetent to stand trial. Suffice it to say that the record supports that determination.

* * *

The district court’s judgment is affirmed.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 24-1245

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO KEEREAM JACKSON,

Defendant - Appellant.

FILED
Feb 03, 2025
KELLY L. STEPHENS, Clerk

Before: SUTTON, Chief Judge; KETHLEDGE and MURPHY, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Eastern District of Michigan at Detroit.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

UNITED STATES DISTRICT COURT
Eastern District of Michigan

UNITED STATES OF AMERICA

v.

Mario Keeream Jackson§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§

§

§

§

Case Number: 0645 2:19CR20425 (1)

USM Number: 57679-039

Mark H. Magidson

Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 of the Superseding Indictment

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

18 U.S.C. § 1951(a), Interference with Commerce by Robbery

18 U.S.C. § 924(c), Use of a Firearm During and in Relation to a Crime of Violence

18 U.S.C. § 1951(a), Interference with Commerce by Robbery

18 U.S.C. § 924(c), Use of a Firearm During and in Relation to a Crime of Violence

Offense Ended

11/25/2018

11/25/2018

12/5/2018

12/5/2018

Count

1S

2S

3S

4S

The defendant is sentenced as provided in pages 2 through 9 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 6 of the Indictment and Count 6s of the Superseding Indictment ☒ 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.

3/12/2024

Date of Imposition of Judgment

s/Bernard A. Friedman**The Honorable Bernard A. Friedman****Senior United States District Judge**

Name and Title of Judge

March 15, 2024

Date

DEFENDANT: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1951(a), Interference with Commerce by Robbery - Attempt	12/29/2018	5S
18 U.S.C. § 1951(a), Interference with Commerce by Robbery	12/29/2018	7S
18 U.S.C. § 924(c), Use of a Firearm During and in Relation to a Crime of Violence	12/29/2018	8S
18 U.S.C. § 1951(a), Interference with Commerce by Robbery	03/28/2019	9S
18 U.S.C. § 924(c), Use of a Firearm During and in Relation to a Crime of Violence	03/28/2019	10S
18 U.S.C. § 2118(b), Entering Premises of DEA-Registered Pharmacy with Intent to Steal Controlled Substances	03/28/2019	11S
18 U.S.C. § 922(g)(1), Possession of a Firearm by a Convicted Felon	05/02/2019	12S

DEFENDANT: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **One Day, per Count, as to Counts 1, 3, 5, 7, 9, 11 and 12 to run concurrent to each other; and 84 months, per count, as to Counts 2, 4, 8, and 10, to run consecutive to all other Counts for a total of 336 months and one day, to run consecutive to the defendant's undischarged terms of imprisonment out of the 3rd Circuit Court, Docket Numbers 12-004436-01-FH and 14-006836-01-FH. The cost of incarceration is waived.**

- ☒ The court makes the following recommendations to the Bureau of Prisons:
- **Designation to an institution with a comprehensive mental health treatment program.**

- ☒ 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: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **three years, per Count, to run concurrently. The cost of supervised release is waived.**

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.
☐ 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 which 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)*

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

DEFENDANT: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

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 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 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. I understand additional information regarding these conditions is available at the www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

SPECIAL CONDITIONS OF SUPERVISION

You must submit to a psychological/psychiatric evaluation as directed by the probation officer.

You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

If the judgment imposes a financial penalty, you must pay the financial penalty. You must also notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.

You must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

DEFENDANT: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$1,100.00	N/A	Waived	\$34,405.00

- ☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

<u>Victim</u>	<u>Amount</u>
Walgreens Recovery	\$34,405.00
104 Wilmot Road MS#1450	
Deerfield, Illinois 60015	

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ 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:
- | | | |
|--|-------------------------------|--|
| <input checked="" type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input checked="" type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

* 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: Mario Keeream Jackson
CASE NUMBER: 0645 2:19CR20425 (1)

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 payments of **\$1,100.00 (Special Assessment)** due immediately, balance due
☐ not later than _____, or
☐ in accordance ☐ 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:
You must make monthly installment payments on any remaining balance of the restitution or special assessment at a rate and schedule recommended by the probation department and approved by the Court.

While in custody, the defendant shall participate in the Inmate Financial Responsibility Program (IFRP). The Court is aware of the requirements of the IFRP and approves the payment schedules of this program and hereby orders the defendant's compliance.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during 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
Restitution is joint and several with the following co-defendants and/or related cases, in the amount specified below:

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

- ☐ Defendant shall receive credit on «dft_his_her» restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ 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:
Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), Defendant shall forfeit the following property to the United States: One Glock GMBH, Model: 22, SN: APG881US; One round of miscellaneous ammunition; and One box of ammunition. (ECF No. 207, PageID.2370)

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) JVT Assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.