

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PATRICK LEE ADAMS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

UNITED STATES DISTRICT COURT

Western District of Oklahoma

UNITED STATES OF AMERICA

v.

PATRICK LEE ADAMS

JUDGMENT IN A CRIMINAL CASE

Case Number: CR-22-00411-001-SLP

USM Number: 13351-064

Robert D. Gifford II

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 of the Indictment returned September 20, 2022.
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>
18 U.S.C. §§ 922(g)(1) & 924(a)(8)	Felon in possession of a firearm	7/11/2022	1

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) _____ ☐ 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.

August 15, 2023

Date of Imposition of Judgment


SCOTT L. PALK
UNITED STATES DISTRICT JUDGE

August 15, 2023

Date Signed

DEFENDANT: Patrick Lee Adams
CASE NUMBER: CR-22-00411-001-SLP

IMPRISONMENT

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

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

It is recommended the defendant participate in the Federal Bureau of Prisons Inmate Financial Responsibility Program at a rate determined by Bureau of Prisons staff in accordance with the program.

It is recommended the defendant participate in the Residential Drug Abuse Program.

It is recommended the defendant be designated to FCI El Reno.

☒ 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:

☐ By 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

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 3 — Supervised Release

Judgment—Page 3 of 7

DEFENDANT: Patrick Lee Adams
CASE NUMBER: CR-22-00411-001-SLP

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: _____
36 months.

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, not to exceed eight (8) drug tests per month.
☐ 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 page.

DEFENDANT: Patrick Lee Adams
CASE NUMBER: CR-22-00411-001-SLP

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. Stricken.
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

DEFENDANT: Patrick Lee Adams
CASE NUMBER: CR-22-00411-001-SLP

SPECIAL CONDITIONS OF SUPERVISION

The defendant must submit to a search of his person, property, electronic devices or any automobile under his control to be conducted in a reasonable manner and at a reasonable time, for the purpose of determining possession, or evidence of possession, of firearms, controlled substances, drug paraphernalia, and/or drug trafficking at the direction of the probation officer upon reasonable suspicion. Further, the defendant must inform any residents that the premises may be subject to a search.

The defendant shall participate in a program of substance abuse aftercare at the direction of the probation officer to include urine, breath, or sweat patch testing; and outpatient treatment. The defendant shall totally abstain from the use of alcohol and other intoxicants both during and after completion of any treatment program. The defendant shall not frequent bars, clubs, or other establishments where alcohol is the main business. The court may order that the defendant contribute to the cost of services rendered (copayment) in an amount to be determined by the probation officer based on the defendant's ability to pay.

The defendant shall participate in a program of mental health aftercare at the direction of the probation officer. The court may order that the defendant contribute to the cost of services rendered (copayment) in an amount to be determined by the probation officer based on the defendant's ability to pay.

AO 245B (Rev. 09/19) Judgment in a Criminal Case
 Sheet 5 — Criminal Monetary Penalties

Judgment — Page 6 of 7

DEFENDANT: Patrick Lee Adams
 CASE NUMBER: CR-22-00411-001-SLP

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

☐ 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.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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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: Patrick Lee Adams
CASE NUMBER: CR-22-00411-001-SLP

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 \$ 100.00 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:
- If restitution is not paid immediately, the defendant shall make payments of 10% of the defendant's quarterly earnings during the term of imprisonment.

After release from confinement, if restitution is not paid immediately, the defendant shall make payments of the greater of \$_____ per month or 10% of defendant's gross monthly income, as directed by the probation officer. Payments are to commence not later than 30 days after release from confinement.

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, shall be paid through the United States Court Clerk for the Western District of Oklahoma, 200 N.W. 4th Street, Room 1210, Oklahoma City, Oklahoma 73102.

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
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- ☐ 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:
- All right, title, and interest in the assets listed in the Preliminary Order of Forfeiture dated December 28, 2022(doc. no.52).

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.

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

May 27, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PATRICK LEE ADAMS,

Defendant - Appellant.

No. 23-6121
(D.C. No. 5:22-CR-00411-SLP-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **MATHESON, KELLY**, and **MORITZ**, Circuit Judges.

Patrick Adams appeals his conviction for possessing a firearm in violation of 18 U.S.C. § 922(g)(1). He contends that the government's closing arguments were plainly improper because they diluted the beyond-a-reasonable-doubt standard and that § 922(g)(1) is unconstitutional. We reject those challenges and affirm Adams's conviction.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. But it may be cited for its persuasive value. *See* Fed. R. App. P. 32.1(a); 10th Cir. R. 32.1(A).

Background

The events underlying this appeal unfolded at an Oklahoma City apartment complex one night in July 2022. Shawn McLeod-Daves, a private security guard for the complex, responded to reports of a man “looking through vehicles and knocking on doors.” R. vol. 3, 12. He found Adams wandering around the property and twice told him to leave. Later that night, McLeod-Daves parked his security truck near an exit gate, and Adams drove up to him. Given their previous interactions, McLeod-Daves told Adams to exit the car and detained him for trespassing. McLeod-Daves called for back-up, and when police arrived, they found Adams handcuffed near his car and a handgun visible on the driver’s side floorboard through the open car door. Adams had a prior felony conviction, so he was charged with possessing a firearm in violation of § 922(g)(1).

At trial, the jury heard two competing versions of the interactions between McLeod-Daves and Adams. McLeod-Daves testified that during their encounter, Adams pointed a gun at him and then dropped it on the floorboard. A security guard corroborated that McLeod-Daves’s call for back-up mentioned a weapon, and police confirmed that they recovered a handgun—wrapped in Adams’s phone-charger cord—from the driver’s side floorboard.

Adams, for his part, explained that he had been visiting friends at the complex but couldn’t drive home because he had lost his keys. When he found them, he returned to his car and tried to leave, but McLeod-Daves stopped him. Adams

testified that he did not know there was a gun in the car and certainly did not hold it or point it at the security guard during the encounter.

Adams's girlfriend testified that the gun was hers. She said she had driven Adams's car to work earlier that day and left the gun under the passenger's seat during her shift. When she returned the car to him, she forgot to take the gun with her, so it was still under the passenger's seat when Adams drove to his friend's place. On the witness stand, Adams theorized that a security guard moved the gun from the passenger's side to the driver's side while he was handcuffed.

In closing arguments, the prosecutor emphasized that the two stories were irreconcilable, telling the jury "to make the decision as to what is reasonable." R. vol. 3, 329. And despite repeatedly acknowledging the government's burden to prove Adams's guilt beyond a reasonable doubt, the prosecutor also stated that even though the defense was "attempting to come up with some type of doubt, . . . they cannot get to beyond a reasonable doubt." *Id.* at 330. Then, responding to Adams's testimony that he did not know there was a gun in the car, the prosecutor reminded the jury that it was "the voice of reason" and would "decide whether or not that's reasonable." *Id.* at 335. The prosecutor continued by telling the jury that it had "to decide what the more reasonable story is"—Adams's version or the government's. *Id.* In a similar vein, the prosecutor stated that Adams was "not going to say he knew anything about a firearm that night," and the jury would have to "decide whether that's reasonable or whether it's convenient." *Id.* at 336. Adams did not object to these arguments.

During its seven-hour deliberations, the jury submitted several notes to the district court. First, the jury requested a transcript of a security guard's testimony; the district court responded that the jury could not review transcripts during deliberations. Next, the jury wrote that it was unable to reach a decision; the district court gave a modified *Allen*¹ charge and asked the jury to continue deliberating. Finally, the jury asked the district court to “re[]define ‘proof beyond a reasonable doubt’”; the district court referred the jury to the beyond-a-reasonable-doubt instruction. R. vol. 1, 196. That instruction read:

The government has the burden of proving the defendant guilty beyond a reasonable doubt. The law does not require a defendant to prove his innocence or produce any evidence at all. The government has the burden of proving the defendant guilty beyond a reasonable doubt, and if it fails to do so, you must find the defendant not guilty.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. It is only required that the government's proof exclude any reasonable doubt concerning the defendant's guilt.

A reasonable doubt is a doubt based on reason and common sense after careful and impartial consideration of all the evidence in the case. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If, on the other hand, you think that there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find the defendant not guilty.

¹ “An *Allen* instruction is, in effect, a charge given by a trial court that encourages the jury to reach a unanimous verdict so as to avoid a mistrial.” *United States v. McElhiney*, 275 F.3d 928, 935 (10th Cir. 2001) (citing *Allen v. United States*, 164 U.S. 492 (1896)).

R. vol. 3, 314–15. The jury then returned a guilty verdict.

Adams appeals.

Analysis

I. Prosecutorial Statements

Adams’s primary challenge on appeal is that the government’s closing arguments violated his “constitutionally rooted presumption of innocence” by misstating the beyond-a-reasonable-doubt standard. *United States v. Starks*, 34 F.4th 1142, 1158 (10th Cir. 2022) (quoting *Mahorney v. Wallman*, 917 F.2d 469, 472 (10th Cir. 1990)). He did not object to those arguments at trial, so we review for plain error. *United States v. Anaya*, 727 F.3d 1043, 1053 (10th Cir. 2013). Under that standard, “reversal is only warranted where there is ‘(1) error, (2) that is plain, which (3) affects substantial rights, and which (4) seriously affects the fairness, integrity, or public reputation of judicial proceedings.’” *Starks*, 34 F.4th at 1157 (quoting *United States v. Portillo-Vega*, 478 F.3d 1194, 1202 (10th Cir. 2007)). Because Adams asserts constitutional error, “[w]e ‘apply the plain[-]error rule less rigidly.’” *United States v. Dalton*, 918 F.3d 1117, 1130 (10th Cir. 2019) (quoting *United States v. Weeks*, 653 F.3d 1188, 1198 (10th Cir. 2011)). We first address whether there was any error, plain or otherwise, and then consider whether any error affected Adams’s substantial rights.

A. Plain Error

To begin, Adams asserts that the government’s closing arguments introduced constitutional error by diluting the “beyond a reasonable doubt” standard.

Prosecutorial statements “cross[] the line into improper advocacy” if, as relevant here, they “‘misstat[e] the law.’” *Starks*, 34 F.4th at 1158 (quoting *United States v. Christy*, 916 F.3d 814, 825 (10th Cir. 2019)). And an error is plain if it is “so clear or obvious that it could not be subject to any reasonable dispute.” *United States v. Courtney*, 816 F.3d 681, 684 (10th Cir. 2016).

Adams specifically objects to the government’s suggestion that the jury decide which version of events was “more reasonable.” Aplt. Br. 21 (quoting R. vol. 3, 335). He argues that this statement impliedly told the jury it could convict Adams based on a preponderance of the evidence. He also takes issue with the government’s statement that Adams “cannot get to beyond a reasonable doubt,” which suggested it was Adams’s burden to prove his defense. R. vol. 3, 330. Together, Adams says, these statements infringed upon his due-process right to be “protect[ed] . . . against conviction ‘except upon proof beyond a reasonable doubt.’” *Jackson v. Virginia*, 443 U.S. 307, 315 (1979) (quoting *In re Winship*, 397 U.S. 358, 364 (1970)).

Evaluating the government’s statements “in context,” however, we disagree with Adams’s assessment. *United States v. Franklin-El*, 555 F.3d 1115, 1125 (10th Cir. 2009) (quoting *United States v. Kravchuk*, 335 F.3d 1147, 1153 (10th Cir. 2003)). The government repeatedly acknowledged its burden to prove its case beyond a reasonable doubt, and the jury received instructions on the correct application of that standard. Against that backdrop, the government’s comments about reasonableness simply asked the jury to use common sense. And there is nothing improper in that. *See Webb v. United States*, 347 F.2d 363, 364 (10th Cir. 1965)

(“[T]he jury’s function is broad enough to allow it to make common[-]sense inferences from proven facts.”).

Similarly, the government’s statement that Adams “cannot get to beyond a reasonable doubt” did not improperly shift the burden to Adams. R. vol. 3, 330. Rather, it was an inelegant attempt to argue that Adams had not raised a reasonable doubt as to his guilt. And reading the government’s entire closing—which just a few sentences earlier acknowledged the court’s instruction on reasonable doubt and its requirement that the jury be “firmly convinced of the defendant’s guilt”—that nuance was clear. *Id.* at 329.

As such, we are not convinced that the government’s closing misstated the law. And even if it did, the misstatement would need to be “so clear or obvious that it could not be subject to any reasonable dispute.” *Courtney*, 816 F.3d at 684. Adams can’t show that clarity here. Despite his attempts to draw parallels with favorable precedent, this case is not *Monk v. Zelez*, where the jury heard a faulty definition of “beyond a reasonable doubt.” 901 F.2d 885, 889 (10th Cir. 1990). Nor is it *Starks*, where the prosecutor directly contradicted settled precedent conferring a presumption of innocence to every defendant. *See* 34 F.4th at 1158. Any error in the government’s closing was not plain.

B. Substantial Rights

Even if the government’s closing was plainly improper, Adams would need to show that it “affect[ed his] substantial rights.” *Starks*, 34 F.4th at 1157 (quoting *Portillo-Vega*, 478 F.3d at 1202). A defendant meets this standard if he or she

“demonstrate[s] that an error was prejudicial, meaning that there is a reasonable probability that, but for the error claimed, the result of the proceeding would have been different.” *Id.* (quoting *United States v. Bustamante-Conchas*, 850 F.3d 1130, 1138 (10th Cir. 2017)). And “[a] reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.* (quoting *United States v. Hasan*, 526 F.3d 653, 665 (10th Cir. 2008)).

Adams argues that such a probability exists here, pointing to weaknesses in the government’s evidence and the jury’s difficulty reaching agreement to suggest that the verdict was a close call. And if it was, Adams argues, the jury’s apparent confusion about the government’s burden (as evidenced by its request for an alternative definition of “beyond a reasonable doubt”) could have easily swayed the outcome. We disagree for several reasons.

To begin, the statements at issue played a minimal role in the government’s case. We evaluate prosecutorial misconduct in “the context of the entire trial.” *Id.* at 1158 (quoting *United States v. Vann*, 776 F.3d 746, 760 (10th Cir. 2015)). And we are reluctant to find prejudice where the challenged remarks constituted “only a small portion of the [g]overnment’s entire closing argument,” as they did here. *United States v. Sierra-Ledesma*, 645 F.3d 1213, 1227 (10th Cir. 2011).

What’s more, the district court cured any potential prejudice with its reasonable-doubt instruction. “The jury is presumed to follow its instructions, even when there has been misleading argument.” *Bland v. Sirmons*, 459 F.3d 999, 1015 (10th Cir. 2006) (cleaned up). For that reason, we have rejected similar challenges to

prosecutorial statements where the jury received proper instructions. *See, e.g., Sierra-Ledesma*, 645 F.3d at 1227 (finding any error harmless because district court “instructed the jury multiple times” on reasonable doubt). And here, the district court repeatedly directed the jury to hold the government to its burden, including twice during deliberations—once during the *Allen* charge and once by referring the jury to the beyond-a-reasonable-doubt instruction. *See United States v. Litchfield*, 959 F.2d 1514, 1521 (10th Cir. 1992) (declining to reverse for plain error where court “repeatedly emphasized” government’s burden).

Adams responds that the instruction failed to cure any prejudice because it included no “quantum of proof.” Aplt. Br. 31. In his view, some quantification of the reasonable-doubt standard was necessary to counteract the government’s insinuation that convicting Adams required believing only that the prosecution’s story was the “more reasonable” one. *Id.* at 32. But the district court used this court’s pattern jury instruction, which emphasizes that the jury must be “firmly convinced” of the defendant’s guilt to convict and must acquit if left with a “doubt based on reason and common sense.”² R. vol. 3, 315; *see also* Tenth Cir. Crim. Pattern Jury Instrs. § 1.05 at 10 (2021). That “correct and comprehensible statement” of the government’s burden sufficiently neutralized the government’s inartful closing in this case. *United States v. Petty*, 856 F.3d 1306, 1310 (10th Cir. 2017) (quoting *United States v.*

² The district court also instructed the jury that if the court’s instructions conflicted with the parties’ arguments, the jury should follow the instructions, not the arguments.

Conway, 73 F.3d 975, 980 (10th Cir. 1995)). As such, Adams’s analogy to *Starks*, 34 F.4th at 1161—where we held that a vague instruction could not cure a prosecutor’s blatant misstatement of the law—is inapposite.

Finally, Adams’s complaints about the timing of the government’s questionable statements miss the mark. He laments that the government’s closing came after the district court’s instructions, so the potentially prejudicial arguments were “left ringing in the jurors’ ears as they entered their deliberations.” Aplt. Br. 25. That characterization omits, however, that the government reiterated the reasonable-doubt standard in its rebuttal closing and the district court twice invoked the standard during deliberations.

Considering the broader context of the government’s closing and the jury instructions, we are not convinced that the prosecutor’s few references to the relative reasonableness of two stories outweighed the district court’s—and the parties’—repeated directions to hold the government to its burden. Accordingly, even assuming the prosecutor plainly erred in closing arguments, that error did not affect Adams’s substantial rights.³

II. Constitutionality of § 922(g)(1)

Separately, Adams argues that § 922(g)(1) is unconstitutional under *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), because there is no historical

³ Given this conclusion, we need not reach the fourth prong of plain error or address the government’s disagreement with Adams’s characterization of the evidence and the jury’s questions.

tradition of dispossessing felons, much less nonviolent ones. However, we recently reaffirmed the constitutionality of § 922(g)(1)—both on its face and as applied to nonviolent offenders—so we reject Adams’s argument. *See Vincent v. Bondi*, 127 F.4th 1263, 1265–66 (10th Cir. 2025).

Conclusion

Because the government’s closing arguments do not warrant reversal under plain-error review and § 922(g)(1) is constitutional, we affirm.

Entered for the Court

Nancy L. Moritz
Circuit Judge

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157
Clerk@ca10.uscourts.gov

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

May 27, 2025

Kathleen Shen
Office of the Federal Public Defender
Districts of Colorado and Wyoming
633 Seventeenth Street, Suite 1000
Denver, CO 80202

RE: 23-6121, United States v. Adams
Dist/Ag docket: 5:22-CR-00411-SLP-1

Dear Counsel:

Enclosed is a copy of the order and judgment issued today in this matter. The court has entered judgment on the docket pursuant to Fed. R. App. P. Rule 36.

Pursuant to Fed. R. App. P. Rule 40(d)(1), any petition for rehearing must be filed within 14 days after entry of judgment. Please note, however, that if the appeal is a civil case in which the United States or its officer or agency is a party, any petition for rehearing must be filed within 45 days after entry of judgment. Parties should consult both the Federal Rules and local rules of this court with regard to applicable standards and requirements. In particular, petitions for rehearing may not exceed 3900 words or 15 pages in length, and no answer is permitted unless the court enters an order requiring a response. *See* Fed. R. App. P. Rule 40 and 10th Cir. R. 40 for further information governing petitions for rehearing.

Please contact this office if you have questions.

Sincerely,



Christopher M. Wolpert
Clerk of Court

cc: Stan J. West

CMW/djd