

IN THE
Supreme Court of the United States

HUNTER MICHAEL HALL,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

CORRECTED PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the court properly applied a sentencing enhancement under U.S.S.G. § 2K2.1(b)(6)(B) based on Petitioner's display of firearms in advertisements on Instagram where there was no evidence that the firearms in the advertisements facilitated Petitioner's later sale of non-functional Glock switches.

PARTIES TO THE PROCEEDING

Petitioner Hunter Michael Hall was the appellant before the United States Court of Appeals for the Fourth Circuit and the defendant before the United States District Court for the Eastern District of North Carolina.

Respondent United States was the appellee before the United States Court of Appeals for the Fourth Circuit and the plaintiff before the United States District Court for the Eastern District of North Carolina.

LIST OF PRIOR PROCEEDINGS

- (1) *United States v. Hunter Michael Hall*, United States District Court, Eastern District of North Carolina, No. 5:23-CR-102-FL-1 (final judgment entered January 22, 2024).
- (2) *United States v. Hunter Michael Hall*, United States Court of Appeals for the Fourth Circuit, No. 24-4040 (unpublished per curiam opinion issued September 8, 2025).

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PETITION FOR WRIT OF CERTIORARI

Petitioner Hunter Michael Hall respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINION BELOW

The Fourth Circuit’s unpublished opinion is available at 2025 WL 2589564, 2025 U.S. App. LEXIS 23125 (4th Cir. Sept. 8, 2025); *see also infra*, Pet. App. 1a.

JURISDICTION

The Fourth Circuit issued its opinion on September 8, 2025. Pet. App. 1a. This Court’s jurisdiction rests on 28 U.S.C. § 1254(1).

GUIDELINE INVOLVED

Section 2K2.1(b)(6)(B) of the Sentencing Guidelines instructs that a four-level enhancement applies if the defendant “used or possessed any firearm or ammunition in connection with another felony offense.”

STATEMENT OF THE CASE

A. Relevant Facts and District Court Proceedings

During an investigation of a man named Gustavo Cruz, police officers in Durham, North Carolina “seized an iPhone from Cruz and a metal ‘switch,’ also known as an ‘auto sear.’” Joint Appendix 129 (“JA”). “A ‘switch’ or an ‘auto sear’ is a part, or combination of parts, designed and intended for use to convert semiautomatic firearms into fully automatic firearms.” JA129. A search of Cruz’s phone revealed an Instagram chat thread with Petitioner Hunter Michael Hall. JA129. In the chat thread, Petitioner said he manufactured and sold switches. Investigators also found a video attached to a message Petitioner sent to Cruz on July 3, 2022, showing a Glock pistol installed with a switch. The video included “a functions test of the firearm to show Cruz that it would operate as a machinegun.” JA130. Text messages between November 22, 2022, and December 15, 2022, showed that Hall sold six switches for \$410 to Cruz, who ultimately returned them because they did not function. JA45-46, JA49, JA51-52, JA129.

Review of Petitioner’s Instagram account revealed advertisements for switches manufactured by Petitioner. JA130. The advertisements included photos of firearms with inserted switches. In other messages, Petitioner quoted prices for various items, such as switches for \$250 and silencers for \$800. Investigators learned Petitioner had been convicted of a felony and could not legally possess firearms. JA130.

Law enforcement then executed a search of the home where Petitioner lived with his father and found in Petitioner's bedroom a 3-D printer used to manufacture the switches. JA130. Inside Petitioner's dresser drawer officers found a "9mm pistol with a switch installed and a 5.56mm AR-15 rifle, along with one silencer and two double-stacked magazines." JA130. The AR-15 rifle also had a switch installed. Testing showed both firearms with the installed switches fired fully automatically. In the attic were several bins containing more firearms, including three "ghost guns." The bins also contained miscellaneous magazines and ammunition, silencers, various firearm accessories, and at least one hundred switches. JA130. Some switches were inside a plastic bag with writing stating: "GLOCK + AR-15 DROP IN SEARS (METAL)" and "IF IN BAG IT'S NOT 4 SALE." JA130. Officers also found a ledger containing production notes and a pricing list in Petitioner's bedroom. JA130.

During the search, Petitioner's father asked how long his son had been under investigation, and officers replied that "the investigation had been going on for months due to activity on [Petitioner's] Instagram page." JA130. Petitioner told his father he "sold his stuff on Instagram." JA131. Petitioner said that after being released from prison, he "began manufacturing machine guns and auto sears for monetary profit," as well as silencers. JA131. Petitioner explained: "I build my stuff, it's a hobby of mine. I like guns. I know I'm a prohibited person[,] it doesn't excuse it. I like guns. I'm good at it." JA131.

Petitioner was federally indicted and pled guilty without a plea agreement to possession of a firearm by a felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(8); possession of a machine gun, in violation of 18 U.S.C. §§ 922(o), 924(a)(2); and possession of an unregistered firearm, in violation of 26 U.S.C. §§ 5822, 5861(d), 5871. JA29.

In preparation for sentencing, the probation officer submitted a presentence investigation report (“PSR”) calculating the guideline imprisonment range, among other things. JA126-142. Relevant here, the PSR increased the offense level four levels under U.S.S.G. § 2K2.1(b)(6)(B), asserting Petitioner possessed a firearm in connection with another felony offense. JA139. Specifically, the PSR stated Petitioner “possessed at least one firearm in connection with a felony offense, the illegal transfer or sale of switches.” JA131.

Petitioner objected to the enhancement. JA143. In response, the probation officer stated the enhancement applied because Petitioner used a firearm “to advertise the switches or auto sears for sale” on his Instagram account. JA143. Because Petitioner had used firearms to “demonstrate [the] appearance and functionality” of the switches online, the officer concluded the enhancement “was appropriately applied.” JA143.

At sentencing, Petitioner maintained his objection to the enhancement, noting there was “no evidence nor any allegation that the firearms were ever present during any transaction” and that “many of the transactions took place via mail, so the individuals would have never interacted in person.” JA44. In fact, counsel

pointed out that “there is no evidence that anything was sold beyond these [switches] to Mr. Cruz,” and that Cruz returned them because they did not function. JA52.

At sentencing, the district court overruled Petitioner’s objection to the 2K2.1(b)(6)(B) four-level enhancement and sentenced Petitioner to 96 months’ imprisonment and three years of supervised release. App. 1a at 1. Petitioner appealed to the Fourth Circuit.

B. Court of Appeals Proceedings

On appeal, the Fourth Circuit rejected Petitioner’s argument that the court improperly imposed the sentencing enhancement. App. 1a at 2-3. The Fourth Circuit thus affirmed the district court. This petition followed.

REASONS FOR GRANTING THE PETITION

The district court improperly imposed a four-level enhancement under U.S.S.G. § 2K2.1(b)(6)(B), and the Fourth Circuit erred in affirming the district court. Section 2K2.1(b)(6)(B) of the Sentencing Guidelines instructs that a four-level enhancement applies if the defendant “used or possessed any firearm or ammunition in connection with another felony offense.” The firearm must have “facilitated, or had the potential of facilitating, another felony offense.” U.S.S.G. § 2K2.1 cmt. n. 14(A). The term “another felony offense” means “any federal, state, or local offense, other than the explosive or firearms possession or trafficking offense, punishable by imprisonment for a term exceeding one year, regardless of whether a criminal charge was brought, or a conviction obtained.” *Id.* at cmt. n. 14(C).

To facilitate another felony offense, the firearm must be “present” during commission of the separate felony, and the defendant must possess the firearm and commit the separate felony offense simultaneously. *See, e.g.*, U.S.S.G. § 2K2.1 cmt. n. 14(B) (instructing that the enhancement automatically applies to a “defendant who, *during the course of* a burglary, finds and takes a firearm” and also “in the case of a drug trafficking offense in which a firearm *is found in close proximity to* drugs, drug-manufacturing materials, or drug paraphernalia”) (emphasis added); *United States v. Jenkins*, 566 F.3d 160, 162-163 (4th Cir. 2009); *accord United States v. Blount*, 337 F.3d 404, 410-411 (4th Cir. 2003) (phrase “in connection with” applies to “contemporaneous crimes”); *United States v. Jackson*, 877 F.3d 231, 241-245 (6th Cir. 2017) (vacating enhancement where possession of firearm did not occur simultaneously with separate felony offense); *United States v. Fletcher*, 751 F. App’x 753, 754-755 (6th Cir. 2018) (noting that “the government must demonstrate more than just simultaneous but coincidental possession of firearms and drugs” for the enhancement to apply).

Here, application of the enhancement was erroneous because there is no evidence that Petitioner used or possessed a firearm when any switches were sold or transferred. The PSR identified the separate felony offense as “the illegal transfer or sale of switches.” JA131, JA143. Neither the PSR nor the government identified any “felony offense” other than the “transfer or sale of switches.” But as counsel for Petitioner pointed out, there was “no evidence nor any allegation that [any] firearms were ever present during any transaction that may or may not have

occurred.” JA44. That is, there was no evidence Petitioner used or possessed a firearm when he sold or transferred the switches. The evidence established only a single sale of the switches. Specifically, text messages between November 22, 2022, and December 15, 2022, showed that Hall sold six switches for \$410 to Cruz, who ultimately returned them because they did not function. JA129; JA52. Nothing showed that Hall used or possessed a firearm when he sold the switches to Cruz. Instead, Hall’s use of a firearm took place months earlier, on July 3, 2022, when he sent a video to Cruz “of him handling a Glock pistol installed with a switch and conducting a functions test of the firearm to show Cruz that it would operate as a machinegun.” JA130.

Notably, it was Cruz who solicited Hall for the sale, JA130, and there was nothing to show that the July video influenced Cruz’s December purchase. JA130. Indeed, there was no evidence from Cruz (testimony, affidavit, etc.) to establish he had even *watched* the video, much less that it induced the sale. Thus, nothing showed that Hall possessed or used a firearm simultaneously with the sale to Cruz, as required for application of the “in connection with” enhancement.

Because the evidence did not show Petitioner used or possessed a firearm when he sold the switches, the enhancement does not apply. *See, e.g., United States v. Bolden*, 964 F.3d 283, 288 (4th Cir. 2020) (vacating enhancement where defendant “possessed and used the firearm only after possessing and using cocaine, not simultaneously”); *Jackson*, 877 F.3d at 243-44 (where there was “no indication that a gun was ever actually or constructively possessed in connection with a drug

sale, or kept near a stash of drugs, or facilitative of a drug sale—the enhancement did not apply”). This case should therefore be remanded to the district court for resentencing without the erroneous enhancement.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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