APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. DYLAN JERELLE PETTYJOHN, Defendant.	No. 4:23-cr-00086-SHL-WPK **ORDER DENYING MOTION TO DISMISS COUNT 3**

On June 13, 2023, a grand jury in the Southern District of Iowa returned an Indictment charging Defendant Dylan Jerelle Pettyjohn with three counts, including Felon in Possession of a Firearm in violation of 18 U.S.C. § 922(g)(1) (Count 3). Pettyjohn moves to dismiss Count 3 on the basis that section 922(g)(1) is unconstitutional under the Second Amendment pursuant to the test set forth by the Supreme Court in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111, 2126 (2022). He brings both facial and as applied challenges. (ECF 23-1, p. 3.)

Pettyjohn acknowledges, correctly, that binding Eighth Circuit precedent squarely defeats his motion. In *United States v. Cunningham*, the Eighth Circuit held that section 922(g)(1) is facially constitutional. 70 F.4th 502, 506 (8th Cir. 2023). In *United States v. Jackson*, the Eighth Circuit held that as-applied challenges to the statute also categorically fail, as there is "no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1)." 69 F.4th 495, 502 (8th Cir. 2023). "Together, [*Cunningham* and *Jackson*] spell the end for [Pettyjohn]'s constitutional challenge." *United States v. Doss*, No. 22-3662, 2023 WL 8299064, at *1 (8th Cir. Dec. 1, 2023).

The Court therefore **DENIES** Pettyjohn's Motion to Dismiss Count 3 (ECF 23).

IT IS SO ORDERED.

Dated: January 8, 2024.

STEPHEN H. LOCHER
U.S. DISTRICT JUDGE

AO 245B (Rev. 09/08) Judgment in a Criminal Case
v1 Sheet 1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA
v.
Dylan Jerelle Pettyjohn

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:23-CR-00086-001

USM Number: 64514-510

Todd M. Lantz
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) after a plea of not guilty. One through Four of the Four Count Superseding Indictment filed on April 16, 2024,

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. § 841(a)(1), 841(b)(1)(A)	Possession with Intent to Distribute 50 Grams or More of Methamphtamine	05/05/2023	One
21 U.S.C. § 841(a)(1), 841(b)(1)(C)	Possession with Intent to Distribute a Mixture and Substance Containing a Detectable Amount of Fentanyl	05/05/2023	Two

☑ See additional count(s) on page 2

The defendant is sentenced as provided in pages 3 through 8 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.

October 17, 2024
Date of Imposition of Judgment

Signature of Judge

Stephen H. Locher, U.S. District Judge
Name of Judge Title of Judge

October 17, 2024
Date

DEFENDANT: Dylan Jerelle Pettyjohn
CASE NUMBER: 4:23-CR-00086-001

ADDITIONAL COUNTS OF CONVICTION

Title & Section ?	Nature of Offense	Offense Ended	Count
18 U.S.C. § 924(c)(1)(A)	Carrying a Firearm During and in Relation to a Drug Trafficking Crime	05/05/2023	Three
18 U.S.C. §§ 922(g)(1), 924(a)(8)	Felon in Possession of a Firearm	05/05/2023	Four

DEFENDANT: Dylan Jerelle Pettyjohn
CASE NUMBER: 4:23-CR-00086-001

IMPRISONMENT

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

300 months' imprisonment, consisting of 240 months as to Count One, 240 months as to Count Two, and 120 months as to Count Four, to be served concurrently. A term of 60 months' imprisonment is imposed as to Count Three, to be served consecutively to each of Counts One, Two, and Four.

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

That the defendant be placed at a facility near Phoenix, Arizona, if commensurate with his security and classification needs. The Court further recommends that the defendant be made eligible to participate in substance use and mental health programming.

☑ 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 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 _____

a _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Dylan Jerelle Pettyjohn
CASE NUMBER: 4:23-CR-00086-001

SUPERVISED RELEASE

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

Five years as to Count One and three years as to each of Counts Two, Three, and Four, to be served concurrently.

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)*

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.

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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: Dylan Jerelle Pettyjohn
CASE NUMBER: 4:23-CR-00086-001

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

You must submit to a mental health evaluation. If treatment is recommended, you must participate in an approved treatment program and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment and/or compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

You must participate in a cognitive behavioral treatment program, which may include journaling and other curriculum requirements, as directed by the U.S. Probation Officer.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

AO 245B (Rev. 09/08) Judgment in a Criminal Case
v1 Sheet 5 — Criminal Monetary Penalties

DEFENDANT: Dylan Jerelle Pettyjohn
CASE NUMBER: 4:23-CR-00086-001

CRIMINAL MONETARY PENALTIES

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

☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 400.00	$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.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
TOTALS		$0.00	$0.00

☐ 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: Dylan Jerelle Pettyjohn
CASE NUMBER: 4:23-CR-00086-001

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 $ 400.00 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:

All criminal monetary payments are to be made to:
Clerk's Office, United States District Court, P.O. Box 9344, Des Moines, IA 50306-9344.

While on supervised release, you shall cooperate with the United States Probation Office in developing a monthly payment plan, which shall be subject to the approval of the Court, consistent with a schedule of allowable expenses provided by the United States Probation Office.

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 crimnal 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:

a loaded, Rossi pistol, model R462, caliber .357, (SN: JN585898), as outlined in the Preliminary Order of Forfeiture entered on September 9, 2024.

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.

United States Court of Appeals
For the Eighth Circuit

No. 24-3168

United States of America

Plaintiff - Appellee

v.

Dylan Jerelle Pettyjohn

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: September 19, 2025
Filed: December 10, 2025

Before SMITH, GRUENDER, and SHEPHERD, Circuit Judges.

SHEPHERD, Circuit Judge.

A federal jury convicted Dylan Pettyjohn of possession of methamphetamine with intent to distribute, possession of a mixture and substance containing fentanyl with intent to distribute, possession of a firearm in furtherance of a drug trafficking

crime, and possession of a firearm as a felon. The district court[1] sentenced him to 300 months' imprisonment, followed by five years of supervised release. Pettyjohn now appeals. Having jurisdiction under 28 U.S.C. § 1291, we affirm.

I.

On May 5, 2023, a Des Moines, Iowa police officer tried to stop Dylan Pettyjohn for not having license plates or a temporary registration on his vehicle; Pettyjohn responded by leading the officer on a car chase through a local residential neighborhood. After reaching speeds of over fifty miles per hour and running three stop signs, Pettyjohn hit a curb and stop sign. His vehicle coasted to a stop.

Pettyjohn then fled his vehicle on foot; while doing so, he threw away a loaded revolver and dropped a black fanny pack from around his waist. The officer later arrested Pettyjohn and recovered the gun and the fanny pack, which contained 54 fentanyl pills, $389 in small bills, a small amount of marijuana, and four bags of methamphetamine amounting to about 85 grams. In Pettyjohn's vehicle, the police found a digital scale with white residue, a bag of marijuana, and a cigar package containing two shell casings from the revolver.

A federal grand jury charged Pettyjohn with possession with intent to distribute fifty grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A), possession with intent to distribute a mixture and substance containing fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C), carrying a firearm in relation to a drug-trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A), and being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8).

[1]The Honorable Stephen H. Locher, United States District Judge for the Southern District of Iowa.

Pettyjohn moved to dismiss the felon in possession charge, arguing that the statute it arose under, 18 U.S.C. § 922(g)(1), violated the Second Amendment. The district court, noting that this Court's precedent squarely foreclosed such a challenge, denied the motion. Pettyjohn then chose to testify at trial, and he moved in limine to exclude evidence of his seven prior felony convictions. Over his objection, the district court stated that it would likely allow the Government to offer several of these convictions for impeachment. Pettyjohn and the Government then agreed that the Government could mention that he had five prior felony convictions but could only name two of them; Pettyjohn also reserved his right to appeal the district court's initial decision. The district court noted that this arrangement struck an appropriate balance under Federal Rule of Evidence 609, and it agreed to give a limiting instruction to the jury.

At trial, the Government adhered closely to its agreement with Pettyjohn. During cross-examination, the Government asked him whether he had ever sold drugs in the past, whether he had five prior felony convictions, and whether one of these convictions was for possession of a controlled substance with intent to distribute. It did not inquire further into any of these prior convictions.

Pettyjohn moved for a judgment of acquittal after the Government's case in chief and again at the close of evidence, asserting both times that the evidence was insufficient for a jury to find him guilty beyond a reasonable doubt. The district court denied both motions, finding that the evidence was sufficient to allow the jury to determine that the Government proved its case beyond a reasonable doubt.

The jury convicted Pettyjohn on all counts. Pettyjohn moved again for a judgment of acquittal or, in the alternative, for a new trial. The district court denied the motion and sentenced him to 300 months' imprisonment.

II.

Pettyjohn first argues that the district court erred in denying his motion for acquittal because the evidence at trial was insufficient to support his convictions for possession with intent to distribute. Although he does not dispute that he knowingly possessed the drugs found on him, he argues that the Government's evidence was just as consistent with simple possession as it was with distribution.

"We review the sufficiency of the evidence de novo, viewing evidence in the light most favorable to the government, resolving conflicts in the government's favor, and accepting all reasonable inferences that support the verdict." United States v. Atkins, 52 F.4th 745, 751 (8th Cir. 2022) (citation omitted). "We will affirm the verdict unless 'no reasonable jury could have found [Pettyjohn] guilty beyond a reasonable doubt.'" Id. at 751-52 (citation omitted).

Here, the evidence was sufficient to convict Pettyjohn on both counts of possession with intent to distribute. For one thing, Pettyjohn was caught with a large quantity of drugs in his possession—around 85 grams of methamphetamine and 54 fentanyl pills. See United States v. Serrano-Lopez, 366 F.3d 628, 635 (8th Cir. 2004) ("A large quantity of drugs, standing alone, is sufficient evidence of . . . intent to distribute."). A Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) agent testified that a normal dose of methamphetamine is one-tenth of a gram and that possessing more than 14 grams of methamphetamine or 50 fentanyl pills at a time is consistent with drug dealing rather than personal use. We have affirmed convictions based on amounts far smaller than these. See, e.g., United States v. Vega, 676 F.3d 708, 721 (8th Cir. 2012) (affirming a conviction for possession with intent to distribute where the defendant was caught with 8.6 grams of methamphetamine).

Other evidence also supports Pettyjohn's conviction. Pettyjohn had a digital scale with white residue in his vehicle, and he was carrying a firearm and a fanny pack with a large wad of cash. See, e.g., United States v. Schubel, 912 F.2d 952, 956 (8th Cir. 1990) (noting that the presence of scales, firearms, and large sums of

cash are "all circumstantial evidence of intent to distribute"). His drugs were also organized into small baggies, which was consistent with drug distribution. See, e.g., Brooks v. United States, 772 F.3d 1122, 1123-24 (8th Cir. 2014) (noting that the presence of baggies in a defendant's vehicle "suggest[s] an intent to distribute"). Thus, viewing the evidence in the light most favorable to the Government, we hold that sufficient evidence exists to sustain the jury's verdict and that the district court did not err in denying the motion for judgment of acquittal.

III.

Pettyjohn next claims that the district court erred when it permitted the Government to ask him about his 2018 conviction for possession with intent to distribute and to ask him whether he had ever sold drugs before. According to Pettyjohn, the Government brought up his past drug dealing activity solely to prove that he had a propensity for distributing drugs and was thus more likely to be guilty here. Pettyjohn argues that this propensity inference was impermissible under Federal Rule of Evidence 404(b)(1), and thus the district court should not have allowed the Government to ask these questions.

"Evidentiary rulings are reviewed for abuse of discretion." United States v. Schave, 55 F.4th 671, 677 (8th Cir. 2022). Federal Rule of Evidence 609 governs the admissibility of prior criminal convictions used for impeachment purposes. Under Rule 609(a)(1)(B), a crime punishable by more than one year in prison "must be admitted in a criminal case in which the witness is a defendant, if the probative value of the evidence outweighs its prejudicial effect to that defendant." Alternatively, under Federal Rule of Evidence 404(b)(2), a conviction may be admissible for "proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident."

The district court did not abuse its discretion in admitting evidence of Pettyjohn's 2018 conviction. Generally, "prior convictions are highly probative of credibility 'because . . . one who has transgressed society's norms by committing a

felony is less likely than most to be deterred from lying under oath.'" United States v. Collier, 527 F.3d 695, 700 (8th Cir. 2008) (citation omitted). Here, since Pettyjohn's defense at trial was that he only had drugs for personal use rather than distribution (and so testified), his prior conviction undermined his credibility. See Russell v. Anderson, 966 F.3d 711, 727 (8th Cir. 2020) (noting that a witness undermines his credibility when he makes a claim "in the face of contradictory evidence"). The conviction also spoke to Pettyjohn's knowledge and intent to distribute drugs. See Fed. R. Evid. 404(b)(2); United States v. Frazier, 280 F.3d 835, 847 (8th Cir. 2002) ("We have held on numerous occasions that a prior conviction for distributing drugs . . . [is] relevant under Rule 404(b) to show knowledge and intent to commit a current charge of conspiracy to distribute drugs.").

While Pettyjohn's 2018 conviction was highly probative of his credibility, it was not unduly prejudicial. See Fed. R. Evid. 609(a)(1)(B). Pettyjohn had already stipulated prior to cross-examination that he had a felony conviction, and on redirect he was able to tell his side of the story regarding the conviction. The Government did not discuss the conviction beyond asking Pettyjohn to confirm its existence, Collier, 527 F.3d at 700 (finding no substantial prejudice where "the government elicited little beyond the fact and nature of the conviction"), and the district court gave a limiting instruction to the jury, United States v. Weber, 987 F.3d 789, 793-94 (8th Cir. 2021) ("[T]he potential for unfair prejudice [is] greatly reduced where . . . the district court g[ives] a limiting instruction."). Additionally, Pettyjohn himself had negotiated at the pretrial hearing that the Government could mention the conviction in a limited manner. Thus, the district court did not abuse its discretion in finding that the prior conviction's probative value outweighed its prejudicial effect and admitting it under Rule 609(a)(1)(B).

The district court also did not abuse its discretion in allowing the Government to ask Pettyjohn whether he had ever sold drugs. Like Pettyjohn's prior conviction for possession with intent to distribute, this question was relevant to establishing his knowledge and intent to distribute drugs. See Fed. R. Evid. 404(b)(2).

IV.

Lastly, Pettyjohn contends that the district court erred in denying his motion to dismiss the felon in possession charge, since, according to him, § 922(g)(1) is unconstitutional on its face and as applied to his case. We review a district court's denial of a motion to dismiss de novo. United States v. Cooke, 853 F.3d 464, 470 (8th Cir. 2017).

Here, Pettyjohn makes no specific arguments on the issue, and he concedes that this Court's precedent forecloses his challenge. We agree. See United States v. Jackson, 110 F.4th 1120, 1125, 1127 (8th Cir. 2024) (holding that § 922(g)(1) is constitutional and that "there is no need for felony-by-felony litigation regarding [its] constitutionality").

V.

For the foregoing reasons, we affirm the judgment of the district court.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 24-3168

United States of America

Plaintiff - Appellee

v.

Dylan Jerelle Pettyjohn

Defendant - Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:23-cr-00086-SHL-1)

JUDGMENT

Before SMITH, GRUENDER, and SHEPHERD, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

December 10, 2025

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

Adopted April 15, 2015
Effective August 1, 2015

Revision of Part V of the Eighth Circuit Plan to Implement the Criminal Justice Act of 1964.

V. Duty of Counsel as to Panel Rehearing, Rehearing En Banc, and Certiorari

Where the decision of the court of appeals is adverse to the defendant in whole or in part, the duty of counsel on appeal extends to (1) advising the defendant of the right to file a petition for panel rehearing and a petition for rehearing en banc in the court of appeals and a petition for writ of certiorari in the Supreme Court of the United States, and (2) informing the defendant of counsel's opinion as to the merit and likelihood of the success of those petitions. If the defendant requests that counsel file any of those petitions, counsel must file the petition if counsel determines that there are reasonable grounds to believe that the petition would satisfy the standards of Federal Rule of Appellate Procedure 40, Federal Rule of Appellate Procedure 35(a) or Supreme Court Rule 10, as applicable. *See Austin v. United States*, 513 U.S. 5 (1994) (per curiam); 8th Cir. R. 35A.

If counsel declines to file a petition for panel rehearing or rehearing en banc requested by the defendant based upon counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion to withdraw must be filed on or before the due date for a petition for rehearing, must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for rehearing, and must request an extension of time of 28 days within which to file pro se a petition for rehearing. The motion also must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

If counsel declines to file a petition for writ of certiorari requested by the defendant based on counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

A motion to withdraw must be accompanied by counsel's certification that a copy of the motion was furnished to the defendant and to the United States.

Where counsel is granted leave to withdraw pursuant to the procedures of *Anders v. California*, 386 U.S. 738 (1967), and *Penson v. Ohio*, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing pro se a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petion for writ of certiorari.