No. __________

In the Supreme Court of the United States

DALE GANAWAY LUCAS, JR.,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ Of Certiorari
To The United States Court of Appeals for the Eighth Circuit

APPENDIX

PARRISH KRUIDENIER, L.L.P.

Jessica Donels
Counsel of Record
2910 Grand Avenue
Des Moines, Iowa 50312
Telephone: (515) 284-5737
Facsimile: (515) 284-1704
Email: jdonels@parrishlaw.com

APPENDIX – TABLE OF CONTENTS

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA
v.
Dale Ganaway Lucas, Jr.

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:23-CR-00064-001

USM Number: 18248-045

Carly Rae Scott and Jessica Donels
Defendant's Attorney

THE DEFENDANT:

☑ pleaded guilty to count(s) Two (lesser-included) of the Superseding Indictment filed on November 7, 2023.

☐ pleaded nolo contendere to count(s) which was accepted by the court.

☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. §§ 841(a)(1),	Conspiracy to Distribute 500 Grams or More of Cocaine	05/2023	Two
841(b)(1)(B), 846, 851	Prior Drug Felony Conviction		

☐ See additional count(s) on page 2

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) One ☑ 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.

July 16, 2024
Date of Imposition of Judgment

Stephanie M. Rose
Signature of Judge

Stephanie M. Rose, Chief U.S. District Judge
Name of Judge Title of Judge

July 16, 2024
Date

DEFENDANT: Dale Ganaway Lucas, Jr.
CASE NUMBER: 3:23-CR-00064-001

IMPRISONMENT

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

180 months as to a lesser-included offense of Count Two of the Superseding Indictment filed on November 7, 2023.

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

The Court recommends placement at FCI Texarkana, Texas, because of programming offered and because of proximity to family residing in Oklahoma and Missouri, if commensurate with his security classification and needs. The Court also recommends the defendant be provided the opportunity to participate in electrical trades, computer programming, and CNC vocational 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: Dale Ganaway Lucas, Jr.
CASE NUMBER: 3:23-CR-00064-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :
Eight years as to a lesser-included offense of Count Two of the Superseding Indictment filed on November 7, 2023.

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.

DEFENDANT: Dale Ganaway Lucas, Jr.
CASE NUMBER: 3:23-CR-00064-001

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: Dale Ganaway Lucas, Jr.
CASE NUMBER: 3:23-CR-00064-001

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 submit to a gambling assessment and participate in any recommended treatment. You must abide by all supplemental conditions of treatment and contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment. You must not participate in gambling or frequent residences or establishments where gambling is ongoing.

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 must obtain prior written approval from the U.S. Probation Office before entering into any form of self-employment.

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.

DEFENDANT: Dale Ganaway Lucas, Jr.
CASE NUMBER: 3:23-CR-00064-001

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	$ 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.

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: Dale Ganaway Lucas, Jr.
CASE NUMBER: 3:23-CR-00064-001

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 $ 100.00 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:

$1,449 in U.S. currency, as outlined in the Preliminary Order of Forfeiture filed on June 26, 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.

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

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
vs.	:	Case No. 3:23-cr-00064
DALE GANAWAY LUCAS, JR.,	:	SENTENCING HEARING TRANSCRIPT
Defendant.	:	

Courtroom, First Floor
U.S. Courthouse
131 East Fourth Street
Davenport, Iowa
Tuesday, July 16, 2024
10:59 a.m.

BEFORE: THE HONORABLE STEPHANIE M. ROSE, Chief Judge.

APPEARANCES:

For the Plaintiff: BRECKLYN P. CAREY, ESQ.
United States Attorney's Office
131 East Fourth Street, Suite 310
Davenport, Iowa 52801

For the Defendant: JESSICA DONELS, ESQ.
CARLY R. SCOTT, ESQ.
Parrish Kruidenier Law Firm
2910 Grand Avenue
Des Moines, Iowa 50312

KELLI M. MULCAHY, CSR, RDR, CRR
United States Courthouse
123 East Walnut Street, Room 115
Des Moines, Iowa 50309

the accuracy of paragraph 15 based upon the Government's sentencing exhibits that I've already outlined, which I find are sufficiently reliable to support paragraph 15's probable accuracy.

Not only are those statements internally quite consistent, but the information is also corroborated in very significant ways by the large number of controlled buys that were conducted from the defendant directly and from third parties on his behalf and from the evidence that was seized from his home pursuant to a search warrant.

These are not astronomical numbers that these witnesses are trying to put on the defendant. They're really fairly modest amounts and consistent with in particular larger buys that happened through the third party.

Given those matters, I do find by a preponderance of the evidence that paragraph 15 is reliable and that a base offense level of 28 would be applicable if this were a Chapter 2 calculation.

Obviously, here we've got the career offender issue that really moots the guideline scoring of the drug quantity. As to that matter, Ms. Donels, as you've already noted, this is a fairly academic exercise, but any further record you'd like to make for that future appeals?

MS. DONELS: As far as preserving the issue for future appeals, I would refer to the brief. I do want to discuss the career offender enhancement and its effects further when we are discussing the 3553(a) factors in this case.

THE COURT: And I'll make sure you have time to do that.

All right. Then I do find by a preponderance of the evidence that Defendant qualifies as a career offender. The Eighth Circuit has already ruled with respect to this argument, and that is binding authority on the Court.

So with those findings, I then adopt the guideline calculation contained within the final presentence report. That starts at a Base Offense Level 28 under Chapter 2; however, Defendant is a career offender, which kicks us over to Chapter 4 and a Base Offense Level 37. There's a two-level reduction for acceptance of responsibility.

Is the Government moving for that third level as well?

MS. CAREY: Yes, Your Honor.

THE COURT: All right. That leaves us, then, at a Total Offense Level 34. Defendant is a criminal history category of VI. This gives us an advisory guideline range of 262 to 327 months' imprisonment. Probation's not permitted by statute. Supervised release of eight years is required. The suggested fine range here is 35,000 to 8 million dollars, and there is a $100 special assessment.

As we talk about the impact of the career offender guidelines on this defendant's sentencing range, I would point to meet all the criteria of 3553(a) that also isn't longer than it needs to be. I don't think the parties will be surprised to know that, given my drug policy disagreement in that I think the drug guidelines are just too long, I also have a similar disagreement with the career offender guidelines when they're based entirely on drug trafficking.

If the defendant had violent offenses that formed the basis of his career offender predicate offenses, I would be viewing that differently, but here, all of his predicate offenses are drug trafficking, which makes me gear towards a lower sentence than I might consider in a case where a career offender had robberies and burglaries and kidnappings and rapes and murders and things of that nature.

So here we have two very distant ranges to consider. We have the 262 to 327. And even here, if I didn't consider the enhancements we've talked about and I just looked at the 120 months that he would otherwise have but for Chapter 4, we'd be looking at 120, and we're looking at a, you know, 12-year gap between those two sentences.

As I often do in cases like that, I think somewhere in the middle is the right place to land. I believe a sentence of 180 months is appropriate, and that's what I'm going to impose. It is twice the length of his last sentence, and it is half of what -- or not quite half of what it could be here if I'd gone to the top of the career offender range. I believe that's sufficient in this case to take into account all of the various factors at work, both mitigating and aggravating.

I will recommend to the Bureau of Prisons that Defendant be placed at Texarkana, if he qualifies for that institution, and that he be allowed to participate in electrical, computer programming, and CNC machining vocational programming.

After he completes his term of imprisonment, he'll be on supervised release for eight years. In addition to all the standard conditions of supervision, Defendant will have the following special conditions: They include testing and treatment for substance abuse; a complete ban on any alcohol use of any kind and in any amount while under supervision; a mental health evaluation and follow-up treatment; a gambling assessment, just to see if we need to tackle anything there, and any recommended follow-up treatment; cognitive behavioral treatment programming; and our standard search condition.

I also think it's going to be important that the defendant have a routine job that he goes to where he has to log in and log out and where his whereabouts are accounted for, and so I am going to prohibit any self-employment without the permission of the probation office.

I find the defendant does not have the ability to pay a fine, and no fine will be imposed. There is no restitution. Defendant does have to pay the $100 special assessment.

I order forfeiture consistent with the Preliminary Order of

C E R T I F I C A T E

I, Kelli M. Mulcahy, a Certified Shorthand Reporter of the State of Iowa and Federal Official Realtime Court Reporter in and for the United States District Court for the Southern District of Iowa, do hereby certify, pursuant to Title 28, United States Code, Section 753, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated at Des Moines, Iowa, this 18th day of August, 2024.

Kelli M. Mulcahy

Kelli M. Mulcahy, CSR, RDR, CRR
Federal Official Court Reporter

United States Court of Appeals
For the Eighth Circuit

No. 24-2561

United States of America

Plaintiff - Appellee

v.

Dale Ganaway Lucas, Jr.

Defendant - Appellant

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

Submitted: October 20, 2025
Filed: January 27, 2026
[Unpublished]

Before SMITH, KELLY, and GRASZ, Circuit Judges.

PER CURIAM.

Dale Lucas, Jr. pled guilty to conspiracy to distribute cocaine in violation of 21 U.S.C. § 841(a)(1). After determining Lucas was a career offender, the district court[1] calculated his United States Sentencing Guidelines (Guidelines or U.S.S.G.) range as 262 to 327 months of imprisonment and sentenced him to 180 months.

On appeal, Lucas contends the district court erred in applying the career offender enhancement under U.S.S.G. § 4B1.1(b)(1) because he has not been convicted of two predicate offenses. He claims his 2014 conviction for possession with intent to deliver a controlled substance under section 401 of the Illinois Controlled Substances Act (720 Ill. Comp. Stat. 570/401) is not a predicate offense because Illinois defines "controlled substance" more expansively than federal law.

As Lucas acknowledges, we have held the Guidelines define the term "controlled substance offense" broadly to include state law drug offenses. *See United States v. Henderson*, 11 F.4th 713, 718 (8th Cir. 2021). In so doing, we rejected the same argument Lucas makes, as "there is no textual basis to graft a federal law limitation onto a career-offender guideline that specifically includes in its definition of controlled substance offense, 'an offense under . . . state law.'" *Id.* at 718–19 (quoting U.S.S.G. § 4B1.2(b)). Although Lucas argues *Henderson* was incorrectly decided, "we are bound by our prior panel's decision." *United States v. Gordon*, 111 F.4th 899, 901 (8th Cir. 2024). Accordingly, the district court did not err in determining Lucas was a career offender.

Lucas also argues the district court procedurally erred in calculating the drug quantity it used for his base offense level. *See United States v. Johnson*, 75 F.4th 833, 846 (8th Cir. 2023) (standard of review). The district court may base its drug quantity calculation on "imprecise evidence so long as the record reflects a basis for the court's decision" and "may consider all transactions known or reasonably foreseeable to the defendant that were made in furtherance of [a] conspiracy." *Id.* (first quoting *United States v. Yellow Horse*, 774 F.3d 493, 497 (8th Cir. 2014); and

[1]The Honorable Stephanie M. Rose, Chief Judge, United States District Court for the Southern District of Iowa.

then quoting *United States v. Sainz Navarrete*, 955 F.3d 713, 720 (8th Cir. 2020)). Based on the record, the district court did not clearly err.

The district court relied on two confidential informants to determine the drug quantity for which Lucas was responsible. The first confidential informant worked with Lucas to buy and sell cocaine, and she explained they generally acquired one-half to one kilogram of cocaine every two to three weeks. This informant stated that she and Lucas purchased a full kilogram of cocaine approximately nine or ten times. The second confidential informant stated that Lucas purchased cocaine from him for approximately six months, buying two to twelve ounces at a time. This evidence sufficiently supports the district court's finding that Lucas was responsible for the distribution of 2,350.5 grams of cocaine. *See United States v. Blair*, 93 F.4th 1080, 1086 (8th Cir. 2024) (concluding the district court did not clearly err by relying on confidential informant and cooperating witness testimony to determine drug quantity calculation).

We reject Lucas's contention that the district court's drug quantity finding improperly rests on unreliable hearsay.[2] Whether hearsay evidence is sufficiently reliable is a decision "committed to the sound discretion of the district court." *United States v. Sheridan*, 859 F.3d 579, 583 (8th Cir. 2017) (quoting *United States v. Pratt*, 553 F.3d 1165, 1170 (8th Cir. 2009)). The court may "rely on relevant hearsay or other evidence 'without regard to its admissibility under the rules of evidence applicable at trial,' so long as that evidence possesses 'sufficient indicia of reliability to support its probable accuracy.'" *Id.* (quoting U.S.S.G. § 6A1.3(a)). The reliability of "hearsay and double hearsay evidence" is based on "the consistency of the hearsay testimony, the timing and nature of the declarant's statements, and the witness's impressions of the declarant's demeanor, as well as other corroborating evidence."

[2]As the district court noted, its drug quantity determination did not affect Lucas's Guidelines range because he is a career offender. However, the district court did use the drug quantity when calculating an alternative Guidelines range that would have applied *if* Lucas were not a career offender, and it considered this alternative range when it imposed its ultimate sentence.

Id. Lucas has not given us any reason to second-guess the district court's reliance on the confidential informants' testimony, which was internally consistent and corroborated by four controlled buys that law enforcement made from Lucas during the time period in which he and the first informant sold cocaine they purchased from the second informant.

Lucas next contends the district court erred by imposing sentencing enhancements sua sponte that were not advanced by the government. Specifically, he argues the district court applied an alternative Guidelines range based on unlawful manufacturing, importing, exporting, or trafficking, *see* U.S.S.G. § 2D1.1(b)(12), and aggravating role, *see id.* § 3B1.1(c), enhancements without adequate evidence. We need not consider whether these enhancements were proper, however, because the district court made clear its ultimate sentence was not based on them. Indeed, the court explained these enhancements would have applied "if this were not a career offender case." Thus, the district court did not procedurally err by considering these sentencing enhancements sua sponte.

Last, Lucas argues his sentence is substantively unreasonable. We review the substantive reasonableness of a sentence for abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Lucas's 180-month sentence is 82 months below the bottom of the applicable Guidelines range, and nothing in the record otherwise suggests it is unreasonable. *See United States v. Barraza*, 982 F.3d 1106, 1116 (8th Cir. 2020) ("When a district court varies downward and sentences below a presumptively reasonable Guidelines range, it is nearly inconceivable that the court abused its discretion in not varying downward still further." (quoting *United States v. Canamore*, 916 F.3d 718, 721 (8th Cir. 2019))). Consequently, the district court did not abuse its discretion because the sentence imposed was not substantively unreasonable.

For these reasons, the district court's judgment is affirmed.

____

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 24-2561

United States of America

Appellee

v.

Dale Ganaway Lucas, Jr.

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:23-cr-00064-SMR-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

February 27, 2026

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler