APPENDIX

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Appendix A

Opinion of the United States Court of Appeals for the Fifth Circuit

United States Court of Appeals for the Fifth Circuit
No. 24-30154
Summary Calendar

United States of America, Plaintiff-Appellee,
versus
Gabriel Hawthorne, Defendant-Appellant.

Appeal from the United States District Court for the Western District of Louisiana, USDC No. 6:23-CR-90-1.

Before Jones, Duncan, and Douglas, Circuit Judges. Per Curiam:

Gabriel Hawthorne appeals his conviction and sentence for conspiring to distribute and to possess with intent to distribute controlled substances and possessing fentanyl with the intent to distribute it. He challenges the sufficiency of the evidence, the denial of his motion for a new trial, and the reasonableness of his 120-month, above-guidelines sentence.

We review Hawthorne's preserved sufficiency of the evidence claim de novo. Viewing the evidence in a light most favorable to the verdict, a reasonable juror could have found beyond a reasonable doubt that Hawthorne was Andrea Mitchell's source of supply and that Hawthorne conspired to distribute and to possess with intent to distribute fentanyl and possessed fentanyl with the intent to distribute it.

Next, Hawthorne contends that the district court erred by denying his motion for a new trial based on Mitchell's exculpatory post-verdict affidavit. The court rejected that contention and held that the district court did not abuse its discretion.

Finally, the court rejected Hawthorne's sentencing challenges and affirmed the judgment.

AFFIRMED.

Filed March 17, 2026. [1]

United States Court of Appeals for the Fifth Circuit _____

No. 24-30154

Summary Calendar

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United States of America, *Plaintiff—Appellee*,

versus

Gabriel Hawthorne,

Defendant—Appellant.

_____ Appeal from the United States District Court for the Western District of Louisiana USDC No. 6:23-CR-90-1

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* This opinion is not designated for publication. *See* 5th Cir. R. 47.5. United States Court of Appeals

Fifth Circuit

FILED

March 17, 2026 Lyle W. Cayce Clerk

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We review Hawthorne's preserved sufficiency of the evidence claim de novo. *See United States v. Chapman*, 851 F.3d 363, 376 (5th Cir. 2017). Viewing the evidence in a light most favorable to the verdict, a reasonable juror could have found beyond a reasonable doubt that Hawthorne was Andrea Mitchell's source of supply and that Hawthorne conspired to distribute and to possess with intent to distribute fentanyl and possessed fentanyl with the intent to distribute it. *See id.*; *United States v. Franklin*, 561 F.3d 398, 402 (5th Cir. 2009); *United States v. Daniels*, 930 F.3d 393, 403 (5th Cir. 2019).

Next, Hawthorne contends that the district court erred by denying his motion for a new trial based on Mitchell's exculpatory post-verdict affidavit. However, he has not shown that the district court abused its discretion by finding that the information contained in Mitchell's affidavit was not newly discovered evidence that was unknown to him at the time of trial. *See United States v. Wall*, 389 F.3d 457, 465, 467 (5th Cir. 2004); *United States v. Metz*,

652 F.2d 478, 480 (5th Cir. 1981). Moreover, the district court's determination that Mitchell's affidavit was not material because it presented a

credibility issue rather than a likelihood of acquittal was not clearly erroneous. *See United States v. Piper*, 912 F.3d 847, 853 (5th Cir. 2019). Accordingly, the district court did not abuse its discretion by denying the motion. *See Wall*, 389 F.3d at 465, 467.

Finally, Hawthorne's challenges to his sentence are unavailing. He has not demonstrated that the district court plainly erred in its explanation of sentence. *See Puckett v. United States*, 556 U.S. 129, 135 (2009); *United States*

v. Mondragon-Santiago, 564 F.3d 357, 361 (5th Cir. 2009). Further, Hawthorne's arguments in support of his challenge to the substantive reasonableness of the sentence do not establish that the sentence (1) did not account for a factor that should have received significant weight, (2) gave significant weight to an irrelevant or improper factor, or (3) represented a

clear error of judgment in balancing the sentencing factors. *See United States*

v. Smith, 440 F.3d 704, 707 (5th Cir. 2006); *United States v. Diehl*, 775 F.3d 714, 724 (5th Cir. 2015). He likewise does not show that the 18 U.S.C. § 3353(a) factors failed to support the extent of the variance. *See United States v. Gerezano-Rosales*, 692 F.3d 393, 400 (5th Cir. 2012).

AFFIRMED.