

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 10, 2024

Lyle W. Cayce
Clerk

No. 23-50881
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LANCE JOHN SHOWEN,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:22-CR-109-9

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Lance John Showen pleaded guilty to conspiracy to possess with intent to distribute methamphetamine. He now raises a preserved challenge to the district court's application of U.S.S.G. § 2D1.1(b)(1) in calculating his guidelines range and an unpreserved challenge to the below-guidelines \$5,000 fine imposed by the district court.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 23-50881

First, we review the district court's determination that § 2D1.1(b)(1) applies for clear error. *See United States v. King*, 773 F.3d 48, 52 (5th Cir. 2014). In light of the record and the parties' arguments on appeal, we affirm on the basis that Showen could have reasonably foreseen his co-conspirator's possession of firearms. *See United States v. Hooten*, 942 F.2d 878, 881-82 (5th Cir. 1991); *United States v. Aguilera-Zapata*, 901 F.2d 1209, 1215 (5th Cir. 1990).

Next, we review the unpreserved challenge to the substantive reasonableness of the fine for plain error. *See United States v. Brantley*, 537 F.3d 347, 351 (5th Cir. 2008). Showen's arguments regarding his future ability to pay the fine fail to demonstrate reversible plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009); *United States v. Pacheco-Alvarado*, 782 F.3d 213, 219-21 (5th Cir. 2015); *Brantley*, 537 F.3d at 349.

AFFIRMED.