

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 20, 2026

Thomas B. Plunkett, III
Clerk

No. 25-40300

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

QUANITA SHERRIES BROWN,

Defendant—Appellant,

CONSOLIDATED WITH

No. 25-40402

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CLARENCE NERO,

Defendant—Appellant.

Appeals from the United States District Court
for the Eastern District of Texas
USDC Nos. 4:22-CR-63-1, 4:22-CR-63-2

Before DUNCAN, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:*

A jury convicted Quanita Sherries Brown and Clarence Nero of conspiracy to possess with intent to distribute heroin and fentanyl. On appeal, both Defendants challenge the sufficiency of the evidence and the admission of certain expert testimony; Nero raises additional claims of trial error, and Brown challenges her sentence. Because none of their arguments establish reversible error, we affirm.

I.

In February 2022, Quanita Sherries Brown flew one-way from Houston to Phoenix. Shortly after her arrival, Brown's boyfriend, Clarence Nero, texted her the address of a small grocery store where a rental van was parked. Nero had rented and driven the van from New Orleans to Phoenix a week earlier. Brown traveled to the store and confirmed with Nero when she picked up the van.

Early the next morning, a criminal interdiction officer stopped Brown for a traffic infraction on Texas State Highway 380. Brown told the officer that her boyfriend had rented the van and called Nero for the rental agreement. Nero remained on the phone throughout the traffic stop. The officer asked Brown about her travel plans. Brown responded that she was returning to Houston from Flagstaff, Arizona, where she had dropped off her

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

25-40300
c/w No. 25-40402

grandchildren. But Brown's story contradicted records from license plate readers on Interstate 10.

This inconsistency and Brown's "body language" prompted the officer to ask for consent to search the van. Brown consented. Another officer arrived on the scene around this time. During the search, the officers found a screwdriver with tooling marks on it,¹ which they considered "highly uncommon in a rental vehicle." The officers also found receipts in Brown's purse that placed her in Houston the prior morning and in Phoenix later that afternoon. After searching the van's interior, the officers questioned Brown about her inconsistent story. Brown could not explain why the van was on Interstate 10, became "defensive" about the receipts, and grew noticeably "fearful" when asked about the screwdriver.

After questioning Brown, an officer deployed his police dog to facilitate the search. The dog alerted, indicating the presence of narcotics. The officers then noticed a panel with tooling marks. They removed the panel, exposing the back of a speaker. The officers used the screwdriver, which "fit the screws very well," to remove the speaker and discovered vacuum-sealed bags. In total, the officers seized 1979.3 grams of fentanyl and 1934.7 grams of heroin. The fentanyl alone could have produced roughly 993,350 pills, with a total street value between \$1,986,700 and \$9,933,500. The officers arrested Brown and confiscated her phone.

A computer forensic analyst with Homeland Security Investigations later extracted data from Brown's phone. The data included Brown and Nero's text history from 2019² until Brown's arrest. They had discussed

¹ Tooling marks on a screwdriver's tip indicate recent use.

² In 2019, Nero was detained after attempting to flee from a house associated with a suspected drug-trafficking organization in Phoenix.

25-40300
c/w No. 25-40402

border checkpoints, Brown's loyalty to a "company," and other details consistent with past drug trafficking. A grand jury indicted Brown and Nero for conspiring to possess with intent to distribute heroin and fentanyl under 21 U.S.C. § 846.

Brown and Nero were tried jointly. After granting the Government's contested motion to strike a potential juror for bias, the district court empaneled the jury. The jury heard from multiple Government witnesses, two of which are particularly relevant on appeal: First, the initiating interdiction officer described his roadside discussion with Brown during the traffic stop at issue. Second, Captain Jeff Davis of the Denton County Sheriff's Office provided expert testimony about fentanyl-trafficking practices. The Government rested after Davis's testimony, and the jury convicted both Brown and Nero on all counts.

The district court sentenced Brown and Nero to 188 and 264 months, respectively. Both appealed, and this court consolidated the cases.

II.

Defendants present five issues on appeal. Both Brown and Nero (A) argue that insufficient evidence supported their convictions and (B) contest the Government's introduction of Davis's expert testimony. Nero seeks relief under the Sixth Amendment's (C) Impartial Jury and (D) Confrontation Clauses. And Brown (E) asserts that the district court erred in not applying a minor role adjustment during sentencing. We address, and reject, each claim in turn.

A.

Brown and Nero maintain that the Government failed to prove that they conspired to possess heroin and fentanyl with intent to distribute the drugs. Because they preserved their sufficiency claims in the district court,

25-40300
c/w No. 25-40402

we review their challenges *de novo*. See *United States v. Alaniz*, 726 F.3d 586, 600 (5th Cir. 2013). We ask “whether, after viewing the evidence and the reasonable inferences which flow therefrom in the light most favorable to the verdict, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *United States v. Scott*, 159 F.3d 916, 920 (5th Cir. 1998). This sufficiency standard “remains the same whether the evidence is direct or circumstantial[.]” *United States v. Freeman*, 56 F.4th 1024, 1025 (5th Cir. 2023) (per curiam). This court’s review is “highly deferential to the verdict.” *United States v. Isgar*, 739 F.3d 829, 835 (5th Cir. 2014) (quoting *United States v. Moreno–Gonzalez*, 662 F.3d 369, 372 (5th Cir. 2011)). “The jury ‘retains the sole authority to weigh any conflicting evidence and to evaluate the credibility of the witnesses.’” *United States v. Grant*, 683 F.3d 639, 642 (5th Cir. 2012) (quoting *United States v. Loe*, 262 F.3d 427, 432 (5th Cir. 2001)).

A reasonable jury could find the essential elements of a drug trafficking conspiracy beyond a reasonable doubt in this case. “The essential elements of a drug conspiracy are (1) an agreement by two or more persons to violate the narcotics laws; (2) a defendant’s knowledge of the agreement; and (3) his voluntary participation in the agreement.” *United States v. Vargas-Ocampo*, 747 F.3d 299, 303 (5th Cir. 2014) (en banc). From Nero’s preparation of the van to Brown’s one-way flight, the Government detailed activities consistent with a coordinated drug trafficking conspiracy. In fact, the jury could have inferred that the charged conduct was just one instance of a larger pattern. Nero had rented more than fifty vehicles since January 2019. Brown and Nero had an extensive flight and driving history, repeatedly traveling between Phoenix, Houston, and Atlanta. And the officers found bulk quantities of fentanyl and heroin hidden in the van Brown was driving. These facts could lead a reasonable jury to infer that Brown and Nero knowingly agreed to traffic drugs.

25-40300
c/w No. 25-40402

The jury could further infer a drug trafficking conspiracy from various details of the traffic stop. Throughout the encounter with law enforcement, Brown spoke with Nero on the phone. She also repeatedly lied to the officers about her travel route. License plate readers along Interstate 10 and her personal receipts contradicted Brown's alleged whereabouts before the interdiction. Flight records also suggested that Brown was driving to New Orleans, not Houston. The obvious shift in Brown's demeanor when the officers confronted her about the screwdriver found in the van likewise underscores her knowing involvement in the conspiracy.

Brown and Nero's text history also supports the inference of a drug-trafficking partnership. Brown described her association with Nero as a "company." Nero's contact information was saved as "CEO" in her phone. On a 2019 trip, Brown texted Nero about a Customs and Border Protection (CBP) checkpoint, including images of X-rays and other equipment. She also sent Nero a website about a new CBP X-ray machine. Following a text with a news article about a drug seizure, she texted Nero, "[t]hat was me today!! #2ndwarning!!" She also texted that she "threw up in the building." More specific to this case, Brown texted Nero nine days before the traffic stop at issue that she would "[r]oll with the decision u make." Three days later, she messaged: "Nope, don't want you to make another blank trip let's do what we know will work." They exchanged messages about pills the day before Brown left Houston to pick up the rented van. At one point during the trip, Brown texted Nero: "[P]lease think about the risk I also accepted because it was u, and I'm talking about where my suitcase with the big things is at. So don't ever think I did anything to hurt the company when I was an employee"

Given the sizable quantity of recovered drugs, the events leading up to and during the traffic stop, and Brown and Nero's travel and text history,

25-40300
c/w No. 25-40402

a reasonable jury could easily infer that Brown and Nero agreed to possess heroin and fentanyl with intent to distribute the drugs.

Brown and Nero's counterarguments are unpersuasive. They first contend that the Government failed to present evidence as to who supplied, installed, packaged, and received the drugs. But such evidence is not required to prove a drug trafficking conspiracy. As detailed above, the Government presented ample evidence permitting the jury to find the three elements of the crime beyond a reasonable doubt as to Brown and Nero. The Government's decision not to adduce fuller context about the conspiracy's reach does not render the jury's findings as to these participants unreasonable.

Brown and Nero also take issue with the evidence that the Government actually presented. They posit that their behavior is open to interpretation, i.e., that their texts and interactions were consistent with a romantic relationship, not a criminal partnership. Notwithstanding that those two things can be true at the same time, this argument merely invites us to second guess the jury's interpretation of the evidence, something we will not do. *See Grant*, 683 F.3d at 642–44. The same goes for Brown and Nero's emphasis on the effort required for the officers to find the drugs. True enough, Nero and Brown *could* have driven the rental van (and many other rental vehicles) to various locations without knowledge of hidden drugs. But the jury heard extensive evidence of the duo's travel and texting history, Nero's supervisory role, and Brown's lies to the officers and her demeanor during the fateful traffic stop. It was the jury's prerogative to choose between competing views of the evidence. That the drugs were hidden does not make the jury's finding of Brown's and Nero's conspiratorial knowledge unreasonable.

25-40300
c/w No. 25-40402

The evidence adduced at trial amply supports Brown's and Nero's drug conspiracy convictions.

B.

Brown and Nero next challenge Davis's expert testimony regarding distribution of fentanyl, contending that it was neither properly disclosed nor relevant. They did not object to his testimony in the district court. We thus review only for plain error. *United States v. Vargas*, 580 F.3d 274, 278 (5th Cir. 2009). We discern none.

Federal Rule of Criminal Procedure 16(a)(1)(G)(i) provides that “[a]t the defendant’s request, the [G]overnment must disclose to the defendant, in writing, the information required by [Rule 16(a)(1)(G)](iii) for any testimony that the [G]overnment intends to use at trial under Federal Rule of Evidence 702, 703, or 705 during its case-in-chief.” Neither Defendant made any such request, something they do not contest on appeal. Yet the Government provided notice before trial that it planned to call experts about the distribution of fentanyl and then gave notice that it planned to call Davis specifically. So, though not required, the Government nonetheless notified Brown and Nero of its intention to elicit Davis’s drug-distribution testimony.³

Defendants’ contention that Davis’s testimony was irrelevant fares no better. Davis testified, *inter alia*, that fentanyl often is consumed in pill form

³ To the extent the Government’s voluntary disclosure, which tracked Rule 16’s pre-2022 amendment language, did not fully comply with the current requirements of Rule 16(a)(1)(G)(iii), no error affected Defendants’ “substantial rights,” FED. R. CRIM. P. 52(b). As an example, neither Brown nor Nero articulate how any omitted information “would have provided additional grounds for cross examination.” See *United States v. Cuellar*, 478 F.3d 282, 293–94 (5th Cir. 2007) (en banc), *rev’d on other grounds sub nom. Regalado Cuellar v. United States*, 553 U.S. 550 (2008).

25-40300
c/w No. 25-40402

and explained that distributors need pill presses to convert it. Two days before the drug seizure, Brown and Nero texted about pills and pill suppliers. Thus, Davis's testimony was relevant to showing their knowledge that fentanyl must be converted into pill form for distribution. His testimony about the volume of fentanyl recovered and its monetary value was also relevant: Volume showed that the fentanyl was intended for distribution; its valuation helped the jury infer that Defendants had knowledge of the drugs in the van. The value of the drugs also helped explain, as the Government puts it, Defendants' joint "efforts to make the enterprise successful."

Admission of Davis's testimony was not erroneous, plainly or otherwise.

C.

Nero separately asserts that the district court erred by granting the Government's motion to strike Juror 31 for cause, violating his Sixth Amendment right to an impartial jury. "A district court has 'broad discretion' in assessing a potential juror's impartiality during *voir dire*, a decision we will not overturn 'absent a clear abuse of discretion.'" *United States v. Dejean*, 988 F.3d 813, 816 (5th Cir. 2021) (quoting *United States v. Hinojosa*, 958 F.2d 624, 631 (5th Cir. 1992)).

During *voir dire*, the Government asked if any panel member might be biased. After Juror 14 said he would be biased against the Government, Juror 31 agreed that he "would also give more bias towards the Defense." On further questioning, Juror 31 stated that "I do have a bit of reservations, but I do believe I would be able to follow the instruction." The Government moved to strike Juror 31 for cause. Brown and Nero objected. The court granted the strike: "[D]espite [Juror 31] saying he would follow the laws and follow the rules of the Court, I still think he established that he has a bias, so I'm going to strike 31 for cause."

25-40300
c/w No. 25-40402

A potential juror may be struck for cause if “the prospective juror’s views would prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath.” *United States v. Wharton*, 320 F.3d 526, 535 (5th Cir. 2003) (quoting *Soria v. Johnson*, 207 F.3d 232, 242 (5th Cir. 2000)). The district court’s determination “is not easily subject to appellate review.” *Mu’Min v. Virginia*, 500 U.S. 415, 424 (1991) (quoting *Rosales-Lopez v. United States*, 451 U.S. 182, 188 (1981)). That is because the district court “must reach conclusions as to impartiality and credibility by relying on [its] own evaluations of demeanor evidence and of responses to questions.” *Id.* (quoting *Rosales-Lopez*, 45 U.S. at 188).

Here, we discern no clear abuse of discretion. Juror 31 plainly declared that he had “bias” in favor of Defendants. Nero latches on to Juror 31’s statement that he “believe[d]” he could follow the court’s jury instructions. But Nero’s parsing of Juror 31’s voir dire statements is precisely the kind of re-litigation via a cold trial transcript that an appellate court is poorly suited to evaluate. The district court observed Juror 31’s demeanor, body language, tone—and his self-professed “bias.” The court did not abuse its discretion in granting the Government’s for-cause strike based on those observations.

D.

Nero also challenges the introduction of Brown’s roadside statements about the rented van, her supposed travels, and the screwdriver found in the vehicle. These statements, Nero contends, implicated him and thus violated his rights under the Sixth Amendment’s Confrontation Clause because he could not cross-examine Brown, who chose not to testify. We review for plain error because Nero failed to object to the admission of this evidence at trial. *United States v. Acosta*, 475 F.3d 677, 680 (5th Cir. 2007).

“The Confrontation Clause bars the admission of ‘testimonial statements of a witness who did not appear at trial unless he was unavailable

25-40300
c/w No. 25-40402

to testify, and the defendant had had a prior opportunity for cross-examination.’” *United States v. King*, 93 F.4th 845, 851 (5th Cir.) (quoting *Crawford v. Washington*, 541 U.S. 36, 53–54 (2004)), *cert. denied sub nom. Diggs v. United States*, 145 S. Ct. 213 (2024). “A statement is ‘testimonial’ if its ‘primary purpose . . . is to establish or prove past events potentially relevant to later criminal prosecution.’” *Id.* (quoting *United States v. Duron-Caldera*, 737 F.3d 988, 992–93 (5th Cir. 2013)). But “[s]tatements made by a co-conspirator during the course and in furtherance of a conspiracy are by their nature generally nontestimonial and thus are routinely admitted against an accused despite the absence of an opportunity for cross-examination.” *United States v. Holmes*, 406 F.3d 337, 348 (5th Cir. 2005); *accord United States v. Jackson*, 636 F.3d 687, 694 (5th Cir. 2011); *see also King*, 93 F.4th at 851; *United States v. Gurrola*, 898 F.3d 524, 535 n.17 (5th Cir. 2018) (“[I]t is well-settled within this Circuit that co-conspirator statements are non-testimonial.”).

Brown’s roadside statements occurred during the course of and in furtherance of Defendants’ drug conspiracy. The officers questioned Brown before deploying their canine and locating the drugs. By providing proof of the rental, recounting innocent reasons for her purported travel, and explaining the presence of the screwdriver, Brown was attempting to evade detection and continue her journey transporting drugs—i.e., to further the conspiracy’s ultimate objectives. Brown’s statements therefore served primarily to deceive and obfuscate, not to assist. And as a co-conspirator, her statements were non-testimonial and thus do not implicate the Confrontation Clause. So the district court did not plainly err in admitting them.

E.

Finally, Brown contends that the district court failed to apply a two-level reduction for her purportedly minor role under U.S.S.G.

25-40300
c/w No. 25-40402

§ 3B1.2(b). Brown did not object to her sentence in this regard in the district court, such that plain error review again obtains. *United States v. Martinez-Larraga*, 517 F.3d 258, 272 (5th Cir. 2008). The question is whether the district court erred in failing *sua sponte* to apply a minor-participant adjustment. It did not.

In assessing whether to apply the minor-participant adjustment, a district court considers “the degree to which the defendant understood the scope of the criminal activity, the defendant’s participation in planning, the defendant’s exercise of decision-making authority, the nature and extent of the defendant’s participation, and the degree the defendant stood to benefit.” *United States v. Martinez*, 921 F.3d 452, 483 (5th Cir. 2019) (citation modified). “[A] defendant may be a courier without being substantially less culpable than the average participant.” *United States v. Gallegos*, 868 F.2d 711, 713 (5th Cir. 1989).

Here, the evidence supports that Brown played a substantial role in the drug-trafficking enterprise. She was caught transporting millions of dollars’ worth of fentanyl and heroin. She texted Nero about similar trips and repeatedly traveled across the country making other runs—trips having no rational purpose otherwise. She also texted Nero about various decisions and planning. Given Brown’s intricate, extended involvement, the district court did not err in declining to find that she played only a minor role.

III.

To recap: Sufficient evidence—including travel and text history, details elicited during Brown’s traffic stop, and the quantity of drugs recovered—supported Brown’s and Nero’s drug-conspiracy convictions. More specifically, the Government voluntarily, and properly, disclosed its intent to elicit Davis’s expert drug-distribution testimony, and that testimony was relevant to the issues presented at trial. The district court properly

25-40300
c/w No. 25-40402

struck Juror 31 for his self-proclaimed bias toward Defendants. And the introduction of Brown's roadside statements, aimed at deceiving the police and furthering the conspiracy, did not implicate Nero's rights under the Confrontation Clause and were properly admitted as evidence.

Finally, the district court did not err in determining that Brown played a substantial, rather than a minor, role in the drug-trafficking conspiracy. Thus, the court did not plainly err in declining to apply U.S.S.G. § 3B1.2(b) to reduce her sentence.

AFFIRMED.