

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2026

Thomas B. Plunkett, III
Clerk

No. 26-30072
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MARLON D. SYLVESTER,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 6:25-CR-100-1

Before SMITH, SOUTHWICK, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Marlon D. Sylvester appeals the sentence imposed following his guilty plea conviction for conspiracy to distribute and to possess with intent to distribute cocaine. He argues that the district court plainly erred in applying the career offender enhancement of U.S.S.G. § 4B1.1 because it failed to conduct the proper modified categorical analysis and instead relied solely on

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

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the presentence report's (PSR) characterization of his prior Louisiana convictions as "controlled substance offenses." *See* § 4B1.1(a).

Here, it is not clear or obvious that that the district court relied solely on the PSR to categorize Sylvester's prior convictions as "controlled substance offenses," given that Sylvester introduced state-court records concerning his prior convictions at sentencing and, in any event, the district court had the benefit of Sylvester's own characterization of his prior convictions as attempted possession with intent to distribute cocaine. *See United States v. Jenkins*, 487 F.3d 279, 281 (5th Cir. 2007). Moreover, even if he could show clear or obvious error, Sylvester has not shown that the error affected his substantial rights because he does not argue that the career offender enhancement was ultimately wrong. *See United States v. Ochoa-Cruz*, 442 F.3d 865, 867 (5th Cir. 2006).

Accordingly, Sylvester fails to show reversible plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). The judgment is AFFIRMED.