

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 25, 2026

Lyle W. Cayce
Clerk

No. 26-60031
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JABREON DESHON MOSLEY,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:24-CR-37-1

Before STEWART, RICHMAN, and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Jabreon Deshon Mosley appeals from his jury trial conviction and sentence for possession with intent to distribute 500 grams or more of methamphetamine, possession with intent to distribute five kilograms or more of cocaine, and possession with intent to distribute 400 grams or more of fentanyl. For the first time on appeal, Mosley argues that his trial counsel provided ineffective assistance by admitting that Mosley had possessed

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

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methamphetamine. The record is not sufficiently developed to allow us to make a fair evaluation of this ineffective-assistance-of-counsel claim; we therefore decline to consider the claim without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

Mosley argues that the district court erred by applying the two-level adjustment under U.S.S.G. § 2D1.1(b)(1) for possessing a dangerous weapon in relation to his offense because the Government failed to provide any evidence that the firearms found in his residence were loaded. We review the district court's decision to apply this adjustment for clear error. *See United States v. Jacquinot*, 258 F.3d 423, 430 (5th Cir. 2001). As Mosley concedes on appeal, we have held that it is not necessary to show that the firearms were loaded because “the mere presence of a gun, loaded or not, can escalate the danger” in these types of circumstances. *Id.* at 431. Because the record shows that the Government met its burden regarding this adjustment, there was no clear error here.

The district court applied a four-level adjustment because Mosley “knowingly misrepresented or knowingly marketed as another substance a mixture or substance containing fentanyl.” U.S.S.G. § 2D1.1(b)(13)(A). On appeal, Mosley argues that he was not involved in the manner in which the pills he created in his pill press machines were marketed or represented. There was significant evidence in the presentence report and the record to support the district court's application of this adjustment to Mosley, who did not present rebuttal evidence or demonstrate that those findings were unreliable. *See United States v. Trujillo*, 502 F.3d 353, 357 (5th Cir. 2007). Accordingly, Mosley has not shown clear error as to this adjustment. *See id.*

AFFIRMED.