NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 2, 2024
Decided May 6, 2024

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 22-2426

UNITED STATES OF AMERICA, *Plaintiff-Appellee,*	Appeal from the United States District Court for the Southern District of Illinois.
v.	No. 4:19-CR-40081-JPG-1
DONALD V. SNOWDEN, *Defendant-Appellant*.	J. Phil Gilbert, *Judge*.

O R D E R

Donald Snowden appeals his convictions and sentence for distributing and conspiring to distribute methamphetamine. His appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief explains the nature of the case and addresses the issues that an appeal of this kind would be expected to involve. Because the analysis appears thorough, we limit our review to the subjects that counsel raises, *United States v. Bey*,

748 F.3d 774, 776 (7th Cir. 2014), as well as the issues Snowden raises in response to counsel's motion, *see* CIR. R. 51(b).

In August 2019, federal and local law enforcement officers had Dawnell Blackmon, an informant, buy meth from Snowden and his co-conspirator, Kevin McBride. Officers arrested and interrogated Snowden, who admitted to selling meth. After obtaining a warrant, the police searched his apartment, finding plastic baggies and scales. Officers released Snowden, hoping he would become an informant. When he did not, he was re-arrested and charged with distributing and conspiring to distribute over 50 grams of meth. *See* 21 U.S.C. §§ 841(a)(1), 846. Snowden represented himself during some pretrial proceedings and at trial and sentencing. The district judge appointed standby counsel and denied Snowden's motions to suppress the evidence from his apartment and his incriminating statements. A jury convicted Snowden, and he was sentenced to 360 months in prison, 5 years' supervised release, and a $300 fine.

First, counsel correctly concludes that Snowden could not plausibly challenge the denial of his motion to suppress the evidence from his apartment. The district judge correctly ruled that probable cause supported the warrant because the officers' affidavit alleged facts creating a fair probability of finding evidence at the apartment. *See United States v. Haynes*, 882 F.3d 662, 665 (7th Cir. 2018). The affidavit recounted that Snowden arranged a drug deal at the apartment: He told Blackmon to go there; officers saw Snowden leave the apartment and meet Blackmon at the latter's car; McBride met Snowden at the car and gave Blackmon a fast-food french fry container; and officers later recovered the container and found meth inside it. Snowden argues that the officers had no evidence that the meth came from the apartment because they did not see McBride leave it. But probable cause "does not require direct evidence linking a crime to a particular place," and judges may reasonably infer that evidence of drug dealing likely will be found where the dealer lives. *United States v. Zamudio*, 909 F.3d 172, 175–76 (7th Cir. 2018).

Next, counsel is correct that it would be frivolous to challenge the denial of Snowden's motion to suppress his incriminating statements. At a hearing, the district judge watched a video of the interrogation and heard testimony from the officers. Snowden declined to testify. The judge then correctly denied the motion because Snowden received the warnings required by *Miranda v. Arizona*, 384 U.S. 436 (1966), knowingly and voluntarily waived his *Miranda* rights, and volunteered the incriminating statements. As the officers testified, and the video shows, the officers began by reading the *Miranda* rights; they did not yell at, threaten, or beat Snowden;

and he was calm, alert, and coherent throughout the interrogation. Without any testimony from Snowden to the contrary, no evidence in the record suggests that his statements were involuntary.

Snowden argues that the judge should have suppressed his statements because officers ignored his requests for an attorney. But the officers testified, and the video confirms, that Snowden did not unambiguously ask for an attorney, as is required to invoke the right to counsel. *See Berghuis v. Thompkins*, 560 U.S. 370, 381 (2010). To be sure, Snowden complained to the interrogating officers that before questioning began a different officer had not let him call an attorney. But when officers immediately asked if Snowden wanted to end the interrogation to call an attorney, he declined.

Counsel is also correct that Snowden could not plausibly challenge the sufficiency of the evidence against him. At trial, Blackmon testified that he texted Snowden asking to buy two ounces (about 55 grams) of meth, and Snowden told him to go to the apartment. When Blackmon met Snowden there, he gave Snowden cash, received the french fry container from McBride with Snowden present, and confirmed with Snowden that it held two ounces of meth. The government introduced other evidence corroborating Blackmon's testimony, including the text exchange between Blackmon and Snowden arranging the sale, and photos and videos of that sale showing Snowden's face. Officers also testified that they searched Blackmon and his car before the purchase, found nothing, observed the purchase, and then found meth inside the french fry container in Blackmon's car. A federal Drug Enforcement Administration (DEA) chemist testified that she tested the substance from the french fry container and found it was about 55 grams of pure meth. The government also presented the chemist's report of that test, the meth, and the scales and baggies from Snowden's apartment. Finally, the government introduced recordings of Snowden's incriminating statements, including that he bought and resold quarter- and half-pounds (about 113 and 227 grams, respectively) of meth "all day."

That evidence was sufficient because, viewing it in the light most favorable to the government, rational jurors could have found the essential elements of the crimes charged beyond a reasonable doubt. *See United States v. Tinsley*, 62 F.4th 376, 386 (7th Cir. 2023). Regarding the distribution charge, the government did not need to show that Snowden personally delivered the drugs—it was enough that he helped complete the sale by arranging it, taking the cash from Blackmon, and supervising the handoff. *See United States v. Cejas*, 761 F.3d 717, 722, 728–29 (7th Cir. 2014) (rejecting sufficiency challenge to distribution conviction where defendant drove co-defendant to and

escorted him during drug deal). As for the conspiracy charge, reasonable jurors could infer that Snowden and McBride agreed to sell over 50 grams of meth. Blackmon asked Snowden to buy about 55 grams of meth, went to an address Snowden provided, gave him cash, and then McBride arrived and gave Blackmon that amount of meth. *See United States v. Bailey*, 510 F.3d 726, 738–39 (7th Cir. 2007) (rejecting sufficiency challenge to conspiracy conviction where defendant connected buyers with co-defendants, who completed sales).

Counsel also correctly concludes that Snowden could not plausibly challenge the exclusion of evidence he offered to impeach a testifying officer, Jeremiah Henning. On cross-examination, Henning testified that he punched Snowden during the second arrest because Snowden was resisting. Snowden tried to introduce a video of the arrest to contradict Henning, but the judge excluded that evidence as irrelevant. Snowden says that he offered it to show that Henning was biased against him, and, in his view, evidence of bias is always admissible. But evidence of bias is subject to the Federal Rules of Evidence and a judge's discretion regarding how and when bias may be proved. *Marcus & Millichap Inv. Servs. of Chi., Inc. v. Sekulovski*, 639 F.3d 301, 307 (7th Cir. 2011). And the judge did not abuse his discretion here. He reasonably concluded that the video evidence of the arrest offered to contradict Henning was inadmissible because it was irrelevant to whether Snowden committed the crimes charged. *See* FED. R. EVID. 401, 402.

Snowden argues that the judge improperly admitted the meth at trial because the government did not show that it was the same meth from the controlled buy. But that argument is frivolous. The DEA tested the substance and issued the chemist's report on September 3, 2019, seven days before Snowden was charged. Snowden says that state authorities had not yet tested the substance by that time. But that is irrelevant to his federal charges. Moreover, the government established a chain of custody by showing that the meth was in substantially the same condition as it was during the controlled buy. *See United States v. Vitrano*, 747 F.3d 922, 925 (7th Cir. 2014). Henning testified that he recovered the meth from Blackmon's car, put it in an evidence bag that he sealed, and sent the bag to the DEA's laboratory for testing. The DEA chemist testified that she received that same bag and crushed some of the meth for testing. Henning further testified that, other than the crushed portion, the meth was in the same condition at trial as it was when he originally found it. Nothing in the record casts doubt on that testimony, and any gaps in the chain of custody would affect the weight of the evidence, not its admissibility. *Id.*

Next, counsel is correct that Snowden cannot plausibly challenge his sentence on procedural grounds. The judge began with the Sentencing Guidelines, considered the factors of 18 U.S.C. § 3553(a), and explained the sentence. *See Gall v. United States*, 552 U.S. 38, 49–50 (2007). And the presentence investigation report (PSR), which the judge adopted, correctly calculated the guidelines range. Snowden was a career offender under the Guidelines because he had at least two prior convictions for drug or violent felonies, he was at least 18 years old, and his current crimes were drug felonies. *See* U.S.S.G. § 4B1.1(a). He faced a statutory maximum sentence of life in prison, 21 U.S.C. § 841(b)(1)(A), so his offense level was 37, U.S.S.G. § 4B1.1(b), and his criminal-history category was VI regardless of his prior convictions, *id.*, yielding a guidelines imprisonment range of 360 months to life, *id.* ch. 5, pt. A (Sentencing Table). As for supervised release, the statutory minimum of five years, 21 U.S.C. § 841(b)(1)(A), replaced the policy-statement range of two to five years, U.S.S.G. § 5D1.2(a)(1), (c). And the maximum fine was $10,000,000 for each offense, 21 U.S.C. § 841(b)(1)(A), with a guidelines range of $40,000 to $20,000,000 for both offenses, U.S.S.G. § 5E1.2(c)(3), (4).

Finally, counsel correctly concludes that a challenge to the substantive reasonableness of Snowden's sentence would be frivolous. We presume the sentence is reasonable because the terms of imprisonment (360 months) and supervised release (5 years) are within, and the fine ($300) is below, the guidelines range. *See United States v. De La Torre*, 940 F.3d 938, 953 (7th Cir. 2019). And nothing in the record rebuts that presumption. The judge justified the sentence under the § 3553(a) factors, emphasizing Snowden's background and characteristics (he was addicted to gambling but not drugs, was intelligent but had been unable to hold down a job, was in good health, and had family support) and the need for specific deterrence (he had continued to deal drugs despite several prior sentences).

We therefore GRANT counsel's motion to withdraw and DISMISS the appeal.