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14 DENNIS JACOBS, Chief Judge:
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16 Defendant-Appellant William Bullock, Jr. appeals from a
17 judgment of conviction entered in the United States District
18 Court for the Northern District of New York (McAvoy, J.) on
19 July 13, 2007. Bullock argues that: (1) his conviction
20 (and sentence) under the Armed Career Criminal Act ("ACCA"),
21 18 U.S.C. § 924(e), must be set aside because his civil
22 rights had been restored; (2) his motion for a judgment of
23 acquittal or new trial should have been granted because
24 there was insufficient evidence to establish his
25 constructive possession of ammunition found in a shared
26 residence; (3) the jury venire was not representative of a
27 cross-section of the community; and (4) his sentence is
28 disproportionate in violation of the Eighth Amendment. We
29 affirm.
30

1 **BACKGROUND**

2 In October 2005, a confidential informant working for
3 the Albany County Sheriff's Department made two small
4 purchases of crack cocaine from Bullock. Based on these
5 transactions, the Sheriff's Department obtained a search
6 warrant for the residence that Bullock shared with his
7 fiancée.

8 During a search of the residence executed on October
9 12, 2005, law enforcement officials opened a dresser drawer
10 in the bedroom shared by Bullock and his fiancée and found a
11 small quantity of crack cocaine, some correspondence
12 addressed to Bullock, eight rounds of ammunition, zip-lock
13 baggies of a kind used to package cocaine, a speed loader
14 used to feed ammunition into a revolver, and \$1,543 cash.
15 Thirty dollars of the cash was identified as pre-recorded
16 buy money paid to Bullock during a transaction with the
17 confidential informant. Law enforcement officials also
18 seized a rifle, two shotguns, and assorted ammunition from a
19 duffel bag in Bullock's garage.

20 Bullock was charged with two ACCA counts, one for
21 possessing ammunition and the other for possessing firearms
22 after having been convicted of at least three violent felony

1 offenses in violation of 18 U.S.C. §§ 922(g)(1) and 924(e).
2 He was convicted on the ACCA count charging possession of
3 ammunition but acquitted on the ACCA count charging
4 possession of firearms. He was also convicted on two counts
5 of possessing with intent to distribute and distributing
6 cocaine base and one count of possessing with intent to
7 distribute cocaine base in violation of 21 U.S.C. §
8 841(a)(1). Bullock was sentenced principally to 188 months'
9 imprisonment on the ACCA count, eight months above the
10 mandatory minimum sentence, and to twelve months and a day
11 on each of the other counts to run concurrently with the
12 sentence on the ACCA count.

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DISCUSSION

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I

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Bullock argues that the imposition of a fifteen-year mandatory minimum sentence was error because the ACCA does not count convictions that have "been expunged, or set aside or for which a person has been pardoned or has had civil rights restored . . . unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive

1 firearms." 18 U.S.C. § 921(a)(20).

2 Bullock contends that his civil rights had been
3 restored at the time of the present offense because he "had
4 been off parole for 11 years," he "was entitled to vote,"
5 and New York State law did not restrict his right to possess
6 ammunition.

7 The restoration of civil rights involves three
8 components: (1) the right to vote; (2) the right to serve on
9 a jury; and (3) the right hold elective office. See McGrath
10 v. United States, 60 F.3d 1005, 1007 (2d Cir. 1995); see
11 also Logan v. United States, 128 S. Ct. 475, 480 (2007)
12 ("While § 921(a)(20) does not define the term 'civil
13 rights,' courts have held, and petitioner agrees, that the
14 civil rights relevant under the above-quoted provision are
15 the rights to vote, hold office, and serve on a jury.").
16 Bullock's rights to vote and hold office were arguably
17 restored by operation of law. See N.Y. Election Law § 5-
18 106; N.Y. Civil Rights Law § 79. However, his right to
19 serve on a jury was not; he was not pardoned; and none of
20 his prior convictions were expunged. See N.Y. Judiciary Law
21 § 510(3) ("In order to qualify as a juror a person must not
22 . . . [n]ot have been convicted of a felony.").

1 Accordingly, Bullock cannot establish that his prior
2 convictions are not counted as "crime[s] punishable by
3 imprisonment for a term exceeding one year" as defined in 18
4 U.S.C. § 921(a)(20).

5 Bullock contends that he should not be penalized under
6 federal law for conduct (possession of ammunition) that he
7 was free to do under state law. But this is a mere irony.
8 As the Seventh Circuit Court of Appeals has observed on
9 similar facts, "a federal prosecution for felon in
10 possession of ammunition . . . is in no manner dependent on
11 whether the state in which the crime is committed has
12 enacted a parallel statute criminalizing the same conduct."
13 United States v. Wilson, 437 F.3d 616, 619 (7th Cir. 2006).
14 Obviously, federal law may bar conduct that a state allows.
15 The role of the state "in the federal statutory scheme . . .
16 is limited to the determination of whether the defendant is
17 a convicted felon. Once the felony conviction is
18 established, federal law prohibits the possession of either
19 firearms or ammunition." Id. at 619-20.

20 Bullock also asserts that because his prior convictions
21 were for crimes committed in the 1970's, imposition of a
22 fifteen-year mandatory minimum sentence in this case does

1 not serve the congressional purpose of the ACCA to punish
2 dangerous recidivists. Congress's intent, however, is
3 irrelevant because the statutory wording at issue is
4 unambiguous.

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II

7 Bullock challenges the denial of his motion for a
8 judgment of acquittal under Federal Rule of Criminal
9 Procedure 29 or a new trial under Federal Rule of Criminal
10 Procedure 33.

11 We "review de novo a district court's denial of a Rule
12 29 motion, applying the same standard [for] sufficiency [of
13 the evidence] as the district court." United States v.
14 Florez, 447 F.3d 145, 154 (2d Cir. 2006). That standard
15 places a heavy burden on the defendant, whose conviction
16 must be affirmed if "'any rational trier of fact could have
17 found the essential elements of the crime beyond a
18 reasonable doubt.'" United States v. MacPherson, 424 F.3d
19 183, 187 (2d Cir. 2005) (quoting Jackson v. Virginia, 443
20 U.S. 307, 319 (1979)). As to a new trial, Rule 33 allows a
21 district court, upon motion by the defendant, to "vacate any
22 judgment and grant a new trial if the interest of justice so

1 requires." Fed. R. Crim. P. 33(a). But "[w]e will not
2 disturb the district court's findings of fact [on a Rule 33
3 motion] unless [they are] clearly erroneous, and we will not
4 overturn the district court's decision except for an abuse
5 of discretion." United States v. Locascio, 6 F.3d 924, 949
6 (2d Cir. 1993).

7 Bullock argues that there was insufficient evidence to
8 establish his constructive possession of the ammunition
9 found in the bedroom dresser drawer and that the government
10 proved no more than that Bullock and his fiancée shared the
11 bedroom and that Bullock had access to the dresser.

12 Bullock understates the quantum of evidence, which
13 included: (1) that correspondence addressed to Bullock was
14 found in the drawer with the ammunition; (2) that the
15 ammunition was discovered in a drawer with men's underwear
16 in a dresser with only men's clothing; and (3) that \$1,543
17 cash was found in the drawer, including \$30 of pre-recorded
18 buy money given to Bullock a few days earlier. Given this
19 evidence, a "rational trier of fact could have found the
20 essential elements of the crime beyond a reasonable doubt."
21 United States v. Hardwick, 523 F.3d 94, 100 (2d Cir. 2008).
22 For the same reason, the district court did not abuse its

1 discretion in failing to grant Bullock's Rule 33 motion.

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3 **III**

4 Bullock asserts that the jury venire in his case did
5 not represent a fair cross-section of the community, in
6 violation of the Sixth Amendment. Bullock objected at trial
7 that none of the 100 jurors on the venire were African-
8 American or members of "any racial minority." On appeal,
9 Bullock reasserts this argument and presents demographic
10 data for two cities (Albany and Binghamton) and one county
11 (Broome County) in the Northern District of New York.

12 To prevail on his cross-section claim, Bullock must
13 show

14 (1) that the group alleged to be excluded
15 is a 'distinctive' group in the community;
16 (2) that the representation of this group
17 in venires from which juries are selected
18 is not fair and reasonable in relation to
19 the number of such persons in the
20 community; and (3) that this
21 underrepresentation is due to systematic
22 exclusion of the group in the
23 jury-selection process.

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25 Duren v. Missouri, 439 U.S. 357, 364 (1979).

26 Bullock loses because he has not established any
27 "systematic exclusion." Id.; accord United States v.
28 Joyner, 201 F.3d 61, 75 (2d Cir. 2000) (denying Sixth

1 Amendment cross-section claim because defendant "made
2 absolutely no showing that African Americans were
3 systematically excluded"). To the contrary, Judge McAvoy
4 explained at trial that in constructing the jury pool, the
5 court drew potential jurors from the rolls of voters and
6 drivers. The motor vehicle roll was included specifically
7 "to make sure that [the] jury pool [wa]s balanced." That
8 the district court failed in its attempt to achieve such
9 balance does not detract from the court's demonstrably race-
10 neutral approach to juror selection.

11 12 IV

13 Finally, we reject Bullock's argument that a sentence
14 of fifteen years for possession of eight rounds of
15 ammunition is so disproportionate as to constitute cruel and
16 unusual punishment under the Eighth Amendment. "[T]he
17 Eighth Amendment does not require strict proportionality
18 between crime and sentence, but rather forbids only extreme
19 sentences that are grossly disproportionate to the crime."
20 Harmelin v. Michigan, 501 U.S. 957, 960 (Kennedy, J.,
21 plurality opinion); see also United States v. Yousef, 327
22 F.3d 56, 163 (2d Cir. 2003) ("The Eighth Amendment forbids

1 only extreme sentences that are grossly disproportionate to
2 the crime, and, with the exception of capital punishment
3 cases, successful Eighth Amendment challenges to the
4 proportionality of a sentence have been exceedingly rare."
5 (internal quotation marks and citations omitted)).

6 Bullock has one prior conviction for robbery in the
7 first degree with intent to cause serious injury and two
8 convictions for robbery in the first degree with the use of
9 a dangerous weapon. In light of this criminal history, the
10 sentence for possession of ammunition cannot be construed as
11 "grossly disproportionate." This Court has approved
12 sentences under the ACCA for offenses similar to Bullock's.
13 See, e.g., United States v. Gamble, 388 F.3d 74, 75-77 (2d
14 Cir. 2004) (per curiam) (affirming sentence of 261 months
15 for defendant arrested for possession of a small quantity of
16 crack cocaine and possession of ammunition clip containing
17 six rounds).

18 **CONCLUSION**

19 For the foregoing reasons, the judgment of the district
20 court is affirmed.