

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-4848**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAJON SALEEM GAMBLE,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Florence.  
R. Bryan Harwell, Chief District Judge. (4:17-cr-00884-RBH-1)

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Submitted: June 14, 2022

Decided: July 6, 2022

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Before GREGORY, Chief Judge, NIEMEYER, Circuit Judge, and TRAXLER, Senior  
Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**ON BRIEF:** James T. McBratney, Jr., MCBRATNEY LAW FIRM, PA, Florence, South  
Carolina, for Appellant. Corey F. Ellis, United States Attorney, Kathleen M. Stoughton,  
Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY,  
Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In 2018, Dajon Saleem Gamble pled guilty, pursuant to a plea agreement, to possession of a firearm and ammunition by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), and to Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a). The district court sentenced Gamble to 100 months' imprisonment. Gamble thereafter filed a 28 U.S.C. § 2255 motion arguing, among other points, that counsel rendered ineffective assistance by failing to file an appeal after Gamble directed him to do so. The district court granted the motion on that ground, vacated its judgment, and entered an amended judgment so that Gamble could appeal. Gamble noted a timely appeal from the amended judgment. We affirm.

Gamble originally argued that his felon-in-possession conviction should be vacated in light of *Rehaif v. United States*, 139 S. Ct. 2191 (2019). He now concedes that he is not entitled to relief under *Rehaif* because he cannot make the necessary showing under *Greer v. United States*, 141 S. Ct. 2090 (2021), that the *Rehaif* error affected his substantial rights. The Government agrees.

In *Rehaif*, the Supreme Court held that, to convict a defendant under 18 U.S.C. § 922(g), the government “must show that the defendant knew he possessed a firearm and also that he knew he had the relevant status when he possessed it” (“knowledge-of-status element”). *Rehaif*, 139 S. Ct. at 2194. The parties agree that the indictment did not include the knowledge-of-status element and that the district court plainly erred by failing to advise Gamble of the knowledge-of-status element during the Fed. R. Crim. P. 11 hearing. To obtain relief, however, Gamble must show that the *Rehaif* error affected his substantial

rights—that is, he must “make[] a sufficient argument or representation on appeal that he would have presented evidence at trial that he did not in fact know he was a felon.” *Greer*, 141 S. Ct. at 2100.

We conclude that Gamble correctly concedes that he cannot show that the *Rehaif* error affected his substantial rights. Prior to pleading guilty to the § 922(g)(1) offense, Gamble served over five years in prison for two South Carolina convictions. “Those prior convictions [and lengthy sentences] are substantial evidence” that Gamble knew he was a felon when he possessed the firearm and ammunition. *Greer*, 141 S. Ct. at 2097-98; *see United States v. Caldwell*, 7 F.4th 191, 213 (4th Cir. 2021) (concluding that it is “virtually impossible to believe [defendant] did not know he had been convicted of crimes punishable by” more than a year in prison when he “served sentences longer than a year”). Gamble also has not demonstrated on appeal that he would have presented evidence at trial that he did not know he was a felon when he possessed the firearm and ammunition. *See Greer*, 141 S. Ct. at 2098 (concluding that defendants did not meet burden when, among other reasons, they had not “argued or made a representation that they would have presented evidence at trial that they did not in fact know they were felons when they possessed firearms”).

Accordingly, we affirm the district court’s amended judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*