NONPRECEDENTIAL DISPOSITION
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United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued February 15, 2023
Decided February 21, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-1610

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TORRENCE LARRY,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Indiana, Fort Wayne Division.

No. 1:17CR40-001
Holly A. Brady, *Judge*.

Order

Torrence Larry was convicted of six crimes and sentenced to a total of 420 months' imprisonment. This appeal contests only two of these convictions: Count 4 (possession with intent to distribute less than 500 grams of cocaine and more than 5 grams of methamphetamine) and Count 5 (possession of a firearm in furtherance of distributing the drugs charged in Count 4). The sentence on Count 4 runs concurrently with the sentences on Counts 1, 2, 3, and 6, three of which concern drug distribution and one of which concerns possession of a firearm by a felon. Given the convictions on Counts 1, 2, and 3, it would be hard to see the point of contesting Count 4—except for the fact that

the "furtherance" charge in Count 5 is linked with the intent-to-distribute charge in Count 4, and the sentence on Count 5 is 300 months, consecutive to the 120-month sentences on the other five convictions. Larry's objective is to get rid of that 300-month sentence, either directly or through a challenge to Count 4.

The sole argument levied against either Count 4 or Count 5 is insufficiency of the evidence. That's an uphill task, given the standard of appellate review. We ask whether a rational jury could have found guilt beyond a reasonable doubt, not how we would have voted were we on the jury. And it is easy to see how a rational jury could have convicted Larry on Counts 4 and 5.

A search of his residence, from which he had repeatedly sold drugs to an informant, turned up a nightstand that contained (among other things) 8 grams of cocaine (4 of crack and 4 of powder), 10 grams of methamphetamine, and a stolen Glock pistol, plus a loaded magazine that fit the pistol. Larry argued at trial that the drugs were for his personal use. That's possible, but evidence at trial showed that the normal user quantity of cocaine is about 0.2 grams, and the normal user dose of meth between 0.3 and 0.5 grams. Scales, baggies, and similar items used in distribution were present. And Larry as much as admitted that the drugs were for distribution. In a conversation recorded while Larry was in jail, a woman urged him to argue that the drugs were for personal use: "if everything was less than a gram, I mean, you could say that it was like personal use". To which Larry replied: "Yeah but that—the stuff that was laying there was like ten and ten. Ten grams. Ten grams. That's the thing." Indeed so; the jury could draw the same conclusion that Larry did about the significance of the quantity, found in a setting that included paraphernalia associated with distribution.

As for the gun: The presence of the Glock reinforces the impression that Larry intended to distribute rather than consume the drugs. And the close proximity of the gun to the drugs supports an inference that Larry possessed the firearm in furtherance of distribution by having it available to protect his inventory (and himself) from predatory customers or stash-house robbers. We remarked in *United States v. Stevens*, 380 F.3d 1021, 1027 (7th Cir. 2004), that when drugs and guns are found in the same place it is "nearly an inescapable conclusion" that one is in furtherance of the other—especially so, *United States v. Perryman*, 20 F.4th 1127, 1134 (7th Cir. 2021), adds, when the gun is stolen and cannot be justified as a lawful tool of self-defense. Larry, as a felon, was not entitled to possess any gun, let alone a stolen one. The jury was entitled to infer that Larry possessed the Glock in furtherance of his distribution business.

AFFIRMED