UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 22-2302 & 23-1146

United States of America

v.

William Richardson,
Appellant

On Appeal from the U.S. District Court, W.D. Pa.
Judge Mark R. Hornak, No. 2:16-cr-00139-006

Before: KRAUSE, PORTER, AND AMBRO, *Circuit Judges*
Submitted: Sept. 25, 2026; Filed: Nov. 10, 2026

NONPRECEDENTIAL OPINION*

AMBRO, *Circuit Judge*

William Richardson appeals his convictions and one of his sentences. He contends that the District Court erred as to his converted drug weight quantity, various sentencing enhancements, contempt conviction, and in its denial of his motion to recuse. Each argument fails. We disagree and affirm.

I. BACKGROUND

In August 2014, an undercover police officer conducted three controlled purchases of oxycodone or oxymorphone from Richardson. That month, police executed a search warrant for his home. That search uncovered oxycodone, oxymorphone, and five firearms.

*This is not an opinion of the full Court and, under 3d Cir. IOP 5.7, is not binding precedent.

Yet Richardson continued to sell the drugs. From March to May 2016, Richardson and co-conspirators conspired to defraud health insurance providers by obtaining oxycodone and oxymorphone under false pretenses, claiming they would consume the pills while planning instead to sell them. Richardson received prescriptions for the pills from the University of Pittsburgh Medical Center. In February, March, and April 2016, a federal district judge approved wiretap applications for Richardson's and his co-conspirators' phones. That June, a federal magistrate judge issued a search warrant for Richardson's home. During the search, police found evidence of fraudulent prescriptions and opioid trafficking.

A federal grand jury in 2016 charged Richardson and five co-conspirators with nine counts related to the purchase and sale of the oxycodone and oxymorphone.[1] In pre-trial proceedings, four of Richardson's court-appointed attorneys withdrew. Richardson proceeded to a bench trial acting *pro se* with his fifth appointed counsel as standby counsel. He pled guilty without a plea agreement to all counts except Count Eight, which was dismissed without prejudice.

[1] Count One charged Richardson with a conspiracy to defraud health care benefit programs under 18 U.S.C. § 1349; Count Two with defrauding health care benefit programs under 18 U.S.C. §§ 1347, 2; Count Three with conspiring to distribute and possess with intent to distribute oxycodone and oxymorphone under 21 U.S.C. § 846; Counts Four, Five, and Six with trafficking oxycodone or oxymorphone in the three controlled sales under 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 18 U.S.C. § 2; and Counts Seven, Eight, and Nine with possession of oxycodone and oxymorphone with intent to distribute, possession of firearms in furtherance of a drug crime, and possession of firearms by a convicted felon under 21 U.S.C. §§ 841(a)(1), 841(b)(1)C), 18 U.S.C. § 922(g)(1), and 18 U.S.C. § 924(c)(1)(A)(i).

The Presentence Report calculated Richardson's converted drug weight for sentencing as 730 kilograms based on information provided in a spreadsheet by an FBI agent. The Government sought to prove a larger drug quantity, supported by later spreadsheets prepared by the FBI agent. Richardson moved to compel the Government to produce earlier drafts of the FBI's drug quantity spreadsheets. The Court denied the motion. It determined the drug quantity as between 3,000 and 10,000 kilograms, supporting a base offense level of 32. After applying enhancements, the Court determined Richardson's total offense level as 46. At sentencing, it imposed a prison sentence of 300 months followed by eight years of supervised release.

During the trial, Richardson's fifth court-appointed counsel withdrew after Richardson sent letters threatening him and his family. This withdrawal led to proceedings for indirect criminal contempt under 18 U.S.C. § 401. At those proceedings, Richardson moved multiple times for Judge Hornak to recuse himself under 28 U.S.C. § 455(a). The fourth motion claimed an "adversarial relationship" had formed between Richardson and the Court that brought its impartiality into question, citing letters and a motion Richardson had filed calling the Court a "corrupt ass court" that "committed crimes to convict us like you were in some big drug case." Appx 65-66, 198. Judge Hornak denied the motion, and Richardson was later found guilty of indirect criminal contempt.

Richardson filed two timely appeals, one from his judgment of conviction for the offenses associated with the drug conspiracy (No. 22-2302) and one from his judgment of conviction for criminal contempt (No. 23-1146). We consolidated the two appeals for

purposes of disposition only. In No. 22-2302, Richardson challenges the District Court's determination of the converted drug weight, various other aspects of his sentence, and the validity of his contempt conviction. Because Richardson is *pro se* in No. 22-2302, we construe his arguments liberally. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In No. 23-1146, in which Richardson is counseled, he challenges the District Court's denial of his motion to recuse.

II. ANALYSIS

The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 1291.

A. Converted Drug Weight Determination

We review factual findings on sentencing enhancements for clear error and legal determinations de novo. *United States v. Gray*, 942 F.3d 627, 630–31 (3d Cir. 2019). Richardson argues that the District Court erred in finding he was responsible for over 3,000 but under 10,000 kilograms of converted drug weight when determining his base offense level under U.S.S.G. § 2D1.1(c)(6).

The District Court based its finding on two sources of evidence: First, the Government provided wiretap evidence from April and May 2016 that tied Richardson to an average of 230 kilograms of converted drug weight per month, which would amount to more than 15,000 kilograms if extrapolated throughout the whole conspiracy. Second, it also provided pharmacy prescription data that supported a converted drug weight of at least 5,860 kilograms. The Court applied the monthly estimates to only the twenty-two month

period at issue in Count Three, leading to a "rational and fair estimate" of 4,400 kilograms. S. Appx 810.

Richardson argues this evidence was improper and that the District Court should only have considered a spreadsheet earlier prepared by the FBI agent showing Richardson was responsible for 730 kilograms of converted drug weight. This spreadsheet, however, omitted prescriptions defendants had obtained between 2012 and 2015, and the FBI agent testified it was "[not] meant to be a calculation of, for example, all the relevant conduct associated with William Richardson." S. Appx 1028-29. The Court thus did not err in considering evidence beyond the spreadsheet.

Richardson nonetheless argues the Court was estopped from considering that evidence. Judicial estoppel "generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase." *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001). The Government, however, never "argu[ed]" for the 730-kilogram figure, instead stating it "does not represent [its] position . . . related to drug quantity." S. Appx 719. Nor did the Government "prevail[]" on any argument because the District Court had never accepted the figure. Estoppel, therefore, does not apply.

Finally, Richardson argues the District Court's determination should have been based only on the 2014 drug amounts. Richardson, however, pled guilty to Count Three, which encompassed conduct from August 2014 to June 2016. And even had he not pled guilty to this Count, his sentencing would take into account all acts "part of the same course of conduct or common scheme or plan as the offense of conviction," which would include

his drug trafficking before and after 2014. *See* U.S.S.G. § 1B1.3(a)(2). There was thus no error in considering drugs acquired outside of 2014.

B. Sentencing Issues

Richardson raises several unpreserved challenges to his sentence.[2] We review such unpreserved challenges for plain error. *United States v. Guyton*, 144 F.4th 449, 458 (3d Cir. 2025). We reverse only if (1) there is an "error"; (2) it is "plain"; (3) it "affect[s] substantial rights"; and (4) it "seriously affect[s] the fairness, integrity or public reputation of judicial proceedings." *Id.* (quoting *United States v. Olano*, 507 U.S. 725, 732 (1993)).

First, Richardson claims that the career-offender enhancement under 21 U.S.C. § 851 was wrongly applied. But no such career-offender enhancement was applied at all, as indicated by his criminal history category of III, not VI. *See* U.S.S.G. § 4B1.1. So the District Court could not have erred in this way.

Second, Richardson challenges his enhancement for a prior felony drug conviction. This issue is not preserved, so we also review for plain error. *Guyton*, 144 F.4th at 458. The enhancement applies "[i]f any person commits such a violation after a prior conviction for a felony drug offense has become final." 21 U.S.C. § 841(b)(1)(C). Richardson has applicable prior convictions for trafficking cocaine. On Count Six, he pled guilty to the

[2] He also challenges the denial of his motion to suppress evidence obtained via wiretap. However, a defendant "cannot challenge on appeal" pretrial rulings that "are irrelevant to his judgment of conviction" after an unconditional guilty plea. *United States v. Porter*, 933 F.3d 226, 232 (3d Cir. 2019). Because Richardson has a valid guilty plea and the ruling was not relevant to his judgment of conviction, he cannot bring this challenge.

substantive offense of a controlled buy under § 841(b)(1)(C). On Counts Four and Five, he pled guilty to aiding and abetting under § 841(b)(1)(C) and 18 U.S.C. § 2, which make those who "aid[or] abet[]" an offense "punishable as a principal." On Count Three, Richardson pled guilty to conspiracy to commit a violation of 21 U.S.C. § 841(b)(1)(C) under 21 U.S.C. § 846, which makes anyone who "conspires to commit any offense defined in this subchapter" subject to the "same penalties as those prescribed for the offense." In each case, the § 841(b)(1)(C) enhancement directly applies, so the District Court did not err in applying it.

Third, Richardson argues the District Court miscalculated his base offense level by considering the quantity of drugs from the entire conspiracy rather than from only a 2014 investigation. This issue was not preserved, so we once more review for plain error. *United States v. Dorsey*, 105 F.4th 526, 528 (3d Cir. 2024). The five drug counts were properly grouped under U.S.S.G. § 3D1.2(d) because Richardson's dealing was "ongoing or continuous" between the events, and the firearm count was properly grouped with them under § 3D1.2(c) because it "embodies conduct that is treated as a specific offense characteristic" for the drug counts. *See* U.S.S.G. §§ 3D1.2(c)-(d), 2D1.1(b)(1). The District Court was correct to determine Richardson's base offense level from conduct throughout the conspiracy.

C. Contempt Conviction

Richardson next argues the District Court "perjured a Contemp [sic] Count on Appellant" even though "there [was] no Contempt Count." Opening Br. 11 (No. 22-2302).

He should have challenged his contempt conviction in No. 23-1146, his appeal from that judgment. *See* Fed. R. App. P. 4(b)(1)(A)(i). Nevertheless, we construe this challenge liberally, and we conclude that it fails as he was provided with the requisite notice under Federal Rule of Criminal Procedure 42.

D. Motion to Recuse

Richardson contends the District Court erred in denying his motions for recusal over the indirect criminal contempt trial. A judge must recuse himself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). We review the denial of a recusal motion for abuse of discretion. *Azubuko v. Royal*, 443 F.3d 302, 303 (3d Cir. 2006).

In jerry-built logic, Richardson argues that his own filings calling Judge Hornak "corrupt" and "criminal" made the Judge no longer impartial. Appx 64-66, 197-98. But such unilateral attacks do not *per se* establish an appearance of bias. Nor could they, or else litigants "could make charges against a judge's impartiality that would effectively veto the assignment of judges." *Selkridge v. United of Omaha Life Ins. Co.*, 360 F.3d 155, 168 (3d Cir. 2004).

Richardson points to only one judicial statement that allegedly indicates bias. In context, however, that statement confirms the judge's impartiality. At a hearing following Richardson's filings, Judge Hornak stated, "I am not going to read into the record the profanity, attacks, assailing defamation of Mr. Schorr and Mr. Conway . . . . Your filings as to the Court are of the same type. I have a thick skin, Mr. Richardson. The fact that you said those things doesn't affect my judgment on the merits of your case." Appx. 91-92.

This measured response hardly demonstrates partiality. Denying the motion for recusal thus was not an abuse of discretion.

* * * * *

The District Court did not clearly err in determining the converted drug weight, did not plainly err in applying the sentencing enhancements, did not fail to provide notice of the contempt charge, and did not abuse its discretion in denying the motion to recuse. We affirm.