UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 23-1279, 23-1302, 23-1423, & 23-2867

UNITED STATES OF AMERICA

v.

JAMES GOODE, ALEXANDER MALAVE, KARVARISE PERSON, and SHAQUILE NEWSON,
Appellants

On Appeal from the U.S. District Court, E.D. Pa.
Judge Edward G. Smith, Nos. 5:19-cr-00218-009, 5:19-cr-00218-002,
5:19-cr-00218-003, and 5:19-cr-00218-001

Before: BIBAS, SCIRICA,[†] and SMITH *Circuit Judges*
Submitted: Oct. 30, 2025; Decided: Sept. 15, 2026

NONPRECEDENTIAL OPINION[*]

Per curiam

James Goode, Karvarise Person, Alexander Malave, and Shaquile Newson were convicted at trial for various crimes, including RICO conspiracy, sex trafficking and sex-trafficking conspiracy, assault, and using a firearm in relation to a crime of violence. They appeal their convictions and sentences. None of their arguments have merit, so we will affirm.

I.

All four co-defendants were affiliated with a certain "boarding house" in Reading, Pennsylvania which hosted drug dealers and users, pimps and prostitutes, and all kinds of

[†]The Honorable Anthony J. Scirica was unavailable to participate in the decision in this case after submission to the merits panel. This opinion is filed by a quorum of the panel under 28 U.S.C. § 46(d) and 3d Cir. I.O.P. 12.1(b).

[*]This is not an opinion of the full Court and, under 3d Cir. IOP 5.7, is not binding precedent.

other criminal elements. Newson and Malave founded a gang called "The Sevens" which made money through drug dealing and prostitution. The Sevens organized and dominated much of the crime taking place within the boarding house, controlling who was allowed to sell drugs out of the building and imposing a "tax" on residents. Goode App. 155–57. Person was a "general" in the Sevens, the highest rank below the founders, whose job was to "[s]ell drugs, sell women, carry out assaults," and follow Newson and Malave's orders. *Id.* at 139. Goode was not a member of the Sevens or a resident of the boarding house, but he supplied drugs to the Sevens and took part in their prostitution operation.

Evidence adduced at trial linked the defendants to a host of crimes. All four took part in a RICO conspiracy, conspired to commit sex trafficking by force, and sex trafficked (or attempted to sex traffic) women and girls. Person and Malave were also convicted for shooting and attempting to rob a man, and assaulting another; Malave was convicted for assaulting a third. Goode was sentenced to 444 months in prison, Malave and Person to life plus ten years, and Newson to 600 months.

II.

The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction to review the convictions under 28 U.S.C. § 1291, and jurisdiction to review the sentences under 18 U.S.C. § 3742.[1]

[1] One jurisdictional quirk requires our attention. Newson was required under Federal Rule of Appellate Procedure 4(b) to file his notice of appeal by May 3, 2023. Newson's lawyer timely paid the filing fee for his appeal, but failed to submit a timely notice of appeal. Rule 4(b)(4) says that a district court may extend the time to file a notice of appeal for up to thirty days upon a finding of good cause or excusable neglect, but Newson's lawyer did not move for leave to file a notice of appeal nunc pro tunc until more

III.

Goode first argues the District Court should have severed his trial because the jury would have been unable to compartmentalize his case from the violent actions of his co-conspirators, which included savage and disfiguring beatings, stabbings, and shootings. Goode also notes that at least some of the worst conduct took place either before or after he was involved with the Sevens. "We review the District Court's denial of a severance for abuse of discretion." *United States v. Heatherly*, 985 F.3d 254, 271 (3d Cir. 2021).

There is a greater risk of prejudice "[w]hen many defendants are tried together in a complex case and they have markedly different degrees of culpability." *Zafiro v. United States*, 506 U.S. 534, 539 (1993). Even so, Goode must overcome the "fundamental principle that the federal system prefers 'joint trials of defendants who are indicted together' because joint trials 'promote efficiency and serve the interests of justice by avoiding the scandal and inequity of inconsistent verdicts.'" *United States v. Urban*, 404 F.3d 754, 775 (3d Cir. 2005) (quoting *Zafiro*, 506 U.S. at 537). That preference is heightened in conspiracy cases because joint trials "aid the finder of fact in determining the full extent of the

---

than three months past that deadline. The District Court denied the motion, correctly reasoning that Federal Rule of Appellate Procedure 26(b)(1) expressly forbids courts to extend the time to file a notice of appeal except as authorized within Rule 4's deadline. But the district judge noted that Newson could nevertheless file an untimely notice of appeal, which Newson did. We may elect at our discretion to hear an appeal even if the notice was not timely filed, so long as the opposing party does not raise the issue of untimeliness. *See Manrique v. United States*, 581 U.S. 116, 125 (2017). In this case, the Government does not object to our exercising jurisdiction over Newson's appeal. To avoid unduly penalizing Newson for his lawyer's oversights, we exercise our jurisdiction over his appeal.

conspiracy . . . and prevent the tactical disadvantage to the government from disclosure of its case." *United States v. Voigt*, 89 F.3d 1050, 1094 (3d Cir. 1996) (internal quotations and citations omitted). Thus Goode faces a "heavy burden" to persuade this Court that the District Court abused its discretion. *See United States v. Savage*, 85 F.4th 102, 118 (3d Cir. 2023).

Goode has not carried that burden here. Though the district judge denied severance, he properly instructed the jury to consider each charge against each defendant individually. We have no reason to believe that the jury did not or could not internalize and follow this instruction. Moreover, Goode does not argue that he raised mutually antagonistic defenses vis à vis his co-defendants, which would support severance. *See United States v. Sandini*, 888 F.2d 300, 310 (3d Cir. 1989) ("The logic of granting a severance when there are irreconcilable and mutually exclusive defenses seems manifest."); *but see Zafiro*, 506 U.S. at 538 ("Mutually antagonistic defenses are not prejudicial *per se*."). And Goode's counsel had every chance to emphasize to the jury that Goode did not commit the terrible acts of his co-defendants. We perceive no abuse of discretion.

Goode next contends that certain drugs, firearms, and ammunition taken from his home should not have been admitted into evidence. He argues that the prosecution failed to show that the contraband seized from his home was part of the same pattern of unlawful activity taking place at the boarding house. We review for abuse of discretion and see none here. *See Affiliated Mfrs., Inc. v. Aluminum Co.*, 56 F.3d 521, 525 (3d Cir. 1995). Goode was on trial for taking part in a drug-dealing and sex-trafficking conspiracy that frequently employed violence. Witnesses testified that he brandished firearms around the boarding house where he dealt drugs. It was not an abuse of discretion to determine that Goode's stash of guns and drugs helped prove that he took part in this conspiracy and admit them as evidence.

Goode also argues that the District Court made three errors in calculating his offense score under the Sentencing Guidelines: First, he says the District Court erred by accepting the Probation Office's estimate of how much cocaine Goode distributed, an estimate that he says rests on baseless assumptions and sparse testimony. Second, he also insists that the District Court erred by applying a two-offense-level enhancement for the use or threat of violence as provided in U.S.S.G. § 2D1.1(b)(2). Third, he argues the District Court erred by applying a two-point enhancement for maintaining a drug distribution premises under U.S.S.G. § 2D1.1(b)(12), as Goode did not live in, supervise, control, or pay for the maintenance of the boarding house. We review guideline interpretations de novo, but any factual findings undergirding a sentencing decision for clear error. *United States v. Grier*, 475 F.3d 556, 570 (3d Cir. 2007) (en banc).

Goode's arguments fail to persuade. First, the Probation Office was entitled to rely on testimony given at trial to estimate how many baggies of cocaine Goode sold daily to the Sevens. Probation made an assumption as to how much cocaine a baggie contains, but that assumption was not so unreasonable as to constitute clear error. And the Court hedged against the possibility of an overestimate by using drug weights of *powder* cocaine, even though trial testimony showed that Goode often trafficked in *crack* cocaine—which, under the Sentencing Guidelines, is assigned a converted drug weight nearly 18 times greater. *See* U.S.S.G. § 2D1.1(c).

Second, there is ample evidence in the record that Goode possessed guns while doing business at the boarding house, and that on one occasion he pointed two guns at a member of the Sevens before entering the house. The District Court did not clearly err by inferring that Goode's gun use presented a credible threat of violence.

Third, the District Court did not clearly err in applying the drug premises enhancement because Goode regularly visited and acted as the principal supplier of drugs over a long period to a house where daily life revolved around drug distribution. Goode also endeavored to protect the house by attending meetings and urging residents not to assault drug customers because the beatings were attracting too much attention to the building. *See United States v. Rodriguez*, 40 F.4th 117, 122 (3d Cir. 2022) (noting that "supervising" or "protecting" the site may justify application of the enhancement even for a non-owner).

Even if we accepted all three of Goode's Guidelines arguments, he concedes that his offense score would merely fall from 41 to 40, yielding the exact same advisory Guidelines range. It is therefore virtually certain any hypothetical error by the District Court would be harmless. *See United States v. Isaac*, 655 F.3d 148, 158 (3d Cir. 2011).

IV.

Each defendant challenges the admission of testimony by Special Agents Christopher Orozco, admitted as an expert in gang dynamics, and Daniel Garrabrant, admitted as an expert in sex trafficking. Federal Rule of Evidence 702 imposes three requirements for the admission of expert testimony: "(1) the proffered witness must be an expert, *i.e.*, must be qualified; (2) the expert must testify about matters requiring scientific, technical or specialized knowledge, *i.e.*, reliability; and (3) the expert's testimony must assist the trier of fact, *i.e.*, fit." *United States v. Schiff*, 602 F.3d 152, 172 (3d Cir. 2010) (cleaned up) (quoting *Pineda v. Ford Motor Co.*, 520 F.3d 237, 244 (3d Cir. 2008)). The defendants argue that Orozco and Garrabrant's testimony failed the "fit" requirement because they testified only in general terms about how gangs operate and the relationship between pimps and prostitutes. The defendants assert that Orozco and Garrabrant's testimony, which included anecdotes drawn from their experience in other cases and which resembled this case, was not meant to educate the jury, but rather to bolster impermissibly the credibility of the government's other witnesses. We review evidentiary rulings under Rule 702 for abuse of discretion. *Heller v. Shaw Indus., Inc.*, 167 F.3d 146, 151 (3d Cir. 1999).

We have affirmed the admission of "teaching experts" like Garrabrant and Orozco to testify generally about criminal dynamics of which lay jurors may be unaware. *See, e.g.*, *United States v. Perez*, 280 F.3d 318, 341–42 (3d Cir. 2002) (testimony about gangs' use of cell phones and pagers in drug trafficking). Orozco's testimony about why people join gangs and how they maintain internal cohesion through mutual protection, hierarchical promotion, and violence could have helped the jurors assess whether the defendants were part of an "enterprise" within the meaning of RICO. And Garrabrant's testimony about the use of intoxicants, violence, psychological manipulation, and humiliation to recruit and retain prostitutes could have helped the jury contextualize the meaning of "force, fraud, or coercion," a necessary element for conviction under 18 U.S.C. § 1591. So the district judge was within his discretion to find their testimony could help the jury, even without reference to the specifics of the case.

V.

Person contends subsection (c) of the federal sex-trafficking statute is void for vagueness under the Due Process Clause of the Fifth Amendment because it provides that if a defendant "had a reasonable opportunity to observe" a minor whom he sex trafficked, then "the Government need not prove that the defendant knew, or recklessly disregarded the fact, that the person had not attained the age of 18 years." 18 U.S.C. § 1591(c). Person argues this provision is unlawfully vague because it does not define a "reasonable opportunity to observe." We need not reach that argument because the jury found that Person knew of or recklessly disregarded the victim's age. The jury heard enough evidence to reach that conclusion, including witness testimony that Person orally acknowledged the minor's age in front of a group of people. Therefore, even if we were to agree with Person's highly dubious vagueness argument, it would have no effect on his conviction for trafficking a minor. Person's sufficiency-of-the-evidence challenge to his conviction for aiding and abetting the sex trafficking of a minor fails for the same reasons.

VI.

Malave's first contention relates to data pulled from his cellphone in 2018 after he was arrested on suspicion of assault. Malave told an investigator at that time that certain contacts in his phone could provide an alibi exonerating him of the assault. A Pennsylvania judge approved a search warrant for a wide swath of user data stored on the phone. The affidavit accompanying the warrant application stated that the search could assist the police in confirming or refuting Malave's alibi and potentially reveal communications between Malave and other persons involved in the alleged assault. While searching the phone, the police discovered communications and photographs indicative of other crimes, including those for which he was ultimately convicted in this prosecution. His cell phone data was stored, and in 2022, based on an affidavit of probable cause referring to that evidence discovered "in plain view" during the 2018 search, a new federal warrant to search the data was approved. Malave App. 113. The District Court denied Malave's motion to suppress evidence resulting from that search.

Warrants must satisfy the dual requirements of particularity—meaning they "must particularly describe 'the place to be searched, and the person or things to be seized'" — and probable cause linking the target of the warrant to the offense. *See United States v. Ritter*, 416 F.3d 256, 264–65 (3d Cir. 2005) (quoting U.S. Const. amend. IV). We conduct plenary review of the District Court's legal determinations, but "exercise a deferential review of the magistrate's initial probable cause determination." *Id.* at 261.

Malave argues the 2018 phone-search results should have been suppressed because the police failed to establish a nexus between the phone and the assault and because they exceeded that warrant's stated goal of assessing Malave's alibi. Further, he continues, the 2022 warrant should be suppressed as it relied on the wrongful 2018 search. But we detect no error. Malave himself directed investigators to his phone in 2018 because he claimed his contacts could verify his alibi, supplying the nexus. And though one purpose of that warrant was validating Malave's alibi, the warrant application also explained that evidence of the 2018 assault could have been contained in locations throughout Malave's phone records, including in photos and videos, application data, and deleted records. Those circumstances justified a broad download of the phone's contents. *See United States v.*

Stabile, 633 F.3d 219, 234 (3d Cir. 2011) (upholding the search of six entire hard drives because it was unknowable which drive(s) would contain evidence of the offense and because of the practical challenges of sequestering and searching a digital environment). Even if the warrant had been defective, it was not so obviously flawed that "a reasonably well-trained officer would have known that the search was illegal despite the magistrate's authorization." *United States v. Loy*, 191 F.3d 360, 367 (3d Cir. 1999) (quoting *United States v. Leon*, 468 U.S. 897, 926 (1984)). Thus, the fruits of the 2018 search would still be valid under the good-faith exception to the warrant requirement.

Because the 2018 warrant was valid, Malave's challenge to the 2022 warrant fails. Police may seize evidence in "plain view" without a warrant if they are "lawfully in a position from which [to] view [the] object, . . . its incriminating character is immediately apparent, and . . . the officers have a lawful right of access to the object." *United States v. Yamba*, 506 F.3d 251, 257–58 (3d Cir. 2007) (quoting *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993)). The police lawfully discovered the evidence supporting the 2022 warrant application, so the 2022 warrant was valid.

Second, Malave contends certain incriminating email messages between himself and a corrections officer at Lehigh County Jail, who was never called as a witness, should have been suppressed because they were never authenticated.[2] Malave's counsel did not

[2] The parties variously refer to these messages, sent from a prison-issued tablet, as "emails" or "texts." The record custodian called to authenticate the messages at trial referred to them as "text," but acknowledged that they "could be called either one." Malave App. 1081. We call them emails.

object at trial to the messages' authenticity, so we review only for plain error. *States v. Womack*, 55 F.4th 219, 234 (3d Cir. 2022).

We have described the burden of authenticating evidence under Rule 901(a) as "slight" as it "does not require conclusive proof of a document's authenticity, but merely a prima facie showing of some competent evidence to support authentication." *United States v. Turner*, 718 F.3d 226, 232 (3d Cir. 2013) (internal quotation omitted). "Once a prima facie case is made, the evidence goes to the jury and it is the jury who will ultimately determine the authenticity of the evidence, not the court." *United States v. Goichman*, 547 F.2d 778, 784 (3d Cir. 1976). The prosecution met this burden by having a detective testify about the jail's recordkeeping processes for email messages. Among other things, he said the emails could only have been sent with Malave's unique ID and PIN number, that they were sent from Malave's account and stored according to the jail's regular recordkeeping procedures, and that one of the messages contains coded language translating to "I am the founder of the organization," consistent with testimony identifying Malave as co-founder of the Sevens. This was enough.

Third, Malave argues that the PSR wrongly counted several actions he did not personally commit as relevant conduct for sentencing. He objects to including robberies and assaults committed by other members of the Sevens (one of which Malave was acquitted of at trial) as well as incidences of sex trafficking and creation of child pornography perpetrated by other members. Malave claims the District Court failed to particularly identify which of his co-conspirators actions could be properly attributed to him, which should include only those actions taken "'in furtherance of the . . . jointly-undertaken . . . activity' (as opposed to the conspiracy as described in the count of conviction), 'within the scope of the defendant's agreement,' and 'reasonably foreseeable in connection with the criminal activity the defendant agreed to undertake.'" *United States v. Collado*, 975 F.2d 985, 991–92 (3d Cir. 1992) (emphasis omitted) (quoting U.S.S.G. § 1B1.3 application note 1). This inquiry "depends upon the degree of the defendant's involvement in the conspiracy." *Id.* at 992. Whether conduct is "relevant" under those standards for sentencing purposes is a factual determination reviewed for clear error. *United States v. West*, 643 F.3d 102, 105 (3d Cir. 2011).

Having reviewed the District Court's findings of fact, we cannot conclude that the district judge clearly erred. Although Malave was not personally involved in some of the assaults counted in the PSR, the judge determined Malave created a culture of violence in the boarding house by enforcing his rules through beatings. He also determined that Malave was involved with the sex trafficking of the victims listed in the PSR either indirectly—as the ringleader who profited off the sex trafficking taking place in the boarding house—or directly. And the judge's analysis properly considered Malave's unique position of influence as a co-founder and leader of the Sevens.[3]

VII.

Finally, each of the co-defendants challenges the sufficiency of the evidence.[4]

[3] Even if the District Court's findings were clearly erroneous, the error would be harmless. Malave concedes his offense level would have exceeded the Guidelines' *de facto* maximum of 43 even if the district judge accepted all his objections. At that level his advisory sentence range was life imprisonment. *See Isaac*, 655 F.3d at 158.

[4] Goode challenges his conviction on Count 10 for sex trafficking of a minor and

Because of the jury's pride of place in our system of justice, appellants disputing the sufficiency of the evidence underlying their convictions face an "extremely high" burden. *See United States v. Lore*, 430 F.3d 190, 203 (3d Cir. 2005). We do not weigh the evidence or assess the credibility of witnesses ourselves, but instead take the evidence "in the light most favorable to the Government and sustain the verdict if any rational juror could have found the elements of the crime beyond a reasonable doubt." *United States v. Cothran*, 286 F.3d 173, 175 (3d Cir. 2002). Having measured each of the defendants' sufficiency challenges against the evidence in the record, we find them all unpersuasive. Most of the arguments border on the frivolous, so we only pause to discuss the few that are plausible and identify some of the evidence that supports each charge.

Goode's conviction on Count 10 for attempted sex trafficking of a minor victim referred to as K.M. is supported by the victim's own testimony, in which she stated that after raping her, Goode gave her $500 and asked her to work for him as a prostitute. Likewise, Goode's conviction on Count 11 for sex trafficking Y.B. is supported by the victim's testimony that Goode was part of a group of people who, after a few days of plying her with free drugs, asked her to "pay[ ] it forward" by working as a prostitute and withheld

---

Count 11 for sex trafficking by force, fraud, and coercion. Person challenges his conviction on Count 1 for RICO conspiracy, Counts 2 and 7 for sex-trafficking conspiracy, Counts 5 and 6 for assault with a deadly weapon, and Count 12 for sex trafficking. Malave challenges his convictions on Count 1 for RICO conspiracy, Count 2 for sex-trafficking conspiracy, Count 4 for kidnapping, Counts 5 and 6 for assault with a deadly weapon, Count 9 for attempted sex trafficking, and Count 11 for sex trafficking. Finally, Newson challenges his convictions on Count 1 for RICO conspiracy and Count 2 for sex-trafficking conspiracy.

drugs when she did not, causing her to experience painful withdrawal. Goode App. 476–78.

Malave's conviction on Count 9 for the attempted sex trafficking of Jeanette Hassler is supported by her testimony, in which she stated that Malave grabbed her by the arm, escorted her to the boarding house, and groped her against her will to "test the product before putting it out." Malave App. 529, 538. She also testified that when she escaped from the boarding house during a brief moment of distraction, Malave seemed distressed that she had left and yelled at another man for failing to watch Hassler, from which a reasonable juror could infer Malave had no intent to let her go. Malave App. 542. These interactions constitute a "substantial step"—and then some—toward sex trafficking Ms. Hassler, as required for attempt liability under federal law. *See United States v. Pawlowski*, 682 F.3d 205, 211 (3d Cir. 2012). Malave contends the evidence was insufficient to convict him on Count 11 for sex trafficking of Y.B. because there was testimony that she prostituted herself independently or for other members of the Sevens. But as the Government points out, there was also abundant testimony that Malave took part in trafficking her, and the mere appearance of contradictory testimony "does not mean the evidence is insufficient, only that the jury must make credibility determinations." *Gov't of V.I. v. Isaac*, 50 F.3d 1175, 1179 (3d Cir. 1995).

Person argues the evidence was insufficient to convict him on Count 7 for the attempted sex trafficking of Naomi Hines because she refused to work for him as a prostitute. Relying on an out-of-circuit case, Person states that a court considering an attempt charge "must assess how probable it would have been that the crime would have been committed . . . had intervening circumstances not occurred." *United States v. Engle*, 676 F.3d 405, 423 (4th Cir. 2012) (internal quotation omitted). He contends that because Hines was able to refuse prostitution it is highly unlikely his efforts would have resulted in her being sex trafficked. But we have never adopted this assess-the-probability standard—our precedents require only that the defendant intended to commit the crime and took a substantial step toward its commission. *Pawlowski*, 682 F.3d at 211. Based on the evidence presented at trial, a rational juror could conclude that both requirements were met here. Person told Hines that in order to stay in the boarding house, she either had to prostitute herself or be "highly taxed," Person App. 2526, thus communicating an intent to recruit her as a prostitute. And he took a substantial step toward trafficking her by telling her that he needed pictures of her to post on a prostitution website, and then taking pictures of her for that purpose. She submitted to this treatment only because she "knew [she] needed somewhere to stay" and "needed money." Person App. 2528. And when she expressed a desire to leave the boarding house, Person pushed her up against a mirror, held a police baton to her throat, and told her that she was "never leaving them." Person App. 2535–36.

Finally, Newson's sufficiency-of-the-evidence arguments face an even higher burden: The arguments he raises on appeal are different from those he raised in the District Court, so we review only for plain error. *See United States v. Lee*, 612 F.3d 170, 178–79 (3d Cir. 2010). Newson argues the evidence was insufficient to convict on Count 2 for sex-trafficking conspiracy because the Government failed to prove an impact on interstate commerce. However, testimony showed that the Sevens, under Newson's leadership, used hotels to facilitate prostitution. It would not be plain error to conclude that prostitution in places of public accommodation affects interstate commerce. *See Hotel & Restaurant*

Emps. & Bartenders Int'l Union Loc. 54 v. Danziger, 709 F.2d 815, 829 (3d Cir. 1983). The Sevens also posted advertisements of their prostitutes on websites accessible in any state. *See United States v. MacEwan*, 445 F.3d 237, 245 (3d Cir. 2006) ("[T]he Internet is an instrumentality and channel of interstate commerce.").

* * * * *

For the foregoing reasons, we will AFFIRM the District Court's judgment.