# UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 24-2759

UNITED STATES OF AMERICA

v.

ANTOINE MONTGOMERY,
Appellant

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On Appeal from the U.S. District Court M.D. Pa.
Judge Malachy E. Mannion, No. 3:23-cr-00294-001

Before: SHWARTZ, MONTGOMERY-REEVES, and RENDELL, *Circuit Judges*
Submitted: Nov. 10, 2026; Filed: Nov. 20, 2026

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NONPRECEDENTIAL OPINION*

MONTGOMERY-REEVES, *Circuit Judge*.

Antoine Montgomery appeals his sentence for distributing and possessing with intent to distribute 40 grams or more of fentanyl and aiding and abetting the distribution and possession with intent to distribute 40 grams or more of fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B) and 18 U.S.C. § 2. According to Montgomery, the District Court erred in attributing to him, for sentencing purposes, over 200 grams of fentanyl found in a car he did not own. Because the District Court did not clearly err in concluding the evidence sufficiently linked Montgomery to the drugs in the car, we will affirm.

## I. BACKGROUND

*This is not an opinion of the full Court and, under 3d Cir. IOP 5.7, is not binding precedent.

In late 2022 to early 2023, in Wilkes-Barre, Pennsylvania, officers observed numerous drug transactions at 16 Beaumont Street, a residence Montgomery used. Based on these observations, officers obtained a warrant to search the residence. During the search, officers noticed a fraudulent inspection sticker on a car parked in front of the residence. So they obtained a separate warrant and searched the car too. Relevant here, officers recovered a total of 246.71 grams of fentanyl during the searches of the residence and the car (among other illicit items).[1] Over the next eleven months, through controlled buys, a traffic stop, and another search warrant, officers linked Montgomery to an additional 158.66 grams of fentanyl (for a total of approximately 405 grams of fentanyl), among other drugs.

In November 2023, a grand jury charged Montgomery with various drug-crime charges. Relevant to this appeal, Montgomery pleaded guilty to one count of distribution and possession with intent to distribute 40 grams or more of fentanyl and aiding and abetting the distribution and possession with intent to distribute 40 grams or more of fentanyl in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B), and 18 U.S.C. § 2. But Montgomery objected to the quantity of fentanyl attributed to him in his Presentence Report and thus used to calculate his base offense level under the U.S. Sentencing Guidelines (the "Guidelines"). *See* U.S. Sent'g Guidelines Manual §§ 1B1.3(a)(1)(B), 2D1.1(a)(5), 2D1.1(c) (U.S. Sent'g Comm'n 2024). According to Montgomery, the 246.71 grams of fentanyl found in the car

[1] The record on appeal does not clearly indicate what amount (if any) of the fentanyl seized during this search was found in the residence. Montgomery contends, and the Government does not dispute, that all 246.71 grams of fentanyl were found in the car. We assume the same for purposes of this appeal.

outside of 16 Beaumont Street could not be sufficiently connected to him, so it could not be included in the drug quantity that informed his base offense level. Ultimately, the District Court determined the fentanyl found in the car was attributable to Montgomery, concluded 372.4 grams of fentanyl was an appropriate amount, and sentenced Montgomery to 108 months' imprisonment and four years of supervised release.

Montgomery timely appealed.

## II. DISCUSSION[2]

Montgomery argues that the District Court committed procedural error in calculating his sentence. According to Montgomery, the court improperly attributed the 246.71 grams of fentanyl found in the car to him because there was insufficient evidence linking him to these drugs. This error, he says, resulted in an erroneously increased base offense level, Guidelines range, and sentence.

Under the Guidelines, when calculating a defendant's base offense level for violations of 21 U.S.C. § 841(a)(1), (b)(1)(B), a sentencing court must hold a defendant responsible for any quantity of drugs attributable to him via "all [his] acts and omissions," and, in the case of jointly undertaken criminal activity, "all acts and omissions of others that were (i) within the scope of the jointly undertaken criminal activity, (ii) in furtherance of that criminal activity, and (iii) reasonably foreseeable in connection with that criminal activity." Guidelines § 1B1.3(a)(1)(A)–(B); *see id.* § 2D1.1 cmt. n.5. "A sentencing court

[2] The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

must determine by a preponderance of the evidence that a defendant was responsible for a particular weight of a substance before attributing that amount to the defendant." *United States v. Diaz*, 951 F.3d 148, 159 (3d Cir. 2020) (citation omitted). "[M]ere speculation" is insufficient to satisfy this standard, but "some degree of estimation" is permissible in drug conspiracy cases. *Id.* (quoting *United States v. Collado*, 975 F.2d 985, 998 (3d Cir. 1992)). Nevertheless, a court must determine that information used for sentencing has "sufficient indicia of reliability to support its probable accuracy." *United States v. Williams*, 974 F.3d 320, 378 (3d Cir. 2020) (quoting *United States v. Miele*, 989 F.2d 659, 663 (3d Cir. 1993)).

We review challenges to a sentencing court's drug quantity calculations for clear error. *Diaz*, 951 F.3d at 159 (citation omitted). "When a district court improperly bases a sentence on clearly erroneous facts, such a procedural error requires reversal." *Id.* (citing *Gall v. United States*, 552 U.S. 38, 51 (2007)). Factual findings are clearly erroneous if they are "unsupported by substantial evidence, lack adequate evidentiary support in the record, are against the clear weight of the evidence or where the district court has misapprehended the weight of the evidence." *United States v. Johnson*, 302 F.3d 139, 153 (3d Cir. 2002) (quoting *United States v. Roberson*, 194 F.3d 408, 416 (3d Cir. 1999)).

The District Court did not clearly err here. The record shows that Montgomery possessed and sold fentanyl at 16 Beaumont Street. The car was parked outside this residence, contained a substantial amount of fentanyl, and had a legal document addressed to Montgomery near the fentanyl. Additionally, an officer saw Montgomery inside the car

on two occasions. The District Court found this evidence sufficient to attribute the fentanyl found in the car to Montgomery. *Cf. United States v. Ashe*, 130 F.4th 50, 55–56 (3d Cir. 2025) (concluding district court erred in attributing guns to defendant that were dissimilar to those used by defendant and were found in his impounded car six months after his incarceration). Given this evidence, we are not "left with the definite and firm conviction that a mistake has been committed." *United States v. Montalvo-Flores*, 81 F.4th 339, 342 (3d Cir. 2023) (quoting *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Tr. for S. Cal.*, 508 U.S. 602, 622 (1993)).

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Because the District Court did not clearly err in attributing the 246.71 grams of fentanyl found in the car to Montgomery, we will AFFIRM the District Court's judgment.