

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-1824

UNITED STATES OF AMERICA

v.

ANTHONY D. BRESSI,
Appellant

On Appeal from the U.S. District Court, M.D. Pa.
Judge Matthew W. Brann, No. 4:19-cr-00207

Before: RESTREPO, MONTGOMERY-REEVES, and BOVE, *Circuit Judges*

Submitted: June 11, 2026; Filed: Aug. 19, 2026

NONPRECEDENTIAL OPINION*

RESTREPO, *Circuit Judge*. Anthony Bressi appeals his 360-month prison sentence for conspiracy to manufacture, distribute, and possess with intent to distribute controlled substances in violation of 21 U.S.C. §§ 846 and 841(a)(1). For the reasons that follow, we will affirm the District Court’s judgment.

I.

Bressi and his company, SHIVA Science and Technology Group, LLC (“SHIVA”), were the subject of a federal grand jury investigation, and grand jury subpoenas were issued for Bressi’s and SHIVA’s financial records. Federal Bureau of Investigation (“FBI”) special agent Timothy O’Malley—the lead investigator on the case—emailed a Drug Enforcement

* This is not an opinion of the full Court and, under 3d Cir. I.O.P. 5.7, is not binding precedent.

Administration (“DEA”) chemist with a list of chemicals and equipment the subpoenas revealed Bressi had purchased. O’Malley asked the chemist to evaluate the list and advise whether the materials could be used to make meth or narcotics. The chemist informed O’Malley that several of the chemicals listed could have been used to manufacture illicit drugs.

Subsequently, law enforcement discovered chemicals at SHIVA headquarters that demonstrated SHIVA’s capacity to produce fentanyl and fentanyl analogues. Bressi admitted to manufacturing drugs for sale in an interview with police that was “friendly and conversational.” *United States v. Bressi*, No. 19-cr-207, 2023 WL 3011848, at *5 (M.D. Pa. Apr. 19, 2023). Bressi was taken to and Mirandized at the police barracks, where he repeated his earlier confession in greater detail and on video. Bressi was indicted for conspiracy to manufacture and distribute fentanyl, 3-methylfentanyl, carfentanil, and acetyl fentanyl in violation of 21 U.S.C. § 846 and possession with intent to distribute acetyl fentanyl in violation of 21 U.S.C. § 841(a)(1).

Bressi filed a series of pretrial motions, including a motion to suppress his videotaped confession to law enforcement. The District Court denied all the motions, finding that Bressi was not in custody during his first confession and that he was advised of his *Miranda* rights prior to his second confession. Bressi separately sought to suppress his confession because, he argued, the police coerced him into making incriminating statements. The District Court denied this motion, concluding that Bressi’s claim that he had been offered full immunity in exchange for his cooperation was not credible. The

District Court also denied Bressi's motion to suppress records obtained via grand jury subpoena.

The case proceeded to trial, and Bressi's videotaped confession was played to the jury. The following day, the District Court, anticipating that Bressi would continue to argue that his confession was coerced, held a hearing on the issue of voluntariness sua sponte and found that Bressi's confession was voluntary. Bressi was found guilty and sentenced to 360 months' imprisonment and five years of supervised release.

II.¹

On appeal, Bressi contends that the government disclosed grand jury material in violation of Federal Rule of Criminal Procedure 6(e) and that the District Court erred in playing his videotaped confession for the jury without first holding a voluntariness hearing.² We address these claims in turn.

¹ The District Court had jurisdiction pursuant to 18 U.S.C. § 3231, and we have jurisdiction under 28 U.S.C. § 1291.

² Bressi raises several other issues, none of which have merit. He argues the Controlled Substances Act is unconstitutional and that the government violated the Fourth Amendment in subpoenaing his financial records without a search warrant. We reject both arguments as contrary to binding precedent. *See Gonzales v. Raich*, 545 U.S. 1, 9 (2005) (CSA is valid exercise of federal power); *United States v. Miller*, 425 U.S. 435, 440–43 (1976) (no expectation of privacy in bank's financial records). Bressi also asserts that the government destroyed exculpatory evidence. But the files that Bressi alleges were destroyed did not "possess an exculpatory value that was apparent before the evidence was destroyed" and so he would not prevail even if his allegations of destruction are true. *California v. Trombetta*, 467 U.S. 479, 489 (1984). Next, Bressi argues the District Court denied him his Sixth Amendment right to represent himself at trial. Rather than asking to represent himself, Bressi requested substitute counsel, which the District Court properly denied. Finally, Bressi argues the government issued grand jury subpoenas after the indictment was filed and failed to present exculpatory evidence to the grand jury. Bressi has not met his burden of showing the post-indictment subpoenas were issued for the sole purpose of securing additional evidence for trial, *In re Grand Jury Procs.*, 632 F.2d 1033, 1040–41

A.

Bressi argues dismissal of his indictment is warranted because the government violated Rule 6(e) by neglecting to provide the court with the names of all persons who received grand jury material and failing to advise the recipients of their obligation of secrecy. We review for abuse of discretion a district court's denial of a motion to dismiss an indictment based on violations of Rule 6(e). *United States v. Bryant*, 655 F.3d 232, 238 (3d Cir. 2011).

Rule 6(e) prohibits an "attorney for the government" from disclosing a "matter occurring before the grand jury." Fed. R. Crim. P. 6(e)(2)(B)(vi). This provision contains an exception for "government personnel" whom the "attorney for the government considers necessary to assist" in enforcing the law so long as the attorney certifies that they informed the personnel of their obligation of secrecy and provides the court with the personnel's names. Fed. R. Crim. P. 6(e)(3)(A)(ii), (B). As an agent of the government attorney, O'Malley possessed the same authority as the attorney to make disclosures. *See United States v. Bazzano*, 570 F.2d 1120, 1125 (3d Cir. 1977). O'Malley was thus permitted to share the grand jury information with the DEA chemist because O'Malley considered the chemist's expertise necessary to enforce the law.

Violations of Rule 6(e) will only warrant dismissal of an indictment if the violation "substantially influenced the grand jury's decision to indict." *Bank of Nova Scotia v. United*

(3d Cir. 1980), and the government had no duty to present exculpatory evidence to the grand jury, *United States v. Williams*, 504 U.S. 36, 52–53 (1992).

States, 487 U.S. 250, 256 (1988) (quoting *United States v. Mechanik*, 475 U.S. 66, 78 (1986) (O'Connor, J., concurring in the judgment)).³ Even assuming O'Malley did not advise the chemist of his secrecy obligation or provide the District Court with the chemist's name, the District Court acted within its discretion in finding that this violation of Rule 6(e)(3)(B) resulted in no harm and did not require a remedy. Bressi does not explain, and the record does not support, how the alleged violation might have influenced the grand jury's decision to indict. The DEA chemist was otherwise permitted to review the materials, and no information was disclosed to the public in a manner that undermined the purpose of grand jury secrecy. *See Douglas Oil Co. of Cal. v. Petrol Stops Nw.*, 441 U.S. 211, 219 (1979) (explaining that the purposes of the secrecy requirement are to encourage witnesses to testify honestly, prevent grand jury subjects from unduly influencing grand jurors, and protect the accused from public shame).

Thus, we hold that the District Court did not abuse its discretion in denying Bressi's motion to dismiss the indictment.

B.

Bressi contends that his confession was involuntary and that the District Court erred in denying his motion to suppress the confession without holding a hearing pursuant to *Jackson v. Denno*, 378 U.S. 368 (1964). We exercise plenary review over a district court's

³ The disclosure alleged here would not qualify as an "isolated exception[]" that so erodes the structural protections of the grand jury as to render the proceedings fundamentally unfair and exempt the disclosure from a prejudice determination. *Bank of Nova Scotia*, 487 U.S. at 256–57.

determination of voluntariness and review its findings of fact for clear error. *United States v. Swint*, 15 F.3d 286, 288 (3d Cir. 1994).

We first must determine whether Bressi's confession was voluntary by evaluating the totality of the circumstances. *Dickerson v. United States*, 530 U.S. 428, 434 (2000). Relevant considerations include the coercive nature of the interrogation, *Lam v. Kelchner*, 304 F.3d 256, 264 (3d Cir. 2002), the defendant's awareness of the nature of the suspected offense, 18 U.S.C. § 3501(b), and the defendant's prior dealings with law enforcement, *United States v. Jacobs*, 431 F.3d 99, 108 (3d Cir. 2005). The District Court found not credible Bressi's allegation that the government offered him immunity in exchange for his confession; and when Bressi confessed, he had been advised of his *Miranda* rights, he was aware he was a suspect in a drug-related offense, and he had experience with the criminal system. Considering the totality of the circumstances, we agree with the District Court that Bressi's confession was voluntary.

A defendant objecting to the voluntariness of his confession is entitled to a proceeding that ensures a "reliable and clear-cut determination" that their confession was not coerced. *Denno*, 378 U.S. at 391. A jury may not hear a confession until the trial judge determines "with unmistakable clarity" that the confession was voluntary. *Sims v. Georgia*, 385 U.S. 538, 544 (1967). Here, the jury had heard the confession by the time the District Court made an explicit finding of voluntariness in its mid-trial hearing. But *Denno* instructs that such an error does not entitle Bressi to relief. 378 U.S. 394–95. In *Denno*, the trial judge did not make any voluntariness finding before submitting the confession to the jury. *Id.* at 374–75. The Supreme Court remanded for an evidentiary hearing to determine

whether the confession was voluntary, explaining that if the confession would be deemed voluntary, then the flaw in the original proceeding caused “no constitutional prejudice” and a new trial would not be required. *Id.* at 394–95; *see also Procunier v. Atchley*, 400 U.S. 446, 451 (1971) (noting that *Jackson* does not entitle habeas petitioners to new hearings on voluntariness based on “shortcomings in the procedures” used to determine voluntariness unless applicants demonstrate their confession was involuntary). Bressi did receive a reliable determination that his confession was voluntary at the mid-trial hearing—a determination we affirm on appeal—and as such any error was sufficiently remedied.

III.

We hold that the disclosure of grand jury materials was not prejudicial and the failure to hold a pretrial *Denno* hearing does not necessitate relief. We will affirm the District Court.