UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3145

UNITED STATES OF AMERICA

v.

YANTHONIC HERRERA,
Appellant

On Appeal from the U.S. District Court, E.D. Pa
Judge Kelley B. Hodge, No. 2:23-cr-00096-001

Before: SHWARTZ, MONTGOMERY-REEVES, and RENDELL, *Circuit Judges*
Submitted: Nov. 10, 2026; Filed: Nov. 19, 2026

NONPRECEDENTIAL OPINION*

MONTGOMERY-REEVES, *Circuit Judge*.

Yanthonic Herrera was charged with possession with intent to distribute one kilogram or more of heroin and 400 grams or more of fentanyl and aiding and abetting this offense, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2. To escape punishment, he fled to the Dominican Republic. After being brought back to the United States, Herrera was convicted and sentenced to 300 months' imprisonment. Herrera appeals his conviction and sentence, arguing that the District Court erred by denying his motion to suppress evidence, denying his motion to dismiss the indictment, and applying several enhancements to his sentence under the U.S. Sentencing Guidelines (the "Guidelines"). Because the

*This is not an opinion of the full Court and, under 3d Cir. IOP 5.7, is not binding precedent.

District Court committed no reversible error, we will affirm.

I. BACKGROUND

This case began when the Federal Bureau of Investigations ("FBI") received a tip that Herrera was distributing heroin in Philadelphia, Pennsylvania. Law enforcement officers began an investigation and surveilled Herrera. The investigation revealed that Herrera was a Dominican Republic citizen and that he had a long-time girlfriend, Myriam Sevilla. They learned that Sevilla lived in Apartment 7131 of an apartment complex in Elkins Park, Pennsylvania. They also observed Herrera and Sevilla driving a Buick Enclave, which Herrera parked in the apartment complex for long periods of time. Based on these observations, the officers concluded that Herrera also lived in Apartment 7131.

During the investigation, Herrara became a suspect in an alleged kidnapping in Philadelphia. According to the victim, Herrera picked up the victim in the Buick Enclave and accused him of burglarizing a trap house controlled by Herrera. After learning this information, officers obtained a warrant for Herrara's arrest. They later observed Herrera near Apartment 7131 and saw him leave a property on Lawrence Street in Philadelphia, which they had confirmed was another trap house for his drug organization. They pursued Herrera, who fled in the Buick Enclave, collided with an FBI agent's car attempting to block his path, and drove through a park before eventually abandoning his car and escaping on foot.

Thereafter, law enforcement searched the Lawrence Street property and the Buick Enclave and found packaging material consistent with illicit drug distribution. Law

enforcement then obtained and executed a search warrant on Apartment 7131, recovering approximately 5,228 grams of fentanyl without heroin, 118 grams of heroin without fentanyl, and 4,619 grams of fentanyl and heroin mixed. They also found checks bearing Herrera's name and photos of Sevilla, Herrera, and their child. After the search, officers pulled Apartment 7131's lease, which named only Sevilla. But the apartment's manager confirmed that Herrera lived there. A search of Herrera's cellphones showed further evidence of Herrera counting money and communicating with others about drug sales, testing, and transactions. Based on this evidence, the FBI charged Herrera with possession with intent to distribute one kilogram or more of heroin and 400 grams or more of fentanyl and aiding and abetting.

To escape punishment, Herrera fled to the Dominican Republic. Nearly three years later, Dominican Republic officials working with the U.S. Marshals Service arrested Herrera in the Dominican Republic. According to Herrera, these officials broke into his residence, physically assaulted him, stole valuables, tried to extort money from him, and forced him to sign documents falsely stating that he is a U.S. citizen to facilitate his return to the United States. For its part, the Government admits that the U.S. Marshals were involved in Herrera's arrest and that his travel documents were "not accurate" as to his citizenship. Appendix (hereinafter "App. __") 220. Once in the United States, Herrera was arrested, and a grand jury indicted him on violations of 21 U.S.C. § 841(a)(1) and (b)(1)(A) and 18 U.S.C. § 2.

Before trial, Herrera moved to suppress the evidence obtained from the search of

Apartment 7131 on the grounds that the warrant lacked probable cause. The District Court denied the motion. Then, Herrera moved to dismiss the indictment based on his alleged illegal return back to the United States and requested an evidentiary hearing. The District Court denied the request and the motion. Herrera proceeded to trial, and a jury found him guilty. The District Court sentenced him to 300 months' imprisonment after overruling Herrera's objections to several Guidelines enhancements.

Herrera timely appealed.

II. ANALYSIS[1]

In this appeal, Herrera argues the District Court erred in (1) denying his motion to suppress the evidence found in Apartment 7131; (2) denying his motion to dismiss the indictment; and (3) applying several Guidelines enhancements to his sentence. We address each argument in turn.

A. Motion to Suppress

Herrera first challenges the District Court's denial of his motion to suppress, arguing that the search warrant for Apartment 7131 lacked probable cause. We disagree.[2]

Probable cause exists "when, viewing the totality of the circumstances, 'there is a fair probability that contraband or evidence of a crime will be found in a particular place.'" *Hodge*, 246 F.3d at 305 (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). We have

[1] 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).

[2] Our review of the District Court's suppression ruling is plenary. *United States v. Hodge*, 246 F.3d 301, 305 (3d Cir. 2001).

recognized that evidence of a drug crime "is likely to be found where the [drug] dealers reside." *United States v. Burton*, 288 F.3d 91, 103 (3d Cir. 2002) (alteration in original) (quoting *United States v. Whitner*, 219 F.3d 289, 297–98 (3d Cir. 2000)). But this inference applies only if the Government presents some evidence to show the Magistrate "(1) that the person suspected of drug dealing is actually a drug dealer; (2) that the place to be searched is possessed by, or the domicile of, the dealer; and (3) that the home contains contraband linking it to the dealer's drug activities." *Id.* at 104; *see United States v. Stearn*, 597 F.3d 540, 568 (3d Cir. 2010). The warrant affidavit here satisfies these requirements.

First, the affidavit provided evidence that Herrera was a drug dealer. According to it, a reliable confidential informant and the alleged kidnapping victim stated that Herrera sold drugs. And officers found drug-packing materials during searches of Herrera's Lawrence Street property and the Buick Enclave. This evidence is sufficient to show that Herrera was a drug dealer. *See Stearn*, 597 F.3d at 563.

Second, the affidavit provided evidence that Herrera resided at Apartment 7131. According to the affidavit, officers saw Herrera, on multiple occasions, driving his Buick Enclave and other cars in the apartment complex's parking lot and parking them "for long period[s] of time[]," including "overnight." App. 65. Officers also saw Sevilla drive Herrera's Buick Enclave, and Sevilla held the lease for Apartment 7131. This evidence is sufficient to show that Herrera resided at Apartment 7131. *See Burton*, 288 F.3d at 104.

Third, the affidavit sufficiently showed that the apartment contained contraband. It described the evidence linking Herrera to Apartment 7131, the drug-packing materials

found in his Buick Enclave, and the detective's experience that "[i]t is common for large scale drug dealers to secrete contraband . . . within their residences." App. 68. These descriptions are enough. *See Burton*, 288 F.3d at 104–05 (explaining that "we generally accept the common sense proposition that drug dealers often keep evidence of their transactions at home" and that we may rely on the "training and experience" of officers as to where contraband is hidden).

So the District Court did not err in concluding that there was "a substantial basis for finding probable cause."[3] *Hodge*, 246 F.3d at 305.

B. Motion to Dismiss Indictment

Herrera next argues that the District Court committed two errors in denying his motion to dismiss the indictment. According to Herrera, the District Court misapplied the *Ker–Frisbie* doctrine when concluding his forced return to the United States did not violate his due process rights. And worse, he says, the District Court did so after erroneously denying his request for an evidentiary hearing. Both arguments fail.[4]

First, the District Court did not misapply the *Ker–Frisbie* doctrine. This doctrine establishes that "a court's power to try a defendant is ordinarily not affected by the manner in which the defendant is brought to trial." *United States v. Best*, 304 F.3d 308, 311 (3d

[3] Because probable cause existed, we need not address whether the good faith exception applies. *See United States v. Shields*, 458 F.3d 269, 280 n.9 (3d Cir. 2006).

[4] Our review of the District Court's denial of a motion to dismiss indictment is plenary as to the law and clear error as to the facts. *United States v. Stock*, 728 F.3d 287, 291 (3d Cir. 2013). "[We] review a district court's denial of an evidentiary hearing for abuse of discretion." *United States v. Cuevas-Almonte*, 156 F.4th 319, 325 (3d Cir. 2025).

Cir. 2002) (citing *Frisbie v. Collins*, 342 U.S. 519, 522 (1952); *Ker v. Illinois*, 119 U.S. 436, 444 (1886)). In other words, a court may still try a defendant no matter how he was brought to trial. But the *Ker–Frisbie* doctrine does not apply "where a person is forcibly abducted from a country in violation of an extradition treaty to which the United States is a party." *Id.* at 314 (citing *United States v. Alvarez-Machain*, 504 U.S. 655, 662 (1992)). To qualify for this exception, "a defendant must demonstrate, by reference to the express language of a treaty and/or the established practice thereunder, that the United States affirmatively agreed not to seize foreign nationals from the territory of its treaty partner." *Id.* (citation omitted). Notably, the treaty must "*specifically* prohibit the abduction of foreign nationals." *Id.* Because Herrera points to no specific prohibition on abduction in any treaty between the United States and the Dominican Republic, this exception does not apply.

Alternatively, Herrera asks us to recognize two more exceptions to the *Ker–Frisbie* doctrine: (1) shocking governmental conduct and (2) fraud. We have already rejected the first exception.[5] *Best*, 304 F.3d at 312–13 (quoting *Alvarez-Machain*, 504 U.S. at 669–70). And several of our sister Circuits have rejected the second exception. *E.g.*, *United States v. Wilson*, 732 F.2d 404, 410–11 (5th Cir. 1984); *United States v. Reed*, 639 F.2d 896, 900–02 (2d Cir. 1981); *United States v. Struckman*, 611 F.3d 560, 573–74 (9th Cir. 2010). So

[5] We also note that Herrera's allegations of physical assault do not come close to the torture at-issue in the case where such an exception was adopted. *See United States v. Toscanino*, 500 F.2d 267, 269–75 (2d Cir. 1974) (noting defendant was tortured and interrogated for 17 days while federal agents stood by).

we decline to "retreat from the established rule that illegal arrest or detention does not void a subsequent conviction." *Gerstein v. Pugh*, 420 U.S. 103, 119 (1975).

Second, the District Court did not abuse its discretion in declining to conduct an evidentiary hearing. Evidentiary hearings on Federal Rule of Criminal Procedure Rule 12 motions "are not granted as a matter of course," but they may be granted if the motion "enable[s] the court to conclude that . . . there are disputed issues of material fact that *will affect the outcome* of the motion.'" *Cuevas-Almonte*, 156 F.4th at 326 (second alteration in original) (quoting *United States v. Fattah*, 858 F.3d 801, 810 (3d Cir. 2017)). Because the alleged circumstances of Herrera's forced return to the United States, even if true, would not warrant an exception to the *Ker–Frisbie* doctrine, "the District Court reasonably denied a hearing that would not affect the outcome of his motion." *Id.* at 327.

So the District Court did not err in denying Herrera's motion to dismiss the indictment.

C. Sentence Imposition

Herrera challenges the District Court's application of three Guidelines enhancements to his sentence. These challenges fail too.[6]

Herrera first argues that the District Court did not have sufficient evidence to support its application of a four-level enhancement under section 3B1.1(a) of the Guidelines,

[6] We exercise plenary review over the District Court's interpretation of the Guidelines and clear error review over its factual findings in support of an enhancement. *United States v. Miller*, 172 F.4th 242, 246–47 (3d Cir. 2026). If "the legal issue decided by the district court is, in essence, a factual question," clear error review applies. *United States v. Thung Van Huynh*, 884 F.3d 160, 165 (3d Cir. 2018) (citation omitted).

which applies if "the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive." U.S. Sent'g Guidelines Manual § 3B1.1(a) (U.S. Sent'g Comm'n 2025). "Setting up a network to obtain and distribute drugs, deciding when and where sales would occur, coordinating drug sales with subordinates, and deciding when and whether to extend credit indicate a leadership and organizational role." *United States v. Rodriguez*, 40 F.4th 117, 121 (3d Cir. 2022) (citation modified). The District Court applied this enhancement based on several pieces of evidence: (1) evidence of the large quantities of drugs found in Apartment 7131; (2) Herrera's large profits, (3) a conversation between Herrera and a drug supplier in which Herrera questioned the amount of product received; (4) a document found in Apartment 7131 that identified four individuals as employees (who the Government contends are employees of Herrera's drug organization) and tallied over $30,000 in net profits; and (5) record evidence showing that multiple individuals (including Sevilla) participated in the drug operation. Given this evidence, we are not left with "the definite and firm conviction that a mistake has been committed," so the District Court did not clearly err. *United States v. Denmark*, 13 F.4th 315, 317–18 (3d Cir. 2021) (citation omitted).

Herrera next argues that the District Court did not have sufficient evidence to conclude that Apartment 7131 was a drug premises for the Guidelines § 2D1.1(b)(12)'s two-level enhancement. *See* Guidelines § 2D1.1(b)(12). To justify that enhancement, "the Government must prove by a preponderance of the evidence that the defendant (1) knowingly (2) opened or maintained any place (3) for the purpose of manufacturing or

distributing a controlled substance." *United States v. Carter*, 834 F.3d 259, 261 (3d Cir. 2016) (citation modified). The District Court determined that "half the apartment . . . or a significant portion was being used solely for drugs." App. 1395. As Herrera's counsel conceded at sentencing, trial evidence showed that "there was a substantial quantity of narcotics that were packaged [in Apartment 7131] and . . . that was located . . . and recovered [there]." App. 1391. That Sevilla held the lease for Apartment 7131 and Herrera also lived there is "of no moment" to the applicability of the drug premises enhancement, given the evidence of his illicit drug activities there. *Rodriguez*, 40 F.4th at 122; *see Carter*, 834 F.3d at 262–63 (concluding drug premises existed where associate "resided and carried out his business for [defendant]'s organization"). Notably, even Sevilla complained that Herrera brought his business to the house. The evidence supports the District Court's finding, and this finding is entitled to "due deference." *Buford v. United States*, 532 U.S. 59, 63 (2001) (citation modified). So the District Court did not clearly err.

Finally, Herrera argues that the District Court erred in applying a two-level enhancement under the Guidelines § 3C1.2, which applies "[i]f the defendant recklessly created a substantial risk of death or serious bodily injury to another person in the course of fleeing from a law enforcement officer." Guidelines § 3C1.2. According to Herrera, this enhancement is inapplicable because no one was injured when he fled from law enforcement in his Buick Enclave in Philadelphia. The District Court applied this enhancement based on "the time of day [Herrera's flight] took place and the fact that it was through a park and through these very condensed, congested streets of Philadelphia." App. 1405. As the District Court

correctly noted, that no one was injured "does not negate the danger created by the act." *United States v. Gray*, 942 F.3d 627, 632 (3d Cir. 2019). The District Court did not clearly err.

* * * * *

Herrera has failed to show that the District Court erred in denying his motion to suppress, denying his motion to dismiss the indictment, or applying several Guidelines enhancements to his sentence. We will AFFIRM.