

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

United States v. Jerome Brown

United States v. Brown · No. No. 23-3184 · Decided March 6, 2026

SUMMARY

The Third Circuit held that the district court violated Federal Rule of Criminal Procedure 11(c)(1) by participating in plea negotiations and proposing a minimum sentence. The court nevertheless affirmed the conviction and sentence because Brown failed to show that the violation affected his substantial rights, and it rejected his Second Amendment challenge to 18 U.S.C. § 922(g)(1) based on binding precedent concerning individuals on probation or supervised release.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Judge Restrepo; Judge Montgomery-Reeves; Judge Scirica
JURISDICTION	United States Court of Appeals for the Third Circuit
DECIDED	March 6, 2026
DOCKET	No. 23-3184
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brown appealed after entering an open guilty plea and receiving a 235-month sentence followed by ten years of supervised release. He argued that the District Court violated Federal Rule of Criminal Procedure 11(c)(1) by participating in plea negotiations and that 18 U.S.C. § 922(g)(1) was unconstitutional.
STANDARD OF REVIEW	Plain-error review applied to the forfeited Rule 11(c)(1) objection. The defendant had to establish error, that was plain, that affected substantial rights, and that seriously affected the fairness, integrity, or public reputation of judicial proceedings.
PRECEDENTIAL VALUE	precedential
PARTIES	Jerome Brown, a/k/a Jerome F. Brown v. United States of America

TOPICS

- plea bargaining
- criminal procedure
- second amendment
- appellate procedure
- sentencing

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

sentencing

QUESTIONS PRESENTED

1. Whether the District Court violated Federal Rule of Criminal Procedure 11(c)(1) by participating in plea negotiations and proposing a minimum sentence.
2. Whether the Rule 11(c)(1) violation affected Brown's substantial rights so as to require vacatur of his guilty plea under plain-error review.
3. Whether 18 U.S.C. § 922(g)(1) was unconstitutional as applied to Brown, who was on probation when he possessed the firearm.

HOLDINGS

1. The District Court violated Rule 11(c)(1) by participating in the parties' plea negotiations and inducing Brown to accept an open plea with a sentence of not less than 235 months.
2. The Rule 11(c)(1) violation did not require vacatur because Brown failed to show that the error affected his substantial rights by causing him to receive a heavier sentence or otherwise prejudicing him.
3. Section 922(g)(1) was constitutional as applied to Brown because a person on probation does not have a Second Amendment right to possess a firearm.

KEY QUOTATIONS

“The District Court unquestionably violated Rule 11(c)(1)’s bright-line rule prohibiting judicial interference.”
(4)

“Because Brown has not borne his burden of showing that the error affected his substantial rights by resulting in a heavier sentence, we must affirm despite the District Court’s violation of Rule 11(c)(1).” (5)

FACTUAL BACKGROUND

Law enforcement raided Brown's car, home, and storage unit during a drug-trafficking investigation near Pittsburgh and found more than 13 kilograms of fentanyl, a handgun, ammunition, and \$136,000 in cash. Brown confessed shortly after his arrest. The parties negotiated two stipulated plea agreements, but the District Court rejected both and proposed a sentence of not less than 235 months. Brown then entered an open guilty plea and received a 235-month sentence plus ten years of supervised release.

PROCEDURAL HISTORY

Brown was indicted for drug trafficking and unlawful firearm possession. The District Court rejected two stipulated plea agreements, proposed a sentence of not less than 235 months, and offered Brown the choice of renegotiating, entering an open guilty plea with that sentencing expectation, or proceeding to trial. Brown entered the open plea and was sentenced to 235 months. Because he did not object below to the judicial participation, the Third Circuit reviewed the Rule 11 issue for plain error and affirmed.

DISPOSITION

affirmed

CASES CITED

- United States v. Cruz, 95 F.4th 106, 110 (3d Cir. 2024)
- United States v. Moscahlaidis, 868 F.2d 1357, 1361 (3d Cir. 1989)
- United States v. Davila, 569 U.S. 597, 606, 609-12 (2013)
- United States v. Davila, 749 F.3d 982, 993 (11th Cir. 2014)
- United States v. Brown, 595 F.3d 498, 519 (3d Cir. 2010)
- United States v. Harrell, 751 F.3d 1235, 1239 (11th Cir. 2014)
- United States v. Quailles, 126 F.4th 215, 224 (3d Cir. 2025)
- United States v. Moore, 111 F.4th 266, 273 (3d Cir. 2024)

OPINION

United States v. Jerome Brown

PER CURIAM.

PRECEDENTIAL

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

_____ No. 23-3184 _____

UNITED STATES OF AMERICA

v. JEROME BROWN, a/k/a Jerome F Brown, Appellant On Appeal from the United States District Court for the Western District of Pennsylvania (District Court No. 2:21-cr-00374-001) District Judge: Honorable J. Nicholas Ranjan _____ Submitted Pursuant to Third Circuit L.A.R. 34.1(a) on February 3, 2025 Before: RESTREPO, MONTGOMERY-REEVES, and SCIRICA, Circuit Judges (Filed: March 6, 2026) Donovan J. Cocas Laura S. Irwin

OFFICE OF UNITED STATES ATTORNEY

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OFFICE OF FEDERAL PUBLIC DEFENDER

Western District of Pennsylvania 1001 Liberty Avenue 1500 Liberty Center Pittsburgh, PA 15222 Counsel for Appellant _____

OPINION OF THE COURT

_____ RESTREPO, Circuit Judge. A plea agreement is a negotiated contract between the Government and a defendant.¹ Rule 11 of the Federal Rules of Criminal Procedure governs criminal pleas and expressly forbids judicial participation in plea negotiations.² But improper judicial participation is not enough to vacate a plea. A defendant must also show that, as a result,

he suffered prejudice.³ Although the District Court improperly intervened in the parties' plea negotiations, we will affirm because Brown cannot show a violation of his substantial rights. I. Jerome Brown was indicted for drug trafficking and illegally possessing a firearm after law enforcement raided his car, home, and storage unit as part of a drug-trafficking investigation near Pittsburgh, Pennsylvania. Police found over 13 kilos of fentanyl, a handgun, and ammunition, as well as \$136,000 in cash. Shortly after his arrest, Brown 1 *United States v. Cruz*, 95 F.4th 106, 110 (3d Cir. 2024) (citing *United States v. Moscahlaidis*, 868 F.2d 1357, 1361 (3d Cir. 1989)). 2 FED. R. CRIM. P. 11(c)(1) ("The court must not participate in [plea agreement] discussions."). 3 *United States v. Davila*, 569 U.S. 597, 612 (2013) ("Davila I"). 2 confessed. Instead of going to trial, Brown entered into plea negotiations with the Government. The parties presented two different stipulated plea agreements to the District Court. In the first plea agreement, the parties negotiated the mandatory minimum sentence of 180 months' imprisonment. But the District Court rejected the plea, finding the sentence to be inconsistent with the guidelines⁴ and the factors set forth in 18 U.S.C. § 3553(a). So, Brown withdrew his plea. The parties went back to the drawing board to negotiate a second plea agreement. The new agreement proposed a sentence of 198 months—18 months longer than the original deal. Instead of simply rejecting the plea as permitted under Rule 11,⁵ the District Court proposed its own "sentence [of] no greater than 235 months."⁶ Brown postponed his scheduled change-of-plea and filed a supplemental memorandum to address the District Court's continued concerns. But the District Court remained doubtful and reiterated its proposed sentence of 235 months. The Government and Brown proceeded to request a sentence of 198 months, noting Brown's early cooperation and acceptance of responsibility. Ultimately, the District Court rejected the second plea and presented Brown with three options: (1) try to renegotiate a third plea agreement; (2) enter an open guilty plea with the promise of a sentence not less 4 Given Brown's criminal history and the charges, his Sentencing Guidelines range was 292–365 months imprisonment with a mandatory minimum of 180 months' imprisonment. See U.S.S.G. §§ 2D1.1(c)(2), 4B1.1(b). 5 See FED. R. CRIM. P. 11(c)(3), (5). 6 JA 140. 3 than 235 months; or (3) go to trial. After discussing the options with his attorney, Brown chose to proceed directly to an open plea with the understanding of the District Court's position.⁷ His plea was knowing and voluntary, and he ultimately received a sentence of 235 months' imprisonment followed by ten years of supervised release. This appeal followed. II.⁸ Brown argues that the District Court's promise of a sentence of not less than 235 months violated Rule 11(c)(1), which should result in a vacatur of his plea. To resolve this issue, we must decide two questions: First, did the District Court violate Rule 11(c)(1)? If so, can Brown show substantial prejudice because of the violation? Because he failed to raise the objection below, we review for plain error.⁹ Rule 11's mandate against judicial participation in plea negotiations is clear: "The court must not participate in these discussions."¹⁰ Such interference raises concerns for 7 JA 180 ("Mr. Brown is prepared to proceed with a change of plea without a plea agreement today in light of the Court's, I guess, preliminary ruling on the plea agreement and proceed without a plea and just do an open

plea to Counts One and Two of the indictment.”). 8 The District Court had jurisdiction under 18 U.S.C. § 3231, and this Court has appellate jurisdiction pursuant to 18 U.S.C. § 3742 and 28 U.S.C. § 1291. 9 See *United States v. Davila*, 749 F.3d 982, 993 (11th Cir. 2014) (“*Davila II*”) (finding that plain-error review applies when a defendant fails to contemporaneously object to a Rule (11)(c)(1) violation); see also *United States v. Brown*, 595 F.3d 498, 519 (3d Cir. 2010) (“To succeed under this standard of review, a defendant must demonstrate that (1) the asserted violation of Rule 11(c)(1) was error, (2) the error was plain, and (3) the error affected the defendant’s substantial rights; if these three conditions are met, then a court may exercise its discretion to notice the forfeited error, but only if (4) the error seriously affect[s] the fairness, integrity, or public reputation of judicial proceedings.” (internal quotation and citations omitted)). 10 FED. R. CRIM. P. 11(c)(1) (emphasis added). 4 coerced guilty pleas and strips the process of judicial neutrality. The Supreme Court has recognized that the prohibition was adopted “out of concern that a defendant might be induced to plead guilty rather than risk displeasing the judge who would preside at trial.”¹¹ The District Court unquestionably violated Rule 11(c)(1)’s bright-line rule prohibiting judicial interference. Here, the violation is straightforward: the court engaged in plea negotiations and induced Brown to accept a plea of not less than 235 months. On more than one occasion, the District Court proposed its own sentence and therefore unquestionably “took the lead in orchestrating the plea agreement ultimately entered into by [Brown] and the government”¹²—a point the Government concedes.¹³ But the District Court’s error alone is not enough to vacate Brown’s plea,¹⁴ as he suggests. Brown must also show that “the error affected [his] substantial rights.”¹⁵ He bears the burden of making this showing yet fails to meet this burden. Indeed, in his briefing before the panel, he never claimed that he would have rejected a 235-month sentence if the government had offered it. Instead, the record demonstrates Brown’s consistent intent to plead guilty on whatever terms he could get. From the outset, Brown admitted the drugs belonged to him, reaffirming that admission under oath at his guilty plea. Before the District Court rejected the second plea agreement, both parties made it clear that Brown intended to plead guilty. 11 *Davila I*, 569 U.S. at 606. 12 *United States v. Harrell*, 751 F.3d 1235, 1239 (11th Cir. 2014). 13 See Appellee’s Br. at 23 (“[T]he United States believes that the court’s Rule 11(c)(1) violation in Brown’s case is obvious.”). 14 See *Davila I*, 569 U.S. at 609–10. 15 *Brown*, 595 F.3d at 519. 5 Brown’s attorney told the District Court, “He intends to plead guilty today. He intends to, like he did on the day of his arrest, to accept full responsibility for his actions and he understands the gravity of this offense”¹⁶ Likewise, the prosecutor urged the District Court to accept the below-guideline sentence due to Brown’s “very early”¹⁷ cooperation: “[W]ithin six months of this all happening, Mr. Brown said, I’ll plead guilty, I’ll go away with the plea agreement for 15 years.”¹⁸ The parties shared a mutual understanding from the beginning, one that Brown did not refute: “it was relatively clear this would be a plea, that Mr. Brown was not really going to fight this.”¹⁹ Because Brown has not borne his burden of showing that the error affected his substantial rights by resulting in a heavier sentence, we must affirm despite the District Court’s violation of

Rule 11(c)(1). III. Alternatively, Brown also argues that his plea must be vacated because 18 U.S.C. § 922(g)(1) is unconstitutional. But we need not address this argument, because our precedent is clear: “§ 922(g)(1) is constitutional as applied to convicts on parole or probation”²⁰ and “[a] convict completing his sentence on supervised release does not have a Second Amendment right to possess a firearm.”²¹ Because Brown was on probation at the time of the offense, he does not have a Second Amendment right to possess a firearm. 16 JA 157. 17 JA 173. 18 JA 174. 19 JA 177. 20 *United States v. Quales*, 126 F.4th 215, 224 (3d Cir. 2025). 21 *United States v. Moore*, 111 F.4th 266, 273 (3d Cir. 2024). 6 IV. The District Court erred by violating Rule 11(c)(1) when participating in plea negotiations. But the error did not affect Brown’s substantial rights, so we will affirm. 7