

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

United States v. Dwayne Fields

608 F. App'x 806 (11th Cir. 2015) · No. 14-10013 · Decided April 30, 2015

SUMMARY

The Eleventh Circuit affirmed Dwayne Fields’s 120-month sentence for federal firearms offenses, including dealing firearms without a license. The court upheld sentencing enhancements for a firearm with an obliterated serial number, firearms trafficking, and possession of a firearm in connection with another felony, as well as the denial of a minor-role reduction and an additional acceptance-of-responsibility reduction. The court also vacated and remanded for correction of a clerical error in the judgment.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Per curiam; Hull; Rosenbaum; Fay
JURISDICTION	Federal
DECIDED	April 30, 2015
DOCKET	14-10013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Fields appealed his guilty-plea convictions and 120-month sentence, challenging several Sentencing Guidelines enhancements, denial of a minor-role reduction, denial of an additional acceptance-of-responsibility reduction, and the substantive reasonableness of his sentence.
STANDARD OF REVIEW	Purely legal Sentencing Guidelines questions are reviewed de novo; factual findings are reviewed for clear error; application of the Guidelines to facts is reviewed with due deference, tantamount in most cases to clear-error review. Unpreserved sentencing issues are reviewed for plain error. A district court's role determination is reviewed for clear error, acceptance-of-responsibility determinations for clear error with great deference, and substantive sentencing reasonableness for abuse of discretion.
PRECEDENTIAL VALUE	Unpublished, nonprecedential Eleventh Circuit opinion
PARTIES	Dwayne Fields, a.k.a. New York v. United States of America

TOPICS

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QUESTIONS PRESENTED

1. Whether the four-level enhancement under U.S.S.G. § 2K2.1(b)(4)(B) for possessing a firearm with an obliterated serial number could constitutionally apply without proof that Fields knew or had reason to know of the obliteration.
2. Whether the four-level firearms-trafficking enhancement under U.S.S.G. § 2K2.1(b)(5) applied where Fields transferred firearms to an undercover officer.
3. Whether the four-level enhancement under U.S.S.G. § 2K2.1(b)(6)(B) for possessing or transferring a firearm in connection with another felony offense was plainly erroneous.
4. Whether Fields was entitled to a two-level minor-role reduction under U.S.S.G. § 3B1.2(b).
5. Whether the district court erred by not sua sponte granting the additional one-level acceptance-of-responsibility reduction under U.S.S.G. § 3E1.1(b) after the government declined to move for it.
6. Whether Fields's 120-month sentence was substantively unreasonable.
7. Whether the judgment contained a clerical error requiring correction.

HOLDINGS

1. The four-level enhancement under U.S.S.G. § 2K2.1(b)(4)(B) properly applied without requiring proof that Fields knew or had reason to know the firearm had an obliterated serial number.
2. The district court properly applied the four-level enhancement under U.S.S.G. § 2K2.1(b)(5) because Fields transferred at least two firearms and had reason to believe the recipient could not lawfully possess them or intended to use or dispose of them unlawfully.
3. Fields failed to demonstrate plain error in the application of U.S.S.G. § 2K2.1(b)(6)(B) because his objection in the district court rested on a different legal theory from the argument raised on appeal, and no controlling authority directly resolved the asserted issue.
4. The district court did not clearly err by denying Fields a two-level minor-role reduction under U.S.S.G. § 3B1.2(b).
5. The district court did not err by refusing to apply sua sponte the additional one-level reduction under U.S.S.G. § 3E1.1(b) because the government did not file the required motion.
6. Fields's 120-month, below-Guidelines sentence was not substantively unreasonable.
7. The judgment contained a clerical error identifying 26 U.S.C. § 5845(a)(2), rather than § 5845(a)(3), as the statutory provision applicable to Count 7, requiring limited remand for correction.

KEY QUOTATIONS

“The district judge properly applied the four-level, § 2K2.1(b)(4)(B) enhancement.” (11)

“Consequently, the judge could not have imposed the § 3E1.1(b) one-level reduction absent the government’s motion.” (20)

“AFFIRMED IN PART; VACATED AND REMANDED IN PART.” (23)

FACTUAL BACKGROUND

Fields participated in approximately 30 transactions in which he and codefendants sold about 38 firearms and ammunition to undercover officers. One firearm had an obliterated serial number, Fields believed the undercover purchaser was a convicted felon who intended to resell guns to gang members, and Fields participated in conduct connected to a planned robbery and drug trafficking. He pleaded guilty to four firearms offenses, and the district court imposed a 120-month sentence, below the applicable Guidelines range of 188 to 235 months.

PROCEDURAL HISTORY

A federal grand jury charged Fields with four firearms-related offenses in an eleven-count superseding indictment. He pleaded guilty to all counts without a plea agreement. The Northern District of Georgia overruled his sentencing objections, calculated an offense level of 36 and criminal history category I, and imposed a below-Guidelines sentence of 120 months. The Eleventh Circuit affirmed the sentence but vacated and remanded the judgment for correction of a clerical statutory citation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must correct the clerical error in the judgment by identifying 26 U.S.C. § 5845(a)(3), rather than § 5845(a)(2), as the statutory provision relative to Count 7. The 120-month sentence is affirmed.

CASES CITED

- United States v. Handy, 570 F. Supp. 2d 437 (E.D.N.Y. 2008)
- United States v. Rothenberg, 610 F.3d 621, 624 (11th Cir. 2010)
- United States v. Contreras, 739 F.3d 592, 594 (11th Cir. 2014), cert. denied, 134 S. Ct. 2858 (2014)
- United States v. Richardson, 8 F.3d 769, 770 (11th Cir. 1993)
- United States v. Doe, 661 F.3d 550, 565 (11th Cir. 2011)
- United States v. Massey, 443 F.3d 814, 819, 822 (11th Cir. 2006)
- United States v. Lejarde-Rada, 319 F.3d 1288, 1291 (11th Cir. 2003)
- United States v. Rodriguez, 732 F.3d 1299, 1305 (11th Cir. 2013)
- United States v. Rodriguez De Varon, 175 F.3d 930, 937-38 (11th Cir. 1999) (en banc)
- United States v. Rodriguez, 751 F.3d 1244, 1258 (11th Cir. 2014), cert. denied, 135 S. Ct. 310 (2014)

- United States v. McPhee, 108 F.3d 287, 289 (11th Cir. 1997)
- United States v. Nealy, 232 F.3d 825, 831 (11th Cir. 2000)
- Gall v. United States, 552 U.S. 38, 41, 51 (2007)
- United States v. Tome, 611 F.3d 1371, 1378 (11th Cir. 2010)
- United States v. Irely, 612 F.3d 1160, 1191 (11th Cir. 2010) (en banc)
- United States v. Lozano, 490 F.3d 1317, 1324 (11th Cir. 2007)

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