

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10692

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIE BOONE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 9:22-cr-80175-RLR-1

Before ROSENBAUM, NEWSOM, and WILSON, Circuit Judges.

PER CURIAM:

After a trial, a jury convicted Willie Boone of drug-trafficking crimes, possession of a machinegun in furtherance of those crimes, possession of a firearm by a convicted felon, and possession of an unregistered machinegun. In sentencing Boone, the district

court applied an Armed Career Criminal Act enhancement because Boone stipulated and the jury separately found that he had three prior convictions for qualifying predicate offenses, committed on separate occasions.

On appeal, Boone raises four issues. First, he challenges the application of the enhancement. Second, he asserts that insufficient evidence supports his machinegun-related convictions. Third, he argues that the district court deficiently instructed the jury on the charge of possessing a machinegun in furtherance of a drug-trafficking crime. And fourth, Boone contends that the district court abused its discretion in admitting certain alleged hearsay testimony.

After careful consideration, we find no merit to any of Boone's issues. We therefore affirm.

I. Background

A federal grand jury indicted Boone in a third superseding indictment, charging him with five counts. Count 1 charged conspiracy to possess with intent to distribute a controlled substance (and specified four controlled substances), in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). In Count 2, the indictment alleged Boone possessed with intent to distribute a controlled substance (and alleged three controlled substances), in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). Count 3 asserted Boone possessed a machinegun in furtherance of a drug-trafficking crime (namely, the crimes the indictment charged in Counts 1 and 2), in violation of 18 U.S.C. § 924(c)(1)(A) and (c)(1)(B)(ii). In Count 4, the indictment

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charged Boone with possessing a firearm as a convicted felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(e). And finally, Count Five alleged Boone possessed an unregistered machinegun, in violation of 26 U.S.C. §§ 5841, 5861(d), and 5871. The indictment also sought forfeiture of any firearm involved in any of the alleged offenses.

The case proceeded to trial.

A. Evidence Presented at Trial

We base our recital of the facts on the evidence the parties presented at trial, which we catalogue in the light most favorable to the verdict. *See United States v. Hill*, 99 F.4th 1289, 1305 (11th Cir. 2024).

The evidence showed that, when officers executed a search warrant, they found Boone inside the fence of the searched property. Detective Raphael Chaves came upon Boone when Boone was face down on the ground with his arms thrown out. Near him, officers found about \$995 in United States currency. Chaves detained Boone.

Inside the searched property, officers found drug paraphernalia, including a digital scale, a razor blade, and clear plastic baggies known as “dime” bags. They also found narcotics. Those substances included butylone, N-pyrrolidino etonitazene, and crack cocaine.

A table where drugs and paraphernalia sat also had two guns on it. The guns’ handles pointed towards the ceiling, making them

easier to grab. Both guns were stolen. One was a Glock pistol with 25 rounds of ammunition in an extended magazine and one round in the chamber. The Glock bore a “switch” on the back of its slide. The “switch” allowed the gun to fire continuously with a single trigger pull. It effectively turned the gun from a semiautomatic gun to a fully automatic machinegun, satisfying the federal definition of a machinegun.

After testing DNA that law enforcement found on the Glock, the lab determined that it was 4×10^{46} times more likely that the DNA was Boone’s and two others’ than that it originated from three unknown individuals in the population.

The other gun on the table at the searched property was also loaded. DNA analysis linked that gun to Boone as well.

Besides the guns, law enforcement recovered two cell phones on a recliner next to the table with the guns and drugs. A forensic search of the phone with a cracked screen revealed that its user’s first name was Willie and last name was Boone. The phone contained financial emails addressed to Boone, and text messages found on the phone showed that Boone used it. Besides that, the phone had images and videos, including a video showing Boone waving a Glock with an extended magazine, a laser/light attachment, and an attached switch at the camera.

In the video, Boone put the gun next to another Glock that also had a switch attached. Within an hour after the video was

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recorded, the phone received a message from “kutta_kreep,” saying “[a]n leeme [sic] buy a switch.” Boone’s phone responded, “Only got 2 right now.”

In other messages on the phone, the phone’s operator and others discussed guns and drugs. In one, the phone’s operator sent a photo that showed U.S. currency, a clear plastic tub with apparent crack cocaine, a dime bag with an apparent fentanyl capsule, and a Glock gun. The gun had a scratch on the grip, grip tape, and a laser/light attachment. Those unique characteristics of the gun in the picture matched the characteristics of the Glock officers seized during the search.

During the trial, the government admitted its Exhibit 32, a stipulation the parties entered. In that stipulation, among other things, Boone and the government agreed that Boone “had been convicted and knew that he had been convicted” of three prior felonies “for offenses committed on occasions different from one another.”

B. Jury Instructions and Verdict

The government proposed jury instructions directing the jury that if it convicted Boone on Count 4 (possession of a firearm by a felon), the jury had to also determine whether Boone had at least three prior convictions for crimes committed on different occasions. But during the charge conference, the defense objected to the proposed instruction. The defense later also objected to the government’s proposed verdict form, which expressly asked whether the jury found that Boone had committed at least three

prior felonies on different occasions. Defense counsel argued that it was unnecessary because the indictment alleged that Boone had committed three felonies on separate occasions, and Boone had also stipulated to the same thing.

The court split the baby. It granted Boone's objection to the proposed jury instruction, but it overruled his objection to the verdict form.

At the end of the three-day trial, the jury convicted Boone on all counts. In the verdict form, the jury found that Boone possessed the gun charged in Count 4 "after having had at least three previous convictions for offenses committed on occasions different from one another."

C. Sentencing

The probation office prepared a presentencing investigation report ("PSR"). Among other things, it noted that the statutory minimum penalty for Count 3 (possession of a firearm in furtherance of a drug-trafficking crime) was 30 years' imprisonment. The PSR also noted that the statutory minimum penalty for Count 4 was 15 years' imprisonment because of the ACCA sentencing enhancement.

At the sentencing hearing, Boone did not object to the PSR. Indeed, Boone's counsel acknowledged that Boone faced a minimum term of imprisonment of 30 years on Count 3 and, based on application of the ACCA sentencing enhancement, a minimum term of 15 years on Count 4. Given these circumstances, Boone's

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counsel argued for a 45-year sentence, the minimum that the statutes permitted. The district court imposed the sentence defense counsel requested. It sentenced Boone to 180 months' imprisonment as to Counts 1, 2, and 4, and 120 months as to Count 5, all to run concurrently. And on Count 3, the district court sentenced Boone to a consecutive 360 months' imprisonment, for a total of 540 months' imprisonment.

Boone now appeals. He raises four issues. First, he asserts the district court violated his Fifth and Sixth Amendment rights when it applied the ACCA enhancement to his conviction for being a felon in possession of a firearm. Second, he argues that the government presented insufficient evidence to sustain his conviction for knowingly possessing a machinegun and knowingly doing so in furtherance of a drug-trafficking offense. Third, he contends the district court committed plain error when it failed to instruct the jury on whether Boone knew that the Glock switch had the characteristics of a machinegun at the time of the drug-trafficking offense charged in Count 5. And fourth, he urges that part of Chaves's testimony was inadmissible and harmful hearsay. We address each issue in turn.

II. Discussion

A. Boone's objections to the ACCA enhancement lack merit.

Boone argues that his stipulation at trial, that he had been convicted of three prior felonies and knew he had been so convicted "for offenses committed on occasions different from one another," was legally insufficient to support application of the ACCA

enhancement. He submits that we should vacate his sentence and order a new sentencing proceeding before a jury, requiring the government to establish beyond a reasonable doubt that the three prior convictions arose from crimes committed on separate occasions. In support of this position, Boone notes that the Supreme Court in *Erlinger v. United States*, 602 U.S. 821 (2024), held that a defendant is entitled to a jury determination on whether he committed ACCA predicate offenses on three separate occasions. And he asserts that the state could have chosen to prosecute all three of his prior convictions in a single information or indictment.

We reject Boone’s claim for two independent reasons.

First, the doctrine of invited error prevents us from considering this issue. We apply the doctrine of invited error “when a party induces or invites the district court into making an error.” *United States v. Brannan*, 562 F.3d 1300, 1306 (11th Cir. 2009) (citation omitted). Under that doctrine, “if a party waives a procedural right or agrees to the admissibility of certain evidence, he cannot later complain that any resulting error is reversible.” *Id.*

Here, to the extent that any error occurred in the jury’s consideration of whether Boone committed his prior felonies on separate occasions, Boone invited that error. When the government asked the court to instruct the jury that it had to determine whether Boone had committed the prior felonies on three separate occasions, Boone objected. Only because Boone objected did the district court fail to instruct the jury that it needed to determine

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whether Boone committed the three prior felonies on separate occasions. So he cannot complain now that the district court did not so instruct the jury.

Second, even if we could consider the issue, the jury's finding that Boone committed the three prior felonies on separate occasions was not legally insufficient. Boone stipulated that he committed the prior offenses "on occasions different from one another." Based solely on that stipulation, the jury was entitled to find that he committed the prior offenses on different occasions. See *Old Chief v. United States*, 519 U.S. 172, 200 (1997) (O'Connor, J., dissenting) (quoting 1 E. Devitt, C. Blackmar, M. Wolff, & K. O'Malley, *Federal Jury Practice & Instructions* § 12.03, p. 333 (4th ed. 1992), for "the usual instruction regarding stipulations in a criminal case": "When the attorneys on both sides stipulate or agree as to the existence of a fact, you may accept the stipulation as evidence and regard that fact as proved."). And the special verdict form leaves no doubt that the jury found exactly that.¹

B. Sufficient evidence supported Boone's convictions on Counts 3 and 5.

Next, Boone raises two claims relating to his convictions on Counts 3 and 5 for possessing a firearm in furtherance of a drug-

¹ Boone moves to supplement the record on appeal with copies of the probable-cause affidavit, felony information, and sentencing order for his predicate ACCA convictions. We **DENY** the motion. For the reasons we have explained above, the content of these documents cannot affect resolution of this claim.

trafficking crime and for possessing an unregistered machinegun, respectively. First, he contends that the government failed to present sufficient evidence to prove beyond a reasonable doubt that he possessed the Glock switch and knew that it gave the otherwise-semiautomatic firearm machinegun capabilities. Second, as to Count 3, he asserts that the government did not present sufficient evidence to show the nexus between Boone's possession of the Glock with the switch and the drug-trafficking crimes. We disagree.

In reviewing the record for sufficiency to support a conviction, we “[v]iew[] the evidence in the light most favorable to the government and draw[] all reasonable inferences in favor of the jury’s verdict.” *United States v. Gamory*, 635 F.3d 480, 497 (11th Cir. 2011). We won’t vacate a jury’s verdict “if there is any reasonable construction of the evidence that would have allowed the jury to find the defendant guilty beyond a reasonable doubt.” *United States v. Clay*, 832 F.3d 1259, 1294 (11th Cir. 2016) (citation omitted). Here, the evidence easily satisfies this threshold.

We begin with the evidence of Boone’s possession and knowledge of the switch and its function. Possession can include constructive possession. Constructive possession occurs when a defendant “has the power and intention to exercise dominion or control[,]. . . either directly or through others.” *United States v. Gunn*, 369 F.3d 1229, 1235 (11th Cir. 2004).

Here, a video found on Boone’s phone showed him holding a Glock with the switch on it. In that video, at the very least, he

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had constructive possession of the weapon, as he was actually exercising dominion and control over the gun. And the government presented evidence that, with the switch on, the Glock satisfied the definition of a machinegun.

As to Boone's knowledge of the switch, we've just noted that the switch was on the outside of the Glock, so it was clearly visible. Plus, text messages from Boone's phone reflected Boone's knowledge of switches. The phone received a message from "kutta_kreep" asking to buy "a switch." In response, Boone's phone answered, "Only got 2 right now." And that text exchange occurred within an hour of the recording of the video we mentioned above, where Boone held one gun with a switch attached, and another appeared on a nearby table.

This evidence allowed a jury to reasonably conclude that Boone possessed a machinegun, knew he did so, and understood the switch's function.

Next, we consider whether the evidence sufficiently supported the jury's conclusion that Boone possessed a machinegun in furtherance of a drug-trafficking offense. To prove a violation of this offense, the government must establish that a defendant's possession of a firearm "helped, furthered, promoted, or advanced" the drug-trafficking crime. *United States v. Timmons*, 283 F.3d 1246, 1252 (11th Cir. 2002). So simply showing that a gun was within the defendant's dominion and control during a drug-trafficking offense is not enough by itself to sustain a Section 924(c) conviction. *Id.* at

1253. Rather, the government must prove “some nexus between the firearm and the drug selling operation.” *Id.* (citation modified).

We’ve identified factors we use to determine whether a sufficient nexus exists: “the type of drug activity that is being conducted, accessibility of the firearm, the type of the weapon, whether the weapon is stolen, the status of the possession (legitimate or illegal), whether the gun is loaded, proximity to the drugs or drug profits, and the time and circumstances under which the gun is found.” *Id.* at 1253 (citation omitted). We’ve also acknowledged that “there is a frequent and overpowering connection between the use of firearms and narcotics traffic.” *United States v. Cruz*, 805 F.2d 1464, 1474 (11th Cir. 1986).

Here, sufficient evidence supported the jury’s verdict that Boone possessed a machinegun in furtherance of drug-trafficking activity. As we’ve noted, his phone contained a video of him waving a Glock with a switch (qualifying as a machinegun) at the camera. And the Glock with the switch, as well as the second gun law enforcement found, bore Boone’s DNA, showing he had held them at some point. Plus, law enforcement found cell phones Boone owned and used in furtherance of his drug-trafficking activities close to drugs and two firearms that had been placed to facilitate easy use. Boone’s cell phone, in turn, contained messages discussing the sale of guns and drugs.

Given this evidence and contrary to Boone’s contention, it makes no difference that law enforcement did not observe him inside the property where the drugs and guns were found. Rather, a

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jury could still reasonably conclude that Boone possessed a machinegun in furtherance of drug-trafficking activity.

C. Boone's objection to the jury instruction for Count 3 lacks merit.

Boone contends that the district court erred when it failed to instruct the jury that to find Boone guilty of Count 3, the charge for possessing a firearm in furtherance of a drug-trafficking violation, the jury had to find that he “knew of the specific characteristics or features of the firearm” that made it a machinegun under federal law.

We would normally review this claim for only plain error because Boone raises it for the first time on appeal. *See United States v. Johnson*, 694 F.3d 1192, 1195 (11th Cir. 2012). Under Rule 52(b), Fed. R. Crim. P., we may review a “plain error that affects substantial rights.” To qualify for review in such a case, (1) error must have occurred; (2) that error must be plain; and (3) the error must affect “substantial rights,” meaning that “a reasonable probability” exists that, “but for the error, the outcome of the proceeding would have been different.” *Greer v. United States*, 593 U.S. 503, 507–08 (2021). If a defendant can establish all three of these prerequisites, we may choose to grant relief if we determine that the error seriously affected “the fairness, integrity, or public reputation of judicial proceedings.” *Id.* at 508 (citation modified).

We have explained that when “the explicit language of a statute or rule does not specifically resolve an issue, there can be no plain error where there is no precedent from the Supreme Court

or this Court directly resolving it.” *United States v. Verdeza*, 69 F.4th 780, 791 (11th Cir. 2023) (citation modified).

Under our precedent, the district court did not err in failing to instruct the jury on Count 3 that to convict Boone, it had to find he knew the firearm he possessed in furtherance of a drug-trafficking offense was a machinegun. We have held that the government need not prove, and the jury need not find beyond a reasonable doubt, that a defendant knew a firearm was a machinegun under Section 924(c)(1)(B)(ii). *United States v. Haile*, 685 F.3d 1211, 1217 (11th Cir. 2012). Our prior-panel-precedent rule binds us to follow this holding unless the Supreme Court or we, sitting en banc, overrule or undermine it to the point of abrogation. *United States v. Archer*, 531 F.3d 1347, 1352 (11th Cir. 2008). That has not happened.²

² To be sure, the reasoning of *Rehaif v. United States*, 588 U.S. 225 (2019), may raise questions about *Haile*’s holding. *Rehaif* held that, in a prosecution under Section 922(g) and Section 924(a)(2) (for possession of a firearm by a person illegally in the United States), to convict, the government must prove and the jury must find both that the defendant knew he possessed a firearm and he belonged to the relevant category of persons barred from possessing a firearm. Those provisions aren’t at issue here. So *Rehaif* is not squarely on point, meaning that under our prior-panel-precedent rule, it may have weakened *Haile*, but it did not undermine it to the point of abrogation. See *TL90108 L.L.C. v. Ford*, 147 F.4th 1351, 1360 (11th Cir. 2025) (noting that for a Supreme Court decision to undermine panel precedent to the point of abrogation, the decision “must demolish and eviscerate each of our decision’s fundamental props.”) (citation modified).

But we don't even get to plain error here because, once again, Boone invited any error that the district court may have committed. With the exception of two sentences not relevant here, Boone and the government jointly proposed the jury instruction that the district court gave for Count 3. Plus, Boone specifically argued for the use of the Eleventh Circuit pattern jury instruction (which the court used), and that instruction included nothing about a defendant's knowledge that the firearm he possessed was a machinegun. "This is a textbook case of invited error. By proposing the exact language that the district court adopted, [Boone] invited any purported error." *United States v. Maradiaga*, 987 F.3d 1315, 1322 (11th Cir. 2021). So "review is waived even if plain error would result." *United States v. Frank*, 599 F.3d 1221, 1240 (11th Cir. 2010).

D. The district court did not abuse its discretion in admitting alleged hearsay testimony.

Finally, Boone argues that the district court improperly admitted hearsay evidence from Detective Chaves.

We review a district court's evidentiary rulings for abuse of discretion. *Proctor v. Fluor Enters., Inc.*, 494 F.3d 1337, 1349 (11th Cir. 2007). That standard of review "allows a range of choice for the district court, as long as that choice does not constitute a clear error of judgment." *United States v. Frazier*, 387 F.3d 1244, 1259 (11th Cir. 2004) (citation modified). Here, we conclude that the district court did not abuse its discretion.

When Detective Chaves testified, the following exchange occurred:

Defense: So, after you breached the gate, Mr. Boone turns, correct?

Chaves: No. He goes before that.

Defense: Is that what your report says?

Chaves: Do you want me to explain exactly what happened?

Defense: Yes.

Chaves: So, as you can see this gate, I am 5'8", the gate might be 6 feet, you have to open the door. One would come in—SWAT would come in an armored vehicle, the vehicle pulls up to the gate. There is a sniper, a guy with a long gun, in the turret, which is the opening on the roof on the car. He sees Mr. Boone, and then he is screaming, there is a guy here, he is throwing money, he is trying to walk back out—

The defense objected to Detective Chaves's statement that the SWAT officer screamed that Boone was throwing money.

On appeal, Boone asserts that Detective Chaves's statement about throwing money was non-responsive to his question to Chaves and Chaves admitted he never saw Boone throw money. And he contends that Detective Chaves's statement was the only direct evidence the government introduced that Boone possessed money.

The government responds that Detective Chaves’s statement was not hearsay because it was not offered for the truth of the matter asserted—that Boone was throwing money—but rather for the effect that statement had on Detective Chaves. That is, to help explain why Detective Chaves then moved in to detain Boone.

We need not determine whether the statement was hearsay and if so, whether the district court abused its discretion in admitting it. Even assuming both of those things to be true, any error was harmless. Boone has not shown a “substantial prejudicial effect” from the admission of the evidence. *See United States v. Barton*, 909 F.3d 1323, 1330–31 (11th Cir. 2018) (citation modified).

For starters, the government presented evidence that large amounts of cash were found in the spot where Chaves detained Boone. The government also admitted an image of Boone draping cash over his arm. And the evidence of Boone’s involvement with the firearms and the drug-trafficking was overwhelming. The jury reviewed images, videos, and text messages that showed Boone in the thick of these activities. Plus, Boone was arrested immediately outside the property where the officers recovered the drugs and the firearms. “Overwhelming evidence of guilt is one factor that may be considered in finding harmless error.” *United States v. Guzman*, 167 F.3d 1350, 1353 (11th Cir. 1999). Given this record, we cannot see how Detective Chaves’s statement that a SWAT officer said Boone was throwing money immediately before his arrest had any real effect on the jury’s verdict.

III. Conclusion

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For the foregoing reasons, we affirm the judgment of the district court.

AFFIRMED.