

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted March 6, 2024

Decided July 28, 2026

Before

MICHAEL B. BRENNAN, *Chief Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-3298

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

KARL TAYLOR,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:21-CR-00640(1)

Matthew F. Kennelly,
Judge.

ORDER

A jury found Karl Taylor guilty of unlawful possession of a firearm, *see* 18 U.S.C. § 922(g)(1), and the district court sentenced him to 90 months' imprisonment and 3 years' supervised release. Taylor appealed, but his appointed counsel moved to withdraw and filed an *Anders* brief explaining that the appeal was frivolous. *See Anders v. California*, 386 U.S. 738, 744 (1967). Taylor responded to the motion. *See* CIR. R. 51(b). We suspended the appeal pending our decision in *United States v. Prince*, 171 F.4th 1009 (7th Cir. 2026), in which we held that the federal statute prohibiting possession of

firearms by felons is not facially unconstitutional. We now grant counsel's motion to withdraw and dismiss the appeal.

Counsel's *Anders* brief and supplemental brief explain the nature of the case and address the issues that an appeal of this kind might involve. Because the analysis appears thorough, we limit our review to the issues that counsel and Taylor raise. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

At trial, the government presented eyewitness testimony. Law enforcement officers described seeing Taylor, along with others, standing on a corner drinking alcohol. When the officers approached Taylor, he ran and threw a gun over the fence into a backyard. Another witness stated that she heard an object hit her fence as the officers chased a suspect; the object was later identified as a firearm. The jury found Taylor guilty. Taylor unsuccessfully moved for acquittal and a new trial.

Before sentencing, a probation officer prepared a presentence investigation report (PSR). The PSR calculated Taylor's base offense level at 24 based on two prior felony convictions of crimes of violence. *See* U.S.S.G. § 2K2.1(a)(2). It also added two levels because Taylor possessed a stolen gun, *see id.* § 2K2.1(b)(4)(A), and another two levels because Taylor created a substantial risk of death or serious bodily injury to others when he threw a loaded gun into a residential yard while fleeing from officers, *see id.* § 3C1.2. The result was a total offense level of 28. Taylor received 18 criminal history points for his prior convictions and 2 more because he was under two separate sentences when he committed this offense, placing him in category VI. *See id.* § 4A1.1(d). This resulted in a guidelines range of 140 to 175 months. But because the maximum sentence for Taylor's conviction at the time of his offense was 10 years, the Guidelines recommended 120 months' imprisonment, *see* 18 U.S.C. § 924(a)(2) (2018); U.S.S.G. § 5G1.1(a), and a supervised-release range of 1 to 3 years, U.S.S.G. § 5D1.2(a)(2), with a statutory maximum of 3 years, 18 U.S.C. § 3583(b)(2).

Sentencing came next. The district court adopted the recommendations in the PSR about the applicable ranges under the Guidelines. It then discussed the sentencing factors under 18 U.S.C. § 3553(a). In mitigation, the court considered Taylor's difficult upbringing, which included the death of his father. In aggravation, the court cited the dangerousness of tossing a loaded gun into a residential yard. It then sentenced Taylor to 90 months' imprisonment and 3 years of supervised release.

Counsel begins by considering whether Taylor could raise any nonfrivolous challenges to the pretrial decisions. Specifically, counsel asks whether Taylor could

challenge the district court's decision to allow testimony from the government's fingerprint technician. We would review evidentiary decisions for abuse of discretion, *United States v. Common*, 818 F.3d 323, 330 (7th Cir. 2016), and discern no arguable abuse here. The court reasonably permitted the technician to testify about the difficulty of recovering fingerprints from firearms because the testimony was relevant to why Taylor's fingerprints were not on his firearm. *See id.*; FED. R. EVID. 401.

Next, counsel assesses whether Taylor could mount a sufficiency-of-the-evidence challenge to his conviction. Taylor would face a "nearly insurmountable hurdle" as this court would assess the record in the light most favorable to the government. *See United States v. Perryman*, 20 F.4th 1127, 1133 (7th Cir. 2021). He would need to demonstrate that the trial record contains no evidence from which a jury could find beyond a reasonable doubt the essential elements of the crime of unlawful gun possession, *see id.*, and he cannot reasonably do so here. The government needed to prove only that Taylor had possessed the gun. (Taylor stipulated to the other elements of § 922(g)(1).) *See Perryman*, 20 F.4th at 1135. At trial, the government presented eyewitness testimony that Taylor threw a gun as officers chased him. This testimony supported the jury's conclusion that Taylor possessed the gun, and it would be futile to contest the jury's assessment of this evidence. *See United States v. Farmer*, 38 F.4th 591, 602 (7th Cir. 2022) ("We can neither reweigh the evidence nor reassess the witness credibility.").

Counsel next informs us that Taylor would like to challenge the jury instructions. But Taylor has waived any challenge to the jury instructions because the parties agreed to those instructions at trial. *See United States v. LeBeau*, 949 F.3d 334, 341–42 (7th Cir. 2020). Regardless, we see no error in the jury instructions. Counsel informs us that Taylor would like to argue that the district court erred by not defining "reasonable doubt" for the jury, but the district court correctly abstained from doing so. *See United States v. Hatfield*, 591 F.3d 945, 949 (7th Cir. 2010).

Counsel also assesses whether Taylor could raise any nonfrivolous challenges to the denial of his request for a bench trial. But a defendant does not have a constitutional right to a bench trial. *Singer v. United States*, 380 U.S. 24, 36 (1965); *United States v. Clark*, 943 F.2d 775, 784 (7th Cir. 1991). And Rule 23(a) of the Federal Rules of Criminal Procedure provide that "[i]f the defendant is entitled to a jury trial, the trial must be by jury unless: (1) the defendant waives a jury trial in writing; (2) the government consents; and (3) the court approves." Because the government did not consent to Taylor's request for a bench trial, any such challenge would be frivolous.

Counsel also correctly concludes that Taylor cannot plausibly contest the jury venire under the Sixth Amendment's fair cross-section requirement. *See Duren v. Missouri*, 439 U.S. 357, 364 (1979). At trial, Taylor objected to the composition of the venire because only three potential jurors were black. But nothing in the record suggests any systematic exclusion of black prospective jurors from the jury pool, *see United States v. Phillips*, 239 F.3d 829, 842 (7th Cir. 2001), and without such evidence, Taylor cannot posit even an arguable violation of the fair cross-section requirement.

Counsel next asks whether Taylor could reasonably contest the district court's guidelines calculation and properly rejects such a challenge as frivolous. The court correctly calculated Taylor's base offense level at 24 under § 2K2.1(a)(2) of the Guidelines because Taylor had two prior felony convictions for crimes of violence. *See United States v. Chagoya-Morales*, 859 F.3d 411, 422 (7th Cir. 2017) (Illinois armed robbery); *United States v. Montez*, 858 F.3d 1085, 1092 (7th Cir. 2017) (aggravated battery of an officer). Challenging the two-level increase for possessing a stolen gun would also be futile because mere possession of a stolen weapon is sufficient to garner the adjustment—it is irrelevant whether Taylor knew or had reason to believe the firearm was stolen. *See United States v. Price*, 28 F.4th 739, 755 (7th Cir. 2022). It would also be frivolous to challenge the two-level increase for creating a substantial risk of death or serious bodily injury to others because Taylor threw a loaded gun into a residential yard while fleeing, thereby creating a substantial risk that the gun would discharge. *See United States v. Lard*, 327 F.3d 551, 553 (7th Cir. 2003).

Similarly, counsel rightly concludes that it would be frivolous to challenge the calculation of Taylor's criminal history category. Taylor correctly received three points for each of his convictions for armed robbery, aggravated battery of a police officer, and possession of a controlled substance, *see* U.S.S.G. § 4A1.1(a); two points for each of his convictions for aggravated battery in a public place, possession of cannabis, and violation of a domestic-violence bond (an offense he committed twice), *see id.* § 4A1.1(b); and one point for domestic battery, *see id.* § 4A1.1(c). He also properly received two points because he committed the underlying offense in this case while under two separate criminal sentences. *See id.* § 4A1.1(d). These points add up to 20 and correspond to a criminal history category of VI.

Counsel also rightly concludes that a challenge to the substantive reasonableness of Taylor's sentence would be frivolous. We would presume that Taylor's 90-month, below-guidelines sentence is not unreasonably high. *See United States v. Oregon*, 58 F.4th 298, 302 (7th Cir. 2023). Counsel finds no plausible basis for rebutting that presumption,

and we discern none. The district court reasonably justified the sentence under 18 U.S.C. § 3553(a) by emphasizing the dangerousness of the offense and recklessness of tossing the weapon and the need for deterrence against Taylor's arguments in mitigation about his childhood.

We also agree with counsel that Taylor could not mount a reasonable challenge to the terms or the conditions of his supervised release. Taylor did not object to either and he confirmed at sentencing that he had no objection to the conditions, despite having an opportunity to contest them. He thus waived any appellate challenge to them. *See United States v. Flores*, 929 F.3d 443, 449 (7th Cir. 2019).

In his Rule 51(b) response, Taylor proposes raising a claim of prosecutorial misconduct. We would review such a claim by determining if conduct was improper and if, in light of the entire record, it deprived the defendant of a fair trial. *United States v. Patterson*, 872 F.3d 426, 436 (7th Cir. 2017). But the record before us does not suggest any misconduct by the prosecution. And to the extent that any misconduct occurred outside the current record, this issue is best reserved for a collateral attack, where a more complete record can be developed. *Cf. Massaro v. United States*, 538 U.S. 500, 504–05 (2003) (ineffective assistance of counsel).

Finally, Taylor proposes arguing that 18 U.S.C. § 922(g)(1) violates his rights under the Second Amendment. Because we have since decided that § 922(g)(1) does not violate the Second Amendment on its face, *see Prince*, 171 F.4th at 1011, counsel now considers whether an as-applied challenge would be viable. Because Taylor did not raise a constitutional argument in the district court, our review would be for plain error, meaning the error must be “clear and uncontroverted at the time of appeal.” *United States v. Miles*, 86 F.4th 734, 740 (7th Cir. 2023) (citation omitted).

Counsel is right that an as-applied challenge would be frivolous. On the same day we decided *Prince*, we also held that § 922(g)(1) is constitutional as applied to individuals convicted of dangerous felonies. *United States v. Watson*, 1012 F.4th 1012, 1024 (7th Cir. 2026); *see also United States v. Rahimi*, 602 U.S. 680, 698 (2024). So Taylor would have to establish that none of his predicate felonies is a dangerous felony. Given these offenses include armed robbery and aggravated battery of a police officer, he cannot plausibly make this argument, especially under plain-error review.

We therefore GRANT counsel's motion to withdraw and DISMISS the appeal.