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

Argued November 14, 2025
Decided August 24, 2026

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 25-1293

VALLEY VIEW FARMS,
Plaintiff-Appellant,

v.

BOS DAIRY LLC, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Indiana, Hammond Division at Lafayette.

No. 4:22-cv-00083-APR

Andrew P. Rodovich,
Magistrate Judge.

O R D E R

Plaintiff Valley View Farms brought an action for conversion against defendants Bos Dairy LLC and Herrema Dairy LLC, alleging that the two dairies underreported the amount of corn silage they harvested from Valley View's corn fields. After a trial, the jury returned a unanimous verdict for Bos and Herrema. Valley View appeals, arguing that the trial judge committed reversible error by permitting three forage harvester operators employed by the dairies to offer lay testimony estimating the amount of silage they personally harvested. Instead, Valley View argues, the trial judge should have excluded the estimates as undisclosed expert testimony under Federal Rule of Evidence 702. Because even without this testimony Valley View failed to show by a preponderance of the evidence that Bos and Herrema converted its silage, any error in admitting this testimony was harmless. Accordingly, we affirm.

I

A. Background and procedural history

Valley View, an Illinois partnership with its principal place of business in Illinois, leases 710 acres of farmland near Bos Dairy and Herrema Dairy (together, the "Dairies"), both of which are Indiana limited liability companies located in Indiana. In January 2022, as part of an arrangement with the Dairies dating back over twenty years, Valley View contracted to plant corn silage on 250 acres of this land for Bos and 460 acres for Herrema. Corn silage is commonly used as feed for dairy cattle and is measured by the ton rather than by the bushel. The crop is harvested by chopping and processing the entire corn plant, including its leaves and stalks.

The parties' contract put most of the onus of harvesting and reporting on the Dairies. Under the contract's terms, the Dairies were required to harvest the silage, transport the silage to their respective dairy, and weigh the silage on certified scales. The contract also required that the silage weight be adjusted to 34% dry matter, which represents the amount of silage remaining after moisture has been removed. The Dairies would then pay Valley View for the total tons of silage they harvested based on the market price of corn options set by the Chicago Board of Trade. As part of the 2022 contract, Valley View estimated that the Dairies would harvest eighteen tons of silage per acre.

Shortly before the harvest began in September 2022, Valley View had Gary Corning, a crop insurance adjuster, provide an appraisal and estimate of the expected tonnage yields for each of the fields. Corning sampled and inspected the fields, then returned an estimate of 26.7 tons per acre for the Bos fields and 27.6 tons per acre for the Herrema fields. But after the harvest was completed a couple weeks later, the silage yield the Dairies reported was lower than Corning's pre-harvest appraisal. Bos reported an average yield of 18.3 tons per acre, and Herrema reported 16.8 tons per acre.

Using Corning's pre-harvest appraisal, Valley View alleged that Bos underreported 2,065 tons of silage valued at $115,929 and Herrema underreported 4,984 tons of silage valued at $279,801. When the parties were unable to resolve the disparity between Valley View's anticipated harvest and the actual harvest, Valley View filed a suit for conversion, breach of contract, and unjust enrichment in the Northern District of Indiana. In its suit, Valley View alleged that the Dairies had diverted and underreported the amount of silage they harvested from its fields. The Dairies ultimately moved for summary judgment, which the trial judge granted to the Dairies, but only on Valley View's unjust enrichment claim. Valley View later dropped its breach of contract claim and proceeded to trial solely on its conversion claim.

At the final pretrial conference, a dispute arose over the Dairies' intent to have the forage harvester operators—or "chopper operators"—testify about the tons of silage per acre harvested from the fields during the 2022 harvest. Valley View objected to this testimony, arguing that it constituted expert testimony and therefore needed to be subject to the analysis and disclosure requirements of Federal Rule of Evidence 702 and Federal Rule of Civil Procedure 26(a)(2), which the Dairies had not met. The Dairies pushed back, arguing that the testimony was properly admissible as lay testimony as defined by Federal Rule of Evidence 701 and therefore no prior disclosure was necessary. After considering these arguments, the judge ruled on the morning of trial that the chopper operators could testify to "the facts that they saw during the harvest, which includes the amount of silage they personally dealt with," but could not "give an opinion as to the total amount harvested."

B. Valley View's case-in-chief

When trial began, Valley View called five witnesses: Melissa Mercier, the owner of Valley View; John Adelsperger, Valley View's farm manager; Gary Corning, the crop insurance adjuster; Joseph Lauer, a professor of agronomy; and Paul Schmid, an agronomy consultant who performed soil analysis for Valley View.

None of Valley View's witnesses offered direct evidence that the Dairies underreported the silage harvest. On direct examination, Mercier testified that the relationship between Valley View and the Dairies began around 1998 or 1999. Recounting the history of the arrangement, Mercier explained that the farms' physical proximity benefited both parties because it lowered the cost of transporting the silage once harvested and made it easier for everyone to keep an eye on the crop. As for the 2022 harvest, Mercier testified that she estimated in that year's contract that the Dairies would harvest 18 tons of silage per acre because "18 is generally a good starting point." But she did not oversee or participate in the harvesting process. On cross-examination, Mercier testified that, until 2022, she had never questioned the amount of silage harvested or complained to the Dairies about any issues with their reported harvest. Nor did she have any idea where the allegedly converted silage was taken or how it was not accounted for in the weighing and reporting process.

Adelsperger and Schmid testified similarly on cross-examination. Both stated that they had no facts to support any allegation that the silage from the 2022 harvest was not transported from the fields to the Dairies or not weighed on the Dairies' scales.

The testimony of Corning and Lauer continued this trend. Both witnesses testified that they had no evidence that the Dairies diverted or failed to weigh all the silage harvested from Valley View's fields. They also stated that the sampling methodology Corning used for his appraisal was the industry standard. But on cross-examination, Corning testified that he did not know if he made it to all the fields, could not identify where the samples were taken, and took fewer samples than the methodology required. He also testified that his appraisal was not adjusted to 34% dry matter that the 2022 contract required and he did not know what his appraisal would have been had he made that adjustment.

C. The Dairies' case-in-chief

The Dairies called twenty witnesses, ranging from the owners of the two dairies to various managers and farmhands that worked at the dairies, each of whom testified that the harvest was accurately weighed and counted. As foreshadowed during the pretrial conference, the testimony of the three chopper operators, Steve Miller, Jamie Andrews, and Bret Weston, yielded several objections from Valley View.

The Dairies called Steve Miller first. Miller testified that he had five years of experience operating choppers and had chopped between 15,000 and 20,000 acres over those five years. He further testified that he chopped the entire field for Bos in 2022 and could "get a sense of what the corn is yielding when actually chopping it" based on the ground speed of the chopper, the height of the corn, and the quality of the soil. After laying this foundation, counsel for the Dairies asked Miller to estimate the tonnage of silage that was yielded from the fields based on the speed he was able to drive in the fields and his observation of the corn. Over Valley View's objection, Miller estimated that the amount of silage harvested "was anywhere from 15 to 18 ton[s] to the acre," an amount that was consistent with his prior years harvesting corn from Valley View's farms.

The Dairies then called Jamie Andrews. Andrews had eleven years of experience harvesting corn and other crops, had chopped approximately 100,000 acres of crops during this time, and had frequently chopped the Valley View fields. As he did with Miller, counsel for the Dairies asked Andrews to provide an estimate of the silage yield from the fields he chopped based on the height of the corn and the speed of the chopper. Valley View once again objected, this time arguing that the question elicited an expert opinion in violation of the judge's prior ruling. The judge disagreed and allowed the question, finding that the testimony constituted a lay opinion. Andrews then testified that the silage yield from the field that he chopped was in "the 15 to 18 [ton] range," which was consistent with the overall average from the past ten years. On cross-examination, Valley View asked Andrews whether his ability to understand the appearance of the corn and calculate the amount of corn harvested per acre required "pretty specialized knowledge" that only a chopper operator had. Andrews answered "Yes."

The Dairies then called Bret Weston, who had fifteen years of chopping experience and 70,000 acres chopped. Like the previous choppers, and over Valley View's objection, Weston testified that he probably chopped 15 to 16 tons of silage per acre during the 2022 harvest. On cross-examination, Valley View had the same colloquy with Weston as it had with Andrews that producing this estimate required "a specialized area of knowledge."

After three and a half days of trial, the jury returned a unanimous verdict in favor of the Dairies.

II

Valley View's appeal presents two questions: did the trial judge err in permitting the chopper operators to estimate the tons of silage per acre they harvested as Rule 701 lay testimony instead of excluding the estimations as undisclosed Rule 702 expert testimony? And if so, did the error prejudice Valley View such that it is entitled to a new trial?

As for the first question, we review a district court's decision to admit or exclude expert testimony for abuse of discretion. *Compania Administradora de Recuperacion de Activos Administradora de Fondos de Inversion Sociedad Anonima v. Titan Int'l, Inc.*, 533 F.3d 555, 559 (7th Cir. 2008) (hereinafter *Titan*). But when the district court's classification of a witness as lay or expert is based on an interpretation of the Federal Rules of Evidence, we review that legal interpretation de novo. *Id.*

That said, "[e]ven if an expert's testimony was erroneously admitted or excluded, reversal is not warranted unless the error has affected a party's 'substantial rights.'" *Hall v. Flannery*, 840 F.3d 922, 926 (7th Cir. 2016) (quoting Fed. R. Civ. P. 61). Held to this standard, evidentiary errors warrant a new trial "only if the error had a substantial and injurious effect or influence on the jury's decision." *Anderson v. Raymond Corp*., 61 F.4th 505, 508 (7th Cir. 2023); *id.* at 511 (citing *Hall*, 840 F.3d at 926–27).

Valley View argues the admission of the chopper operators' testimony was both erroneous and prejudicial. Rule 701 limits lay witness testimony offered in the form of an opinion to testimony that is "not based on scientific, technical, or other specialized knowledge." Pointing to this language, Valley View contends that the chopper operators' opinions on the total tons per acre of silage harvested were not admissible under Rule 701 because the opinions were based on their "specialized knowledge" as harvester operators. From there, Valley View argues the Dairies had an obligation under Rule 702 and Federal Rule of Civil Procedure 26(a)(2) to disclose and qualify the chopper operators as experts. Since the Dairies did not, Valley View continues, the judge abused his discretion in admitting the chopper operators' expert opinions. In Valley View's eyes, this evidentiary error entitles it to a new trial because the chopper operators' opinions were the only firsthand "tons per acre" evidence the Dairies presented to rebut Corning's appraisal and Lauer's expert opinion testimony. As Valley View urges in its brief, the chopper operators' testimony "certainly could have affected the jury's decision in favor of the Dairies."

The Dairies argue the opposite. In their telling, the basis for the chopper operators' opinions was "their personal experience and observations," not specialized knowledge. Therefore, the Dairies maintain, the opinions were properly admitted as lay testimony under Rule 701. And even if the trial judge erred, the Dairies argue on appeal, the error was "simply harmless, evidenced by each of Valley View's witnesses testifying that they had no evidence of the claims submitted."

To Valley View's credit, the chopper operators' silage-yield opinions toe the fine line between lay and expert testimony. *See, e.g.*, *Von der Ruhr v. Immtech Int'l, Inc.*, 570 F.3d 858, 862–63 (7th Cir. 2009) (explaining development and scope of Rule 701); *Titan*, 533 F.3d at 560–61 (same). But we need not decide this question. For even if the judge erred in admitting the chopper operators' testimony, the error was harmless in the face of Valley View's failure to provide evidence of conversion by the Dairies.

We look to Indiana law on conversion because this case came to the federal court sitting in Indiana based on diversity jurisdiction. *Deckard v. Gen. Motors Corp.*, 307 F.3d 556, 560 (7th Cir. 2002). Under Indiana law, criminal conversion occurs when a person "knowingly or intentionally exerts unauthorized control over property of another person." Ind. Code § 35-43-4-3. In Indiana, a party may bring a civil suit to recover monetary losses due to criminal conversion. *JET Credit Union v. Loudermilk*, 879 N.E.2d 594, 597 (Ind. Ct. App. 2008). But unlike in the criminal context, to prevail, a party "need prove by only a preponderance of the evidence that the defendant committed the criminal act." *Id.*

The evidence Valley View presented at trial leaves us well short of the "firm conviction" needed to find that any erroneous admission of the chopper operators' testimony "could have affected the jury's decision" to find in favor of the Dairies. *Anderson*, 61 F.4th at 511. As Valley View conceded during oral argument, none of its witnesses were able to testify that the Dairies underreported the amount of silage they harvested or offer any other direct evidence of conversion. Instead, Valley View's case relied almost entirely on Corning's preharvest appraisal as circumstantial evidence of conversion. Yet the credibility of that appraisal was heavily called into question during cross-examination. Further, removing the chopper operators' testimony on the average tons per acre of silage they thought they harvested leaves the jury with the Dairies' seventeen other witnesses, all of whom testified that there was no impropriety during the 2022 harvest. As such, there is little chance that the chopper operators' opinions affected the outcome of the trial. This low probability renders harmless the judge's decision to admit the chopper operators' opinions as lay testimony.

AFFIRMED.