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No. 26-1119

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. LETICIA GALLARZO, Defendant-Appellant.	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN OPINION

Before: CLAY, MURPHY, and FLOWERS, Circuit Judges.

CLAY, Circuit Judge. Defendant Leticia Gallarzo appeals the district court's application to her of a sentencing enhancement based on a finding that her criminal conduct created a risk of death or serious bodily injury. Gallarzo pleaded guilty to one count of aggravated identity theft and one count of false statements relating to healthcare matters after she obtained nursing employment without proper licensing by stealing a nurse's identity. Because the district court did not clearly err in applying the enhancement, we **AFFIRM** the district court's judgment.

I. BACKGROUND

A. Factual Background

In October 2017, Gallarzo was convicted on several counts in federal court for using falsified information to obtain employment as a registered nurse ("RN") at multiple Texas healthcare facilities. Her federal conviction followed two state court convictions for similar conduct, in Texas in December 2015 and in Michigan in March 2016. She began federal

supervised release in the Western District of Michigan in April 2018, which she violated several times. She was discharged from supervised release in August 2021.

About a year later, Gallarzo applied for a nursing position in Michigan using the nursing license number of a Michigan RN referred to here by the initials "L.T.C.P." After noticing a discrepancy in the information Gallarzo submitted, the employer denied her application and notified the FBI. Shortly thereafter, Gallarzo applied for another RN position, again using L.T.C.P.'s nursing license number. This time her application was successful, and she began working at a skilled nursing home as a floor nurse in August 2022. In November 2022, Gallarzo applied for an internal transfer to a skilled nursing facility, which would involve transitioning from a floor nurse to a unit manager. The transfer was approved, and Gallarzo became the unit manager RN at the skilled nursing facility, where she supervised other nurses. Gallarzo had performance issues at the skilled nursing facility and was demoted from a supervisor to a lower-level nurse.

In January 2023, as a result of Gallarzo's federal healthcare fraud conviction in Texas, the Department of Health and Human Services Office of the Inspector General ("OIG") initiated a healthcare exclusion proceeding against Gallarzo. The OIG ultimately prohibited Gallarzo from participation in all federal healthcare programs for five years. In April 2023, Gallarzo applied for a separate after-hours RN position at a Michigan hospice facility, again using L.T.C.P.'s nursing license number. The hospice facility hired Gallarzo in May 2023, subject to her completion of orientation and a background check. Gallarzo attended the orientation, at which she presented her real Michigan driver's license with her true name, and the hospice facility obtained her fingerprints for the background check. The hospice facility immediately terminated Gallarzo's employment after her name and fingerprints led to discovery of her prior federal conviction and healthcare exclusion.

After receiving a complaint about Gallarzo from the hospice facility, the Michigan State Police ("MSP") went to the skilled nursing facility and met with her on June 1, 2023. Gallarzo consented to an interview with the troopers at an MSP post, where she was provided *Miranda* warnings. After confirming that she was the unit manager at the skilled nursing facility and supervised the nursing assistants, Gallarzo stated that she wanted a lawyer and ended the interview. MSP could not find a valid Michigan nursing license for Gallarzo but did verify L.T.C.P.'s nursing license number. Staff at the skilled nursing facility told investigators that Gallarzo's responsibilities included RN duties such as administering medication (including narcotics), starting intravenous ("IV") lines, pulling peripherally inserted central catheter ("PICC") lines, checking vital signs, and supervising nursing assistants. Gallarzo was arrested and lodged in a Michigan jail.

B. Procedural History

A federal criminal complaint was filed against Gallarzo in August 2023, and a federal grand jury returned a six-count indictment in September 2023. The grand jury charged Gallarzo with one count of wire fraud against the skilled nursing facility under 18 U.S.C. § 1343; two counts of aggravated identify theft under 18 U.S.C. § 1028A, one each in relation to her employment at the skilled nursing facility and at the hospice facility; two counts of false statements relating to healthcare matters under 18 U.S.C. § 1035, in relation to two statements Gallarzo made while working at the skilled nursing facility; and one count of production of a false identification document under 18 U.S.C. § 1028, in relation to her application to the hospice facility.

Gallarzo pleaded guilty to one count of aggravated identity theft, in relation to her employment at the skilled nursing facility, and one count of false statements relating to healthcare matters. The government dismissed the other four counts. While awaiting sentencing, Gallarzo

absconded on bond until her arrest in California in September 2025. During her abscondment, she first obtained medical employment in Illinois using a physician's assistant's identity, then worked as a nurse in the Los Angeles area by utilizing a California RN's nursing license number.

After Gallarzo was brought back to Michigan, the probation officer submitted the final amended presentence report, which applied a two-offense-level enhancement under U.S.S.G. § 2B1.1(b)(16)(A) "[b]ecause the offense involved the conscious or reckless risk of death or serious bodily injury." Am. PSR, R. 58, PageID #268. Gallarzo objected to this enhancement, arguing that, although she was undisputedly "not formally educated or licensed as a nurse," "she did receive some kind of medical training" that "was enough to allow her to perform her job duties safely." Def.'s Supp. Sent'g Mem., R. 59, PageID #306–07. Specifically, from 1996 to 2000, Gallarzo attended Belford University, a fraudulent online institution from which she purportedly obtained a nursing degree. Am. PSR, R. 58, PageID #282. Gallarzo stated that she was not aware of the university's fraudulence until after graduating. *Id.* She additionally reported to have received formal medical assistant training in 1998 through the Grand Rapids Educational Center. *Id.* Records also show that she undertook medical assistant studies at Davenport University for several semesters between 2004 and 2011 and withdrew without a degree. *Id.* at PageID #264, 282. Gallarzo further argued that her "years of on-the-job experience in the medical field" allowed her to safely treat patients. Def.'s Sent'g Mem., R. 47, PageID #200.

The district court overruled Gallarzo's objection to the § 2B1.1(b)(16)(A) enhancement, concluding that "[t]he risks inherent in [her] conduct" were "obvious" because "[s]he is unqualified[] [and] untrained in many of the acts that she was performing as a nurse." Sent'g Tr., R. 71, PageID #362. Gallarzo was sentenced to 75 months' imprisonment, and this timely appeal followed.

II. DISCUSSION

On appeal, Gallarzo argues that the district court erred in finding that her conduct created a "risk of death or serious bodily injury" under § 2B1.1(b)(16)(A) because, she contends, her previous medical experience rendered her actions safe. We review the district court's finding for clear error, *United States v. Wala*, 166 F.4th 583, 604–06 (6th Cir. 2026), affirming "so long as [it] is plausible in light of the record viewed in its entirety," *United States v. Grant*, 15 F.4th 452, 457 (6th Cir. 2021) (internal quotation marks omitted) (quoting *Anderson v. City of Bessemer City*, 470 U.S. 564, 574 (1985)). The Sentencing Guidelines define "serious bodily injury" as "injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ, or mental faculty; or requiring medical intervention such as surgery, hospitalization, or physical rehabilitation." U.S.S.G. § 1B1.1 cmt. n.1(L). "For the § 2B1.1(b)(16)(A) enhancement to apply, the sentencing court need not find actual injury, but only that the reckless risk was actual, not conjectural." *Wala*, 166 F.4th at 604 (internal quotation marks omitted) (quoting *United States v. Sosa-Baladron*, 800 F. App'x 313, 330 (6th Cir. 2020)).

We cannot conclude that the district court's application of the § 2B1.1(b)(16)(A) enhancement was implausible. Many of Gallarzo's responsibilities at the skilled nursing facility—including administering narcotic medication, starting IVs, and pulling PICC lines—could have resulted in death or serious bodily injury if performed improperly. Gallarzo contends that, despite her lack of formal nursing education or licensing, her medical experience prevented such a risk. But nursing education and licensing exist precisely to ensure that those undertaking the otherwise dangerous responsibilities of a nurse perform them safely. And Gallarzo's performance issues at the skilled nursing facility indicate that she could not safely carry out those responsibilities. While Gallarzo points out that the record is unclear as to whether her performance issues related to her

nursing abilities rather than problems such as tardiness, it is not implausible to conclude that an unlicensed nurse's performance-based demotion evidences her nursing ineptitude. The district court therefore did not clearly err in finding that Gallarzo's conduct created a "risk of death or serious bodily injury" under § 2B1.1(b)(16)(A).

III. CONCLUSION

We accordingly **AFFIRM** the district court's judgment.