United States Court of Appeals
For the Eighth Circuit

No. 25-2791

United States of America

Plaintiff - Appellee

v.

Charles Times

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: September 21, 2026
Filed: November 13, 2026

Before COLLOTON, Chief Judge, L.R. SMITH and JUSTIN D. SMITH, Circuit Judges.

JUSTIN D. SMITH, Circuit Judge.

Charles Times pleaded guilty to one count of being a felon in possession of a firearm. 18 U.S.C. §§ 922(g)(1), 924(a)(8). At his sentencing, the government moved for an upward variance of 87 months, and the district court[1] subsequently

[1]The Honorable John A. Ross, United States District Judge for the Eastern District of Missouri.

imposed a sentence of 84 months. Times claims that the district court erred procedurally by relying on erroneous facts to justify the upward variance. Because Times has not shown that the district court clearly erred in its statements or that any error affected his substantial rights, this Court affirms.

I.

Times is a frequent participant in the criminal justice system. Times first encountered the system in 1993 when, at the age of 17, he drove while his license was revoked. In the years since, Times has been convicted a total of 25 times for illegally driving without a proper license or while it was suspended or revoked. Times also has been convicted for driving while intoxicated on two occasions, for possessing cocaine while carrying a concealed weapon, for trafficking cocaine, and for leaving the scene of an accident after hitting a woman with his vehicle. Times' criminal activity culminated with a second-degree murder conviction for shooting his father-in-law in the chest in August 2008.

Just months after Times' parole for murdering his father-in-law ended in January 2024, law enforcement repeatedly encountered Times in possession of firearms. In April 2024, police officers found Times sleeping off intoxication in the driver's seat of a vehicle, with a loaded nine-millimeter handgun on the floorboard. The officers told Times that he could get back his gun from the police department when he sobered up. Not until after the officers returned to the station did they learn that Times had been convicted of seven felonies.

In May 2024, officers saw Times weaving his car on the road. After they pulled him over, Times told the officers that he had a gun under his seat, he was a convicted felon, and "he had come from the bar and had had 'a drink.'" After

arresting Times for being a felon in possession of a firearm, the officers found a bag of suspected marijuana in his pocket during a search incident to arrest.[2]

Times was indicted in June 2024 for being a felon in possession of a firearm in April 2024 (Count One) and being a felon in possession of a firearm in May 2024 (Count Two). When the United States marshals arrived at Times' residence to arrest him in July 2024, the marshals found five handguns, ammunition, and two loaded magazines.

Pursuant to a plea agreement, the government agreed to dismiss its second count against Times and not request a sentence of more than 87 months. At sentencing, the parties did not object to the Presentence Investigation Report and agreed that the guidelines calculated a sentencing range of 51 to 63 months.

After hearing from both sides at the sentencing hearing, the district court recounted how Times' previous convictions had not deterred his unlawful behavior: "The fact is that the Defendant has continued, despite previous DWIs, despite striking and injuring a pedestrian, despite having previous firearm convictions, he continues to both drink alcohol to excess, and possess firearms, and drive a vehicle." Based on this history, the district court found that Times' "criminal history score and category are understated" and did not "adequately reflect the seriousness of [his] criminal history." After reviewing Times' history, the district court concluded that "nothing has deterred Mr. Times from violating the law," and that it was hard "to see how we are going to deter him but for an extended term of incapacitation and incarceration." Accordingly, the district court determined that an upward variance was appropriate and imposed an 84-month sentence.

[2]The record is not clear on whether law enforcement confirmed that the bag contained marijuana. However, at the sentencing hearing, the district court reported that it was marijuana, and Times did not object then or now to the district court's statement.

Times argues that the district court procedurally erred in three statements that it made at the sentencing hearing: (1) that Times was "driving without a driver's license, drunk on a number of occasions, many times with a gun"; (2) that Times had been drinking when he murdered his father-in-law; and (3) that Times has a "continuing pattern of drinking and driving with guns, and drinking and possession of guns."

II.

"A district court commits a procedural error by 'selecting a sentence based on clearly erroneous facts.'" *United States v. White Owl*, 183 F.4th 990, 995 (8th Cir. 2026) (citation omitted). At sentencing, Times did not object to the comments he challenges now. When a defendant fails to object to a procedural error, this Court reviews for plain error. *United States v. Martin*, 190 F.4th 654, 658 (8th Cir. 2026). To establish plain error, the defendant must prove that "there is an error; the error is obvious; the error affected the defendant's substantial rights; and the error seriously affected the fairness, integrity, or public reputation of judicial proceedings." *United States v. Rondeau*, 187 F.4th 997, 1004 (8th Cir. 2026). "Meeting all four prongs is difficult, 'as it should be.'" *Puckett v. United States*, 556 U.S. 129, 135 (2009) (citation omitted).

A.

The district court made no clear factual error in summarizing Times' conduct. Times first challenges the district court's statement that Times was "driving without a driver's license." But Times has been convicted 25 times for driving without a valid license. This challenge fails.

Times next challenges the district court's statement that Times drove "drunk on a number of occasions." Again, Times has been convicted twice for driving while intoxicated. This challenge also fails.

Times then challenges the district court's statements relating to the confluence of driving, alcohol, and guns: Times was "driving without a driver's license, drunk on a number of occasions, many times with a gun," and Times has a "continuing pattern of drinking and driving with guns, and drinking and possession of guns." Shortly before Times' indictment for the instant offense, in April 2024, law enforcement found Times passed out intoxicated in the driver's seat of his car with a loaded nine-millimeter handgun laying on the driver's side floorboard. One month later, in May 2024, law enforcement stopped Times for erratic driving. During the stop, Times admitted to coming from a bar, where he had a drink, and he possessed a different nine-millimeter handgun. This challenge, too, fails.

Finally, Times challenges the district court's statement to Times that "you apparently were drinking, got into an argument, and then you murdered your relative, and were convicted of murder in the second degree and armed criminal action. You spent a substantial time in prison." Times contests only the statement that "you apparently were drinking." The Presentence Investigation Report noted that Times completed a substance abuse program early in the incarceration for his offense. "We reverse for clear error only when the entire record definitely and firmly illustrates that the lower court made a mistake." *United States v. Clark*, 999 F.3d 1095, 1097 (8th Cir. 2021) (per curiam) (citation modified). "Here, the entire record neither definitively nor firmly shows a mistake." *United States v. Bruhn*, 178 F.4th 1170, 1174 (8th Cir. 2026).

B.

Even if Times had established that the district court's statements were not sufficiently supported by the record, the defendant must show "a reasonable probability that but for the error he would have received a more favorable sentence." *United States v. Bonnell*, 932 F.3d 1080, 1083 (8th Cir. 2019) (per curiam) (citation modified). The error upon which the district court relied thus must be a "principal basis" for the sentence. *United States v. Harrell*, 982 F.3d 1137, 1140 (8th Cir. 2020).

After careful review, the Court is not convinced that the challenged district court statements resulted in a less favorable sentence than Times otherwise would have received. Like in *Harrell*, the district court here "pointed to a number of aggravating factors, including the danger [Times'] conduct posed to the community." *Id.*; *see also United States v. Williams*, 30 F.4th 796, 800 (8th Cir. 2022) (noting how "the district court expressly considered other factors weighing in favor of the imposed sentence . . . ."). The district court also considered Times' prior convictions involving guns, drug possession and trafficking, illegal driving, and murder, all of which were part of what the district court found to be his understated criminal history. Given his lengthy criminal history, the district court concluded that "nothing has deterred Mr. Times from violating the law, and it is hard . . . to see how" he will be deterred "but for an extended term of incapacitation and incarceration."

Because Times has not shown a reasonable probability that but for the alleged error, his sentence would have been lower, Times' challenge fails.

III.

The Court affirms the judgment of the district court.
