

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued November 18, 2025

Decided October 9, 2026

No. 23-3233

UNITED STATES OF AMERICA,
APPELLEE

v.

JAMES ALBERT TRANKLE, ALSO KNOWN AS JOHN DAVIS,
APPELLANT

Appeal from the United States District Court
for the District of Columbia
(No. 1:21-cr-00675-1)

Howard B. Katzoff argued the cause and filed the briefs for
appellant.

David B. Goodhand, Assistant U.S. Attorney, argued the
cause for appellee. With him on the brief were *Jeanine Ferris
Pirro*, U.S. Attorney, and *Chrisellen R. Kolb* and *John W.
Borchert*, Assistant U.S. Attorneys.

Before: SRINIVASAN, *Chief Judge*, CHILDS, *Circuit Judge*,
and ROGERS, *Senior Circuit Judge*.

Opinion for the Court filed by *Circuit Judge* CHILDS.

Concurring opinion filed by *Senior Circuit Judge* ROGERS.

CHILDS, *Circuit Judge*: For several years, James A. Trankle was writing, thinking, and making plans about how to stop charity fraud. In his mind, when charities solicited donations, they were dishonest with their patrons by failing to disclose what portion of their donations was used for operating expenses rather than to support the causes and people the charities purported to support. So Trankle decided to seek donations and serve the people himself. To that end, he created two entities and collected hundreds of thousands of dollars through nationwide solicitations. Yet his charities were charitable in name only. The solicitations mimicked those of real charities and the donations often funded only Trankle. Unfortunately for Trankle, these actions describe a fraudulent scheme, not a charity. Trankle's conduct resulted in him and an accomplice being charged with several federal crimes related to the entities' operations. Trankle now appeals aspects of his trial and conviction, including a hearsay ruling and the sufficiency of the evidence to support his conviction. He also appeals the length and conditions of his sentence.

Considering the record below, we affirm the district court's ruling to exclude impermissible hearsay, its decision that the evidence did not require upsetting the jury's well-informed judgment of conviction, and finally its sentence.

I.

A.

We begin with a short recitation of the relevant facts. As the law governing our review of criminal appeals requires, these facts have been construed in the light most favorable to the jury verdict. *United States v. Clark*, 156 F.4th 664, 672 (D.C. Cir. 2025); *see also Bryan v. United States*, 524 U.S. 184,

189 (1998) (explaining that when reviewing a criminal jury conviction, appellate courts accept the government's version of the evidence).

In 2015, Trankle registered a corporation in the District of Columbia, the "Good Charity Church Inc." (Charity or Trankle's charity). The Charity was not a church, and it was certainly not a charity. It was essentially a business. The Charity was known by many trade names registered with the District of Columbia, each suggestive of a different charitable cause. While Trankle was the registered agent for the Charity, he did not work alone. The Charity had an employee, Stephen Sibert, Trankle's subordinate and occasional partner. Among other things, Trankle and Sibert together created and operated an additional corporation called the "Restaurant Buyers Club Society" (Society), which was also known by many names.

Together, Trankle and Sibert sent thousands of cross-country mailings asking for personal checks as donations to the Charity and Society. However, they made those solicitations using the Charity and Society's trade names. Any resulting checks were sent to a P.O. Box and were then forwarded to addresses affiliated with Sibert and Trankle. Trankle and Sibert also opened several bank accounts for the Charity and Society in which to deposit these donations.

But there was already an entity soliciting donations in the same way as Trankle's Good Charity Church, an organization called the "*Good Charity Inc.*" (Good Charity). Good Charity was registered and operated in Michigan and was unaffiliated with Trankle. Good Charity also operated with an umbrella structure like Trankle's charity, raising funds for several causes under other operating names. Yet unlike Trankle's charity, Good Charity was a 501(c)(3) non-profit charitable organization. Also, unlike Trankle's charity, Good Charity

reported the funds it received, who benefitted from them, and how they were spent.

The registered trade names of Trankle's charity were strikingly similar to the charities operated by Good Charity. From Michigan, Good Charity sent letters soliciting donations for the "Disabled and Paralyzed Veterans Fund," the "Children's Leukemia of America Fund," and the "National Breast Cancer Awareness Fund." From the District of Columbia, Trankle's charity solicited donations using trade names that replicated the names of these Good Charity funds. But that was not all. Trankle also solicited money for the Charity by using trade names that were slight variations of Good Charity's, including the "Disabled and Paralyzed Veterans *Foundation*," the "National Breast Cancer Awareness *Foundation*," and the "Children's Leukemia of America *Foundation*."

The mail solicitations for Trankle's charity were not quite clear about where a donor was sending their money. This was not just because of the trade names, but because, with limited exception, any funds sent to the Charity through its trade name solicitations went to Trankle and Sibert. The letters also contained many other falsities. The address they provided for receiving donations purported to be the offices of a 501(c)(3), but it was actually a P.O. box. Then when the letters suggested they sought a single donation, the checks and signatures sent in response were used to allow recurring monthly donations, even if the donor did not know or wish for that to be so. The letters also certainly did not state that donations would be directly used for what can only be described as Trankle and Sibert's personal expenses. For instance, donations to the Charity and Society were unabashedly used for drinking, vaping, biking, golfing, and contacting celebrities. And so it went on for several years, letters sent using trade names, checks sent back

to the Charity and Society, and money spent by Trankle and Sibert.

Indeed, during its years of service, the Charity collected hundreds of checks, and Trankle and Sibert deposited them into accounts at banks where they were the primary accountholders, including BB&T, SunTrust Bank, First National Bank, PNC Bank, Severn Bank, and Wells Fargo.¹ While about \$30,000-worth of the checks they deposited were not honored because they were unendorsed, counterfeit checks, at one time, the total value the checks that Trankle and Sibert deposited in these accounts was \$158,709. Across the entirety of their scheme, the cumulative value of the checks they deposited was \$204,561.

It comes as no surprise that the way Trankle and Sibert operated the Charity and Society violated federal law. The Department of Justice first pursued Sibert, who, in 2020, self-surrendered, pleaded guilty to a criminal information, and then turned state's evidence. The pursuit of Trankle came next.

B.

In 2021, a federal grand jury returned a ten-count indictment against Trankle. The first count was for conspiracy to commit mail fraud in violation of 18 U.S.C. § 1341 and bank fraud in violation of 18 U.S.C. § 1344 with his co-conspirator Sibert. Trankle was also charged with five additional counts of bank fraud in violation of 18 U.S.C. § 1344(2). Each of the additional five counts corresponded to the banks Trankle defrauded by depositing checks that were themselves fraudulent or that he fraudulently obtained. The next four

¹ Three of these banks are now known by different names. BB&T merged with SunTrust Bank, and they are both now known as Truist Bank. Shore United Bank was acquired by Severn Bank.

counts were for aggravated identity theft in violation of 18 U.S.C. § 1028A for Trankle's use of six victims' identities to facilitate the objects of his conspiracy. Finally, the indictment contained a forfeiture allegation per 18 U.S.C. § 982(a)(2)(A) for the property constituted or derived from the proceeds of the conspiracy.

Two years later, a four-day jury trial commenced against Trankle in the U.S. District Court for the District of Columbia. Before the trial, the Government dismissed by oral motion two of the four counts of aggravated identity theft, and the remaining two were dismissed before the jury deliberated. Thus, the jury only considered the first six counts of the indictment—one count for conspiracy to commit mail and bank fraud and five additional counts of bank fraud—and it found Trankle guilty of each count. After the jury's verdict, Trankle's counsel moved for a judgment of acquittal or in the alternative for a new trial. *See* Fed. R. Crim. P. 29(c)(1), 33(a). The district court denied Trankle's motion, and the case moved to sentencing.

The U.S. Probation Office prepared a draft Presentence Investigation Report (PSR), which calculated Trankle's sentencing guidelines range to be 57 to 71 months after applying several sentencing enhancements. Trankle challenged the PSR's proposed sentencing enhancements and corresponding guideline calculations. At sentencing, the district court adopted the PSR's sentencing calculations and its recommended enhancements. It then sentenced Trankle to 60 months imprisonment. Additionally, the court entered an order of forfeiture, which reflects the proceeds of the conspiracy listed in the indictment.

Trankle timely appealed the denial of his motion for judgment of acquittal under Rule 29(c)(1) of the Federal Rules

of Criminal Procedure, or alternatively for a new trial under Rule 33(a). He again challenges the district court's evidentiary ruling at trial excluding certain documents on hearsay grounds and also asserts there was insufficient evidence to support his six counts of conviction. Additionally, Trankle appeals the length and conditions of his sentence, particularly the order of forfeiture. We consider these challenges in turn.

II.

We first consider Trankle's challenge to an evidentiary ruling the district court made at trial. Because Trankle's judgment of conviction has been entered, we have jurisdiction to review the challenged evidentiary ruling under 28 U.S.C. § 1291. *See United States v. Brockenborough*, 575 F.3d 726, 733 (D.C. Cir. 2009). The hearsay ruling in question excluded a tranche of documents containing writings that Trankle wished to admit as substantive evidence during the testimony of a Government witness. There are two issues in contention: the standard of review and the merits of Trankle's challenge to the hearsay ruling. We begin with a brief recitation of the relevant trial record before addressing each issue in turn.

A.

1.

During a break at trial, the Government preemptively objected when it understood that Trankle's counsel sought to enter a box of documents into evidence. The documents in this box were collected by federal law enforcement when they executed a search warrant on the Charity's offices. The Government argued that some of the documents were writings that were "self-serving hearsay" that would likely be inadmissible if Trankle did not testify. Trial Tr. Day 2 at 150:13, 150:16–20, 201:24–202:8. The box of documents

included magazines, prospective contracts, pamphlets, and emails, among other things.

The district court extensively considered many of these documents individually, hearing arguments from both parties about their admissibility and allowing some into evidence. *Id.* at 189:18–207:24. As to the magazines, the court understood that the magazine covers could serve for the non-hearsay purpose of showing that Trankle was producing the materials. *Id.* at 206:25–207:2. So the district court indicated that the magazine covers could likely be entered into evidence during the appropriate witness’ testimony. *Id.* at 206:9. Later, the Government called Postal Inspector Stephen Cohen, of the U.S. Postal Inspection Service, to testify. On direct examination, Inspector Cohen discussed executing the search warrant that produced the box of documents. On cross-examination, Trankle’s counsel wished for Inspector Cohen to again discuss those documents. However, when Trankle’s counsel sought to introduce the substance of those documents into evidence, the Government renewed its objection.

Though the Government understood, based on the court’s earlier ruling, that the covers of the magazines were admissible, it argued that entering their contents as substantive evidence would be inadmissible hearsay. In response, Trankle’s counsel argued that the documents were not hearsay, and that they “describe[d] what [Trankle] [was] doing, what his challenges [were], what he [was] trying to accomplish and what his goals [were] with regard to his organization, that it’s all about fighting charity fraud.” Trial Tr. Day 3 at 93:24–94:3. When the district court suggested that these materials sounded like hearsay, Trankle’s counsel argued that they nevertheless fell under an exception because they went to Trankle’s “state of mind.” *Id.* at 94:15–17. The district court was unpersuaded and instead concluded that the substance of the documents

would likely be inadmissible hearsay. *Id.* at 94:18–22, 95:4–21. However, the court allowed Trankle’s counsel to rely on documents for non-substantive purposes during the cross-examination of Inspector Cohen. *Id.* at 95:13–21, 96:23–97:3.

Before cross-examination resumed, Trankle’s counsel asked the court to formally make a ruling on the documents’ admissibility. *Id.* at 96:1–4. Trankle’s counsel then asked if the court could “take a look at” the other comparable documents from the box and “make a similar ruling for record purposes.” *Id.* at 96:3–4. The district court remarked that this would be “nine or maybe ten different folders” of papers that were each “six to eight inches long.” *Id.* at 96:10–12. Then the court further stated that it would not “read through [them] all right now,” but noted that they seemed to contain additional emails and statements of Trankle that would be similarly inadmissible during Inspector Cohen’s cross-examination. *Id.* at 96:12–20. The district court thus construed the request as a motion to admit those documents and made a ruling denying their admission. The court still permitted those excluded documents to be used for cross-examination.

2.

Before reaching the substance of the hearsay objection, we must resolve a dispute between the parties about the standard of review.

At trial, the party seeking to exclude the alleged hearsay bears the initial burden of proving that the contested evidence is indeed hearsay. 30B *Wright & Miller’s Federal Practice & Procedure* §§ 6712, 6803 (5th ed. 2026 update). If the court determines the evidence is hearsay, then the burden shifts, and the party seeking to introduce the evidence must make a showing that the evidence falls within an applicable exception. *Id.*; see *Bourjaily v. United States*, 483 U.S. 171, 175 (1987).

Once excluded, the party wishing to reassert on appeal their objection to the district court’s ruling must properly preserve it, lest they forfeit a more favorable standard of review. When preserved, this court reviews the exclusion of a hearsay statement for an abuse of discretion. *United States v. Slatten*, 865 F.3d 767, 805 (D.C. Cir. 2017). A district court abuses its discretion when it acts in a way that is “clearly unreasonable, arbitrary, or fanciful.” *Bastani v. Am. Fed’n of Gov’t Emps., AFL-CIO*, 70 F.4th 563, 569 (D.C. Cir. 2023) (citation modified). When not preserved, we review for plain error. *See* Fed. R. Crim. P. 51(b), 52(b); *United States v. Spriggs*, 102 F.3d 1245, 1257 (D.C. Cir. 1996), *as amended* (Feb. 20, 1997). A plain error is one that is “clear or obvious,” that “affected the outcome of the district court proceedings,” and that “seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *United States v. Benjamin Brandon Grey*, 891 F.3d 1054, 1058 (D.C. Cir. 2018) (citation modified).

Where the parties disagree is whether more was required—perhaps a proffer—to preserve the claim of error. However, the Rules of Evidence are clear about how a claim of error must be preserved for our review. The claimed error must (1) affect the “substantial right[s] of the party,” and for excluded evidence, the party must also (2) inform the court of the “substance” of the excluded evidence with “an offer of proof” “unless the substance was apparent from the context.” *See* Fed. R. Evid. 103(a)(2). Thus, the proffer is not for our benefit; it is for the benefit of the district court’s initial review. *See id.*; *see also* Fed. R. Evid. 103(b) (“Once the court rules definitively on the record — either before or at trial — a party need not renew an objection or offer of proof to preserve a claim of error for appeal.”); *cf.* Fed R. Evid. 103(c).

Even under this standard, the Government argues this court must use plain-error review. In the Government’s view, at trial,

Trankle was required to proffer the documents he argues were improperly excluded. Trankle contests this, arguing that a proffer was not required for preservation because the substance of the disputed evidence was apparent to the court and was additionally identified in the objection colloquy. We agree.

The record reflects that the district court was sufficiently aware of the substance of the documents and the reason Trankle sought to admit them. Upon the Government's first and renewed objection, Trankle's counsel made representations about the contents of the documents and his intentions for the use of the documents if they were admitted. As a result, the district court was sufficiently aware of the evidence at issue without an additional proffer. The Rules do not require more. Hence, our review of the record leads to the conclusion that the contested documents were adequately described for preservation. The district court understood the context and nature of the documents Trankle's counsel presented for admission. The abuse of discretion standard applies.

3.

As we move to the objection itself, there are three questions for this court to answer. The first two are interrelated: we must determine whether the district court abused its discretion in first determining the documents were hearsay, and then in finding that they were not otherwise admissible under the state-of-mind exception. Last, on our own initiative, we assess whether the district court erred in the manner it entertained the objection colloquy.

At trial, Trankle's counsel began by explaining that they wished to use the documents to combat allegations of Trankle's motive or intent, for instance, by showing that he was not hiding the Charity and Society's activities. Trial Tr. Day 3 at

93:24–25 (explaining the documents were not hidden in Trankle’s office but “out in the open”). Additionally, the documents “describe[d]” Trankle’s actions and advocacy, which were “all about fighting charity fraud.” *Id.* at 93:24–94:3 (explaining that the documents describe “what he is doing, what his challenges are, what he is trying to accomplish” with the Charity). Further, Trankle’s counsel suggested that the documents would “prove the fact” that Trankle was “doing and saying” things in furtherance of “his goal of fighting charity fraud.” *Id.* at 94:7–9; *see also id.* at 94:4–6 (noting that some documents were sent to Congress). The district court concluded this would be hearsay. We agree.

The Rules of Evidence define hearsay as any out-of-court statement by a declarant that a party “offers in evidence to prove the truth of the matter asserted in the statement.” Fed. R. Evid. 801(a)–(c). Hearsay may consist of a declarant’s “written assertion[s]” as well as spoken statements. Fed. R. Evid. 801 (a)–(b). The record suggests that Trankle’s contested writings are hearsay because they appear to have been offered for the truth of their contents, which, if admitted, would have allowed Trankle to present to the jury his goals in running the Charity and Society. Trial Tr. Day 3 at 94:7–9.

Trankle fights this conclusion, but in his appeal we see no showing that suggests that it was “clearly unreasonable, arbitrary, or fanciful” for the district court to conclude this evidence was hearsay. *Bastani*, 70 F.4th at 569 (citation modified). Trankle provides no analogs or other support for his insistence that the excluded documents were not being offered for the truth of the matter asserted. He simply states that the documents are not hearsay, and that they instead reflect that “his purpose in soliciting funds for his church and its various organizations was not fraudulent.” Appellant’s Br. 17.

Upon review of the record and Trankle's arguments on appeal, we conclude that the contested documents were being offered for their truth value, namely Trankle's purpose in running the Charity. *See* Fed R. Evid. 801(c)(2); *see, e.g., United States v. Day*, 591 F.2d 861, 883–84 (D.C. Cir. 1978) (explaining how a telephone number on a slip of paper could be used as hearsay and as non-hearsay). This is further evidenced by the fact that this objection arose as a result of Trankle's attempt to enter the substance of the documents into evidence after the district court already allowed the covers of the magazines to be admitted. In fact, the covers of the magazines are more akin to a non-hearsay use of Trankle's writings because they only go towards proving the existence of his writings. *See Day*, 591 F.2d at 883. Yet this was not enough for Trankle, and that betrays the fact that the true utility of these documents is as hearsay. Indeed, the admissibility of the covers of the magazines was not enough for Trankle because he wanted the *substance* of the documents, their truth value, to be submitted to the factfinder. *See* Fed R. Evid. 801(c)(2). Trankle's attempt to call that evidence of his "purpose" or the Charity's "mission" are unavailing. Appellant's Br. 17. Hearsay by any other name still seeks to prove the truth of the matter asserted.

Of course, hearsay may nonetheless be admissible evidence per an applicable exception under the Federal Rules of Evidence, by law, or by precedent. *See* Fed. R. Evid. 802. This is what Trankle also argues. He posits that the documents could still be admitted under the state-of-mind exception to hearsay. *See* Fed. R. Evid. 803(3) (providing the exception for hearsay statements that reflect the "then-existing state of mind" of a declarant, like their "motive, intent, or plan," but not "a statement of memory or belief to prove the fact remembered or believed"). Trankle so argues because he believes the documents reflect his "state of mind when he wrote the purpose

behind his church's fundraising," which was "to protect donations to charities." Appellant's Br. 18. Trankle argues that this would have supported that he "lacked the intent to devise the fraudulent scheme charged in the indictment." *Id.* at 18; *see also id.* at 18–19. The district court found this argument unpersuasive. We must agree.

The excluded documents have not been shown on the record to fall within the coverage of Rule 803(3)'s hearsay exception. In short, it is not enough to say that these statements prove Trankle's intent in running the Charity and Society. We also need to know the time these statements were made. However, the record does not indicate *when* the statements in these documents were made. Without that knowledge, it is impossible to assess whether the contested statements reflect the "then-existing state of mind" of Trankle. *See* Fed. R. Evid. 803(3) (explaining this exception does not apply to "a statement of memory or belief to prove the fact remembered or believed"); 30B *Wright & Miller's Federal Practice & Procedure* § 6834 (describing the exception as allowing "statements of a 'then-existing' state of mind, not an earlier one" (quoting *id.*)). For similar reasons, we also cannot assess if these statements are instead permissible because they reflect Trankle's "intent" for future conduct. *See* Fed. R. Evid. 803(3) 1974 advisory committee's note to 1974 enactment (citing *Mutual Life Ins. Co. v. Hillmon*, 145 U.S. 285, 295–300 (1892)). The court should not have to hazard a guess about what events are contemporaneous with the state of mind that is allegedly reflected in the documents. Consequently, we cannot determine from the record whether some of the documents would have qualified under Rule 803(3)'s hearsay exception.

One final note on the evidentiary ruling: while we agree that the district court properly deemed the writings to be inadmissible hearsay, it still committed an error while doing

so. The district court declined to entertain on the record much argument from Trankle's counsel about whether the documents fell under the state-of-mind exception. Trial Tr. Day 3 at 94:14–22. In fact, Trankle's counsel was only permitted to utter one sentence to that end. *Id.* at 94:21–22 (counsel explaining and then the court rejecting that the documents fell under the exception because they were alleged evidence of what Trankle was “trying to accomplish”). It was error to prevent defense counsel from elaborating on the applicability of the state-of-mind exception to these documents.

That error, however, was harmless. Fed. R. Crim. P. 52(a); *Kotteakos v. United States*, 328 U.S. 750, 776 (1946) (describing harmless error as one that did not have a “substantial and injurious effect or influence in determining the jury’s verdict”). The record makes clear that admission of the writings would not have altered the jury’s verdict. *Kotteakos*, 328 U.S. at 776. For one, the district court’s purpose in permitting other documents to be admitted was so that Trankle could prove his lack of fraudulent intent. Trial Tr. Day 2 at 200:9–203:5. Relatedly, the excluded evidence is duplicative of the admissible version of this evidence, namely the covers of the magazines and other documents providing proof of Trankle’s advocacy. *United States v. Powell*, 334 F.3d 42, 47 (D.C. Cir. 2003) (noting that the exclusion of “wholly cumulative” evidence, repeating earlier testimony, was harmless). Further, the district court allowed the excluded materials to be used during the cross-examination of Inspector Cohen. *Powell*, 334 F.3d at 47–48 (considering availability of evidence for impeachment in harmless error analysis). Accordingly, the jury’s determination to convict Trankle was not affected by the district court’s minimal error here.

III.

Next, we review Trankle's renewed challenge to the sufficiency of the evidence to convict him, and we may do so under 28 U.S.C. § 1291. *See Brockenbrough*, 575 F.3d at 733. Trankle argues that there was insufficient evidence to support his conviction of conspiracy to commit mail and bank fraud under 18 U.S.C. §§ 1341 & 1344, and of his five additional counts of bank fraud under 18 U.S.C. § 1344(2). He asks this court to reverse the district court's decision to deny his motion for a judgment of acquittal, Fed. R. Crim. P. 29(c)(1), or in the alternative for a new trial, Fed. R. Crim. P. 33(a).² Upon our review, there was sufficient evidence for a reasonable jury to convict Trankle, so we affirm the district court.

A.

Trankle raises a specific, narrow challenge to his convictions, attacking the lynchpin of each count: whether he had adequate intent. On this point, he asserts (1) there was no evidence of false statements or misrepresentations in his solicitations, and (2) there was no evidence that he was not authorized to remotely create checks for donors, so him doing so cannot be evidence of fraud.

² Federal Rule of Criminal Procedure 33(a) provides that a defendant may also move for the district court to "vacate any judgment" entered and request that it "grant a new trial," as long as "the interest of justice so requires." Thus, a new trial will not be granted unless it is "the extraordinary circumstance" in which not only "the evidence preponderates heavily against the verdict," *United States v. Rogers*, 918 F.2d 207, 213 (D.C. Cir. 1990) (citation modified), but also the error effects the substantial rights of the defendant, *see United States v. Lawson*, 494 F.3d 1046, 1053 (D.C. Cir. 2007). Below, Trankle provides no independent argument for a new trial under Rule 33's governing standard. To the extent that Trankle separately brought a challenge under Rule 33, it will rise or fall based on the reasoning of his Rule 29(c)(1) motion as it is so construed in his brief.

This court reviews *de novo* whether the evidence was sufficient to convict Trankle. *United States v. Brown*, 125 F.4th 1186, 1195 (D.C. Cir. 2025). Our review is “highly deferential to the jury’s decision.” *Id.* (citation modified) (quoting *United States v. Reynoso*, 38 F.4th 1083, 1089 (D.C. Cir. 2022)). We “presume that the jury has properly carried out its functions of evaluating the credibility of witnesses, finding the facts, and drawing justifiable inferences.” *United States v. Campbell*, 702 F.2d 262, 264 (D.C. Cir. 1983). Thus, we review “the evidence taken as a whole, and with reasonable inferences drawn in the light most favorable to the verdict.” *United States v. Griffin*, 119 F.4th 1001, 1009 (D.C. Cir. 2024).

With our standard of review in mind, we next consider the elements of the crimes of Trankle’s conviction. A person commits mail fraud by using the mail to execute a “scheme or artifice to defraud . . . for obtaining money or property by means of false or fraudulent pretenses, representations, or promises.” 18 U.S.C. § 1341; see *Kousisis v. United States*, 605 U.S. 114, 121 (2025). As for bank fraud, it occurs when a defendant “knowingly executes, or attempts to execute, a scheme or artifice” to either “defraud a financial institution,” 18 U.S.C. § 1344(1), or “to obtain any of the moneys . . . owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises,” 18 U.S.C. § 1344(2); see *Loughrin v. United States*, 573 U.S. 351, 355 (2014). Accordingly, to properly convict Trankle of conspiracy to commit mail fraud and bank fraud, the Government had the burden to prove beyond a reasonable doubt that Trankle knowingly participated in the conspiracy with the intent to commit these offenses. See *United States v. Smith*, 950 F.3d 893, 895 (D.C. Cir. 2020).

As to the mail fraud, Trankle argues that the statements about the charitable causes contained in his solicitations are true—not misrepresentations—because they contained the true trade names of the Charity and the resulting donations were deposited with the Charity. *See* 18 U.S.C. §§ 1341, 1344. As to the individual counts of bank fraud, Trankle asserts that the recurring checks were not fraudulent because donors signed and returned the pledge slips to authorize the recurring payments. *See* 18 U.S.C. § 1344(2).

In response, the Government pointed to its evidence that Trankle’s solicitations claimed that donations would benefit charitable causes and go to tax-deductible organizations but that the donations were in fact deposited into bank accounts Trankle and Sibert controlled and spent on personal expenses. The Government pointed to the same evidence to argue the victims did not understand themselves to be authorizing recurring payments. Moreover, the Government showed that the tear-off forms in Trankle’s solicitations, which he argued authorized recurring checks, did not indicate that they would authorize such payments.

Upon our review of the Government’s submitted evidence, Trankle’s challenges cannot survive. *See Brown*, 125 F.4th at 1195 (This court must “affirm a guilty verdict if *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” (citation modified)). The Government presented substantial direct evidence of Trankle and Sibert’s scheme and years-long misrepresentations in letters and filings about the Charity and Society’s organization, purpose, usage of donations, and donor authorizations. *See* 18 U.S.C. §§ 1341, 1344. The jury could also easily understand why the deposits of thousands of dollars in checks obtained through this scheme were frauds upon the banks where Trankle and Sibert deposited them. *United States v. Hubbard*, 889 F.2d

277, 280 (D.C. Cir. 1989) (By “depriv[ing] the bank of its custody and control over the check” and “altering and negotiating the check” the defendant “defrauded the bank of its property interest in violation of § 1344.”).

At bottom, based on the trial record, a reasonable jury—weighing the evidence and drawing justifiable inferences of fact—could find that Trankle possessed the requisite fraudulent intent for the six counts of his conviction. *Reynoso*, 38 F.4th at 1089 (This court must “give full play to the right of the jury to determine credibility, weigh the evidence and draw justifiable inferences of fact.” (citation modified)). We affirm the district court’s decision not to disturb the jury’s reasonable assessment.

IV.

Finally, we consider Trankle’s challenges to the sentence entered against him following his conviction, which we review pursuant to 18 U.S.C. § 3742(a). *United States v. Borda*, 848 F.3d 1044, 1053 (D.C. Cir. 2017). In particular, Trankle challenges the sentencing enhancements the district court applied and its order of forfeiture. We affirm each enhancement.

A.

On appeal, Trankle objects to three enhancements: (1) an aggravated role enhancement under Guidelines Section 3B.1.1 for being determined to be “an organizer, leader, manager, or supervisor” of criminal activity, U.S.S.G. § 3B1.1(c), (2) an enhancement under Guidelines Section 2B.1.1, for making a misrepresentation that he was “acting on behalf of a charitable, educational, religious, or political organization,” *id.* § 2B1.1(b)(9)(A), and (3) another enhancement, also under Guidelines Section 2B.1.1, for using “sophisticated means” in

the commission of his crimes of conviction, *id.* § 2B1.1(b)(10)(C).

We review Trankle’s timely challenge to the district court’s sentence for an abuse of discretion. *United States v. Iracks*, 106 F.4th 61, 66 (D.C. Cir. 2024). However, we review *de novo* the district court’s interpretation of the Guidelines to calculate the sentence. *United States v. Brown*, 892 F.3d 385, 401 (D.C. Cir. 2018). First, we consider whether there was “significant procedural error,” including whether the district court selected a sentence “based on clearly erroneous facts.” *Id.* at 400 (quoting *Gall v. United States*, 552 U.S. 38, 51 (2007)); *Gall*, 552 U.S. at 51 (describing procedural error as “improperly calculating[] the Guidelines range,” “failing to consider the [18 U.S.C. § 3553(a)] factors,” or “failing to adequately explain the chosen sentence”). We keep in mind that, in general, sentencing enhancements often require only that a preponderance of the evidence supports them. *United States v. Bell*, 795 F.3d 88, 103 (D.C. Cir. 2015). And this court gives deference to the way the district court applied the sentencing guidelines to the facts. *United States v. Mohammed*, 89 F.4th 158, 162 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 2598 (2024). Second, “[i]f there is no significant procedural error,” we next examine whether the sentence is substantively reasonable, including any variances from the calculated Guidelines range. *Iracks*, 106 F.4th at 66.

1.

First, Trankle challenges the two-level enhancement under Section 3B1.1 that he received for his aggravated role in the conspiracy.³ To qualify for an aggravated role enhancement,

³ In his brief, Trankle mistakenly argues that the district court erroneously increased his offense level by *four* levels on the basis of this enhancement.

the Sentencing Guidelines' application notes provide that "the defendant must have been the organizer, leader, manager, or supervisor of one or more other participants." U.S.S.G § 3B1.1 cmt. n.2. Trankle argued that the trial evidence established that Sibert was a partner, rather than a participant or subordinate in Trankle's scheme.

The district court did not abuse its discretion in imposing this enhancement. *Iracks*, 106 F.4th at 66. As to Trankle's alleged partnership with Sibert, this court has held that to properly receive the Section 3B1.1 enhancement a defendant must only "exercise some control over others." *United States v. Flores*, 995 F.3d 214, 221 (D.C. Cir. 2021) (citation modified). For instance, there was ample record evidence of Trankle's supervision of Sibert. And during sentencing the district court pointed to Trankle's own statements referring to Sibert as a subordinate to support the enhancement. As to his leadership role, the district court noted that Trankle lived at the base of the criminal operations, where most of the physical evidence was seized. The district court further noted that Trankle directly profited from the funds from the conspiracy, so much so that he could rent a suite to serve as both his residence and the center of the Charity's operations. All these facts led to the district court's conclusion that Trankle was the mastermind of the conspiracy. We agree; Trankle was a "leader" in this conspiracy.

2.

Next, Trankle challenges the enhancement he received for misrepresenting that he acted on behalf of a charity. Under Section 2B1.1, a two-level enhancement is available when a defendant makes misrepresentations that they were "acting on behalf of a charitable, educational, religious, or political organization" in the commission of certain economic offenses.

U.S.S.G. § 2B1.1(b)(9)(A). Trankle first argues that the evidence at trial established that he ran the Charity and that it was properly incorporated and registered in D.C. Consequently, in Trankle's mind, he cannot have misrepresented that he had the authority to act on behalf of the Charity through its trade names. In addition, Trankle argues that a preponderance of the evidence does not support that he improperly used the Charity and Society's funds, because he only used the donations in a limited way to his personal benefit.

The district court reasonably applied the Section 2B1.1(b)(9)(A) enhancement. We agree with its assessment that the mere fact of the Charity's registration did not change the purpose for which it was used. An independent review of the evidence bears the same conclusion. Several trade names for the Charity were identical or near-replicas of the names of several charitable organizations that *actually* supported charitable causes, including child leukemia patients, breast cancer patients, disabled and paralyzed veterans, among others. Both Trankle's solicitation letters using those names to receive donations and his choice not to use the funds in the charitable way he promised are qualifying misrepresentations for the enhancement. The district court did not err in imposing it.

3.

Finally, Trankle objects to receiving a two-level enhancement available under Section 2B1.1 for using sophisticated means in the commission of his offenses. Trankle argues that the record evidence established that his actions were not complex, intricate, or concealed. He points to the use of a P.O. Box, making deposits in bank accounts registered under his name, and using the U.S. mail to request donations.

The sophisticated means enhancement was properly applied. At sentencing, the district court justified this enhancement by noting that Trankle used eleven corporate registrations and trade names, made deposits in six bank accounts at six different banks, and then used multiple addresses to avoid detection. This court has before found similar evidence to be sufficient to support a sophisticated means enhancement. *Compare United States v. Milligan*, 77 F.4th 1008, 1014 (D.C. Cir. 2023) (concluding fictitious email address and a mailbox can be sophisticated means in the context of the overall scheme), and *United States v. McCants*, 554 F.3d 155, 163 (D.C. Cir. 2009) (concluding that “fictitious entities” used “to conceal the fruits of an unlawful scheme” can be sophisticated means (citation modified)), with Trial Tr. Day 3 at 164:6–170:17 (testimony cataloging the six bank accounts used by Trankle and Sibert to deposit Charity and Society donations), and A. 195–200, 203–11 (documentation of the various trade names of the Charity and Society). Trankle’s use of simple tools—the U.S. mail, P.O. boxes, addresses and bank accounts in his and Sibert’s names—in a complicated scheme, does not preclude him from a sophisticated means enhancement. The district court was not mistaken in imposing this enhancement.

Thus, we agree with the district court’s decision to apply these three sentencing enhancements, for it was adequately explained and supported by the record evidence, and it therefore was without “significant procedural error.” *Iracks*, 106 F.4th at 66 (citation modified). Hence, the district court’s ensuing decision to sentence Trankle in the middle of its calculated guideline range is presumed to be substantively reasonable. *United States v. Mattea*, 895 F.3d 762, 765 (D.C. Cir. 2018). On appeal, Trankle makes no argument to rebut this presumption, and we find no error otherwise, so we conclude that the resulting sentence of 60 months was

substantively reasonable. *Id.* at 769. We affirm Trankle's sentence to 60 months imprisonment.

B.

The last element of Trankle's sentence is his challenge to the order of forfeiture entered against him. The district court ordered Trankle to pay restitution in the amount of \$158,709 and entered an order of forfeiture in the amount of \$135,327. A. 346–48. We review the district court's findings of fact in these orders for clear error and its legal interpretations *de novo*. *United States v. Bikundi*, 926 F.3d 761, 792 (D.C. Cir. 2019) (per curiam) (citing *United States v. Emor*, 785 F.3d 671, 676 (D.C. Cir. 2015)). We find no error in the district court's order.

Trankle concedes that the statutes of his conviction require forfeiture but argues that the district court erred in its calculations and lack of explanation for the forfeiture amount. Trankle first argues that the amount in the forfeiture order was erroneous because its calculations rely on the overall proceeds of the conspiracy rather than the money and proceeds obtained by just himself. In Trankle's view, this must be so because Sibert was the primary accountholder on the accounts that contained the bulk of the money the two obtained through their solicitations. The Government argued in response that the calculations were well supported and explained. Further, it argues that because Trankle was the leader of the scheme, he is liable for the proceeds from the entire operation, not just the funds that were within his immediate control.

It is true that in the ordinary case forfeiture is limited to property the defendant actually acquired as the result of their crime. *See Honeycutt v. United States*, 581 U.S. 443, 454 (2017). However, that understanding does not foreclose attribution of proceeds from activities a defendant directly supervised. *See United States v. Campos*, 137 F.4th 840, 856

(D.C. Cir. 2025). In those cases, “the leader of an organization” can be held responsible in forfeiture for the “proceeds from activities directly supervised by” them. *Id.* (citation modified). Thus, when the Government provided clear evidence about how Trankle and Sibert deposited \$135,327 in the Charity and the Society’s bank accounts, Trial Tr. Day 3 at 164:6–170:17, it had also provided the necessary evidence for Trankle’s forfeiture liability, *Campos*, 137 F.4th at 856. As the leader of this conspiracy who supervised Sibert and participated in the operations generating those proceeds, the district court could attribute those proceeds to Trankle. *Id.* Thus, it was not error for Trankle to be held responsible for those proceeds. Importantly, as the Government notes in its brief, Trankle could have reasonably been held liable for much more. *See id.*; *see also* Trial Tr. Day 3 at 168:21–24, 170:3–17.

Next, Trankle argues that the forfeiture order was improper because the amount the district court imposed was more than what the Government requested in its sentencing memorandum. On appeal, the Government concedes the mistake it made in its sentencing memorandum, stating that the proper amount is reflected in the indictment, which is what it argues the district court relied on.

We again conclude that the district court did not misstep. To begin, the district court is not bound by a number in the Government’s sentencing memorandum, especially not when it is a scrivener’s error. The \$135,327 forfeiture amount was first indicated and explained in the indictment. *See* A. 28. Relatedly, the indictment also put Trankle on notice of the proper forfeiture number. *See* Fed. R. Crim. P. 32.2(a). Moreover, at trial and at sentencing, the district court heard extensive testimony and arguments to support this forfeiture

calculation, and it additionally inquired about these calculations on the record.

* * *

Upon our review of Trankle's saga of combatting and creating charity fraud, we affirm the district court's challenged rulings. We hold that the court did not abuse its discretion in excluding the substance of the contested hearsay documents. We agree there was sufficient evidence to support the jury's judgment of conviction and thus affirm the district court's denial of Trankle's post-conviction motions for acquittal or new trial. And finally, we conclude that the district court's sentence is procedurally and substantively reasonable, and that its accompanying order of forfeiture is lawful.

So ordered.

ROGERS, *Senior Circuit Judge*, concurring. Seeking reversal of the judgment of conviction by a jury, appellant Trankle contends that the district court erred in denying his motion for a judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29 and for a new trial pursuant to Rule 33 because (1) there was insufficient evidence to support his conviction, (2) the district court erred in excluding evidence of his writings at trial, and (3) the district court abused its discretion at sentencing by applying the three enhancements and by ordering forfeiture. I agree that Trankle's challenges fail. I write separately regarding Trankle's evidentiary challenge and his challenge to the forfeiture order.

I.

My analysis of Trankle's evidentiary objection differs from that of the court because under the Rules of Evidence and this court's precedent Trankle failed to preserve this objection and the district court did not plainly err in excluding the evidence he sought to introduce through a government witness.

Trankle contends that the district court erred when it excluded evidence of his own writings, Appellant's Br. at 16, after the government had collected a large portion of his writings when executing a search warrant of his residence, and he sought to introduce some of these writings during cross-examination of the government agent who had conducted the search. The district court ruled the writings were hearsay and excluded the evidence. Trankle maintains that the writings were not hearsay because they were being offered to show his state of mind – that his intent was to combat charity fraud – as opposed to being offered to establish the truth of the matters asserted in the writings. *Id.* at 16. Alternatively, he maintains that the writings were admissible under the state-of-mind

exception to the hearsay rule pursuant to Federal Rule of Evidence 803(3). *Id.* at 17.

This court reviews the district court's evidentiary rulings for abuse of discretion. *United States v. Barrow*, 109 F.4th 521, 530 (D.C. Cir. 2024). To preserve an objection to the exclusion of evidence, a party must "inform[] the court of [the evidence's] substance by an offer of proof, unless the substance was apparent from the context." FED. R. EVID. 103(a)(2). An objection is not preserved if the party fails to identify clearly the substance of the evidence. *See United States v. Thompson*, 279 F.3d 1043, 1047 (D.C. Cir. 2002); *United States v. Lavelle*, 751 F.2d 1266, 1272 (D.C. Cir. 1985).

Trankle failed to preserve his objection because he never identified clearly what writings he wanted to introduce and why he wanted to introduce them. In a colloquy with the district court judge, defense counsel referred to writings that "describe what [Trankle] is doing, what his challenges are, what he is trying to accomplish, what his goals are with regard to his organization, that it's all about fighting charity fraud." Trial Tr. at 93–94 (May 11, 2023). He referred to "various emails" indicating that Trankle had submitted written advocacy to Congress. *Id.* at 93. He referenced "information about lawsuits that [Trankle] had filed against other people and what investigation steps were taken to confirm things that were reported." *Id.* at 95. After the district court judge stated that the material "sounds like it's going to be hearsay," defense counsel asked the judge to "make a ruling, since all of these documents are kind of similar." *Id.* at 96. Counsel never specified which documents or portions he wanted to introduce and the district court's ruling reflected this lack of specificity:

I'm looking at nine or maybe ten different folders here that I've just been handed that are probably six to eight inches long. I'm not going

to read through these all right now, but I am looking at something that looks like a lot of emails and other statements. . . . These are all hearsay statements that appear to be from the Defendant and would be inadmissible through [the government's] witness. So I'm going to take it as a motion to admit that I am denying.

On appeal, Trankle again fails to specify which writings he sought to introduce at trial. He refers to “writings, publications, magazines, treatises, and other materials” found at his residence and maintains that “[d]efense counsel indicated his intent to admit the actual documents and materials at the appropriate time in support of the defendant’s theory of defense.” Appellant’s Br. at 16. This generalized reference to a series of documents, which were contained in “nine or maybe ten different folders,” Trial Tr. at 96, does not provide detail about what Trankle wanted to introduce. As a result, this court is “substantially hindered in reaching the conclusion that the district court erred” and review of Trankle’s evidentiary objections is for plain error. *See Thompson*, 279 F.3d at 1048 (citing FED. R. EVID. 103(d)).

“Under the plain error standard, before an appellate court can correct an error not raised at trial, there must be (1) error, (2) that is plain, and (3) that affects substantial rights. If all three conditions are met, then an appellate court may exercise its discretion to notice a forfeited error, but only if (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* (citation, alterations, and internal quotation marks omitted). No such showing has been made.

Trankle maintains that his writings did not constitute hearsay because they were not offered “to prove the truth of the matter asserted.” Appellant’s Br. at 17 (citing FED. R. EVID. 801). He claims that the writings were “offered to show that

his purpose in soliciting funds for his church and its various organizations was not fraudulent but, instead, was intended to support his church's mission to preserve and protect charitable donations given to legitimate charities." Yet in seeking their admission, defense counsel argued that these writings should be admitted to "prove the fact that Mr. Trankle was doing and saying" what he intended to do. Trial Tr. at 94. Defense counsel stated that the writings "describe what [Trankle] is doing, what his challenges are, what he is trying to accomplish, [and] what his goals are with regard to his organization." *Id.* at 93–94. These rationales indicate that Trankle sought to introduce his out-of-court writings to establish the truth of the matters asserted in them. For example, suppose that Trankle had written the following: "My goal is to combat charity fraud, and that is why I am sending these solicitation letters." If Trankle sought to introduce his statement to establish "what he [was] trying to accomplish," then the statement would be inadmissible hearsay offered to prove the truth of the matter asserted: that Trankle possessed certain beliefs about his solicitations. The district court did not plainly err in excluding the books and magazines writings as hearsay.

Trankle maintains alternatively that the writings should have been admitted under the state-of-mind exception to the hearsay rule. Appellant's Br. at 17. This exception permits the admission of "[a] statement of the declarant's *then-existing* state of mind (such as motive, intent, or plan)." FED. R. EVID. 803(3) (emphasis added); *see United States v. (Roland) Brown*, 490 F.2d 758, 762 (D.C. Cir. 1973); *cf. United States v. Hughes*, 970 F.2d 227, 233 (7th Cir. 1992). Trankle did not offer evidence establishing that his writings were substantially contemporaneous with the charged offenses and so fails to show that the district court plainly erred in excluding more than the photographs of the books and magazines.

Even assuming the district court plainly erred, Trankle would still bear the burden of establishing that the error affected his substantial rights by causing prejudice. *United States v. Duckett*, 935 F.3d 594, 597 (D.C. Cir. 2019). He has not made that showing. The district court permitted Trankle to introduce photographs of his books and magazines into evidence. MEM. OP. at 9 (July 26, 2023) (citing Def. Exhs. 16, 17, 42, 52, 52A, 52B, 52C, 52D, 52E, 52F). Trankle does not dispute the district court’s statement that “[b]ecause of this [he] was still able – and did argue – to the jury that he had authored publications about charity fraud,” *id.*, which the district court characterized as “cumulative to already introduced evidence,” *id.* at 9–10 (citing FED. R. EVID. 403). Trankle’s reliance on *Barrow*, 109 F.4th 521, Appellant’s Br. at 19, is misplaced. By contrast, there, in a prosecution for wire fraud the excluded evidence went directly to whether the defendant’s alleged lies had enabled him to receive salary payments that he would not otherwise have received. *Id.* at 528. Under the circumstances, Trankle has not established that the exclusion of further evidence of his writings prejudiced his ability to present his defense.

II.

Otherwise, for the following reasons, I concur in denying Trankle’s challenges to the sufficiency of the evidence, the sentencing enhancements, and the forfeiture order.

A. Sufficiency of evidence: When considering the district court’s denial of Trankle’s motion for acquittal pursuant to Rule 29, this court “review[s] the evidence of record *de novo*, considering that evidence in the light most favorable to the government.” *United States v. Wahl*, 290 F.3d 370, 375 (D.C. Cir. 2002). The court will “affirm a guilty verdict where ‘any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’” *Id.* (quoting *Jackson v.*

Virginia, 443 U.S. 307, 319 (1979) (emphasis in original). To the extent Trankle contends that the evidence was insufficient because it failed to establish that his solicitations and statements were false, Appellant’s Br. at 1014, the government points out that he made the same argument to the jury and maintains that the evidence established that his solicitations and statements included numerous misrepresentations. Appellee’s Br. at 12-18. This court must affirm the guilty verdicts because a rational trier of fact could have found that the government’s evidence had established the essential elements of the charged offenses beyond a reasonable doubt. Op. at 17–21.

B. Sentencing Enhancements. Upon reviewing a challenge to the application of sentencing enhancements under the Sentencing Guidelines, “purely legal questions are reviewed *de novo*; factual findings are to be affirmed unless clearly erroneous; and [this court is] to give due deference to the district court’s application of the sentencing guidelines to the facts.” *United States v. Bikundi*, 926 F.3d 761, 796–97 (D.C. Cir. 2019) (citation and alterations omitted). “Due deference presumably falls somewhere between *de novo* and clearly erroneous.” *Id.* The court recounts the deficiencies in Trankle’s objections. Op. at 22–26.

C. Forfeiture order. In challenging the forfeiture order, Trankle argued in his opening brief that the amount was insufficiently explained and unsupported by the record. Appellant’s Br. at 29–30. The government responded that Trankle had not objected to the forfeiture order in the district court, thereby confining this court’s review to plain error, and that Trankle had failed to show plain error. Appellee’s Br. at 37–42. Trankle provided no response in his reply brief filed by appellate counsel. Under the circumstances, Trankle’s “silence in reply” can properly be construed as “hav[ing] abandoned the argument.” *Wal-Mart Stores, Inc. v. Sec’y of Lab.*, 406 F.3d

731, 736 n.* (D.C. Cir. 2005). When this court inquired during oral argument if Trankle’s appellate counsel had anything more to say about forfeiture, counsel referred to Trankle’s opening brief, agreed that plain error was the correct standard of review because the argument was not preserved, and did not elaborate further. Oral Argument Tape at 10:59–12:40, 13:19–13:23 (Nov. 18, 2025).