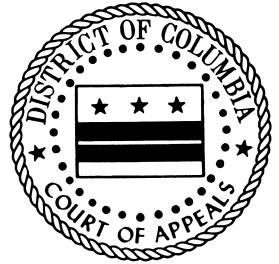


BRIEF FOR APPELLANT

DISTRICT OF COLUMBIA
COURT OF APPEALS

No. 23-CF-389



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DAIQUON D. GREER,

Appellant,

v.

UNITED STATES,

Appellee.

APPEAL FROM THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION,
CF2-3690-22

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RECUSAL NOTICE

[Pursuant to DCCA Rule 28 a (2)]

A. LIST OF ALL PARTIES, INTERVENORS, AMICI CURAIE, AND THEIR COUNSEL IN THE TRIAL COURT OR AGENCY PROCEEDING AND IN THE APPELLATE PROCEEDING:

- a. Daiquon Greer
Defendant / Appellant;
- b. Attorney Adam Harris
Counsel for Daiquon at trial;
- c. Attorney Callie Hyde
Assistant United States Attorney
Counsel for the Government at trial;
- d. Attorney Sweta Patel
Counsel for Appeal;
- e. Attorney Chrisellen Kolb
Assistant United States Attorney
Counsel for the Government on appeal.

B. THE APPELLANT-DEFENDANT IS NOT A CORPORATION.

C. THE APPELLANT-DEFENDANT IS NOT A PARTNERSHIP.

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STATEMENT OF THE ISSUE

1. Whether the trial court erred in denying Appellant Daiquon Greer's motion to suppress tangible evidence when the stop and seizure was not based on reasonable articulable suspicion because it was not established that Mr. Greer was involved in criminal activity prior to the seizure or that he was armed and dangerous?

STATEMENT OF THE CASE

Appellant Daiquon Greer was charged with one count of carrying a pistol without a license (outside home or place of business), one count of possession of unregistered firearm, one count of possession of a large capacity ammunition feeding device, and one count of unlawful possession of ammunition on June 30, 2022. A motions hearing occurred and the trial court denied the motion at the hearing. Mr. Greer stipulated to the trial, with maintaining his right to appeal the motion, and was found guilty of all four counts.

On April 13, 2023, Mr. Greer was sentenced. For carrying a pistol without a license, Mr. Greer received a sentence of fifteen (15) months incarceration execution of sentence suspended as to all, supervised probation for twelve (12) months, and a \$100.00 fine to the Victims of Violent Crime Compensation Act of 1996. For the count of possession of a large capacity ammunition feeding device, Mr. Greer received a sentence of nine (9) months incarceration execution of sentence suspended as to all, supervised probation for twelve (12) months, and a \$100.00 fine to the Victims of Violent Crime Compensation Act of 1996. For the remaining counts, Mr. Greer was sentenced to ninety (90) days incarceration execution of sentence suspended as to all, twelve (12) months of supervised probation, and a \$50.00 fine to the Victims of Violent Crime Compensation Act of 1996. Mr. Greer's sentence and probation were ordered to run concurrent for all counts. *See* Judgment and Commitment Order. Mr. Greer filed a timely notice of appeal on May 5, 2023.

STATEMENT OF FACTS

I. Motion Hearing

On November 16, 2022, defense counsel filed a motion to suppress tangible evidence. On December 2, 2022, the government opposed appellant's motion to suppress, and the defense

replied on December 6, 2022. The trial court granted a hearing on the issue. The hearing took place on February 6, 2023. At the hearing, Officer Donald Green testified for the government.

Officer Green testified on June 29, 2022, he was working with the Fourth District of MPD. He previously worked for the Gun Recovery Unit where he received training in identifying armed individuals. 2/6/22 Tr. 21:22-23. Officer Green was called to the scene of the 3700 block of Georgia Avenue, NW after a drive by shooting occurred earlier in the day. 2/6/22 Tr. at 5:2-22. Officer Green testified it was daylight at approximately 4:30pm with other pedestrians walking in the area as it is a high traffic area of the city. 2/6/22 Tr. 6:4-12, 45:1-6. Officer Green testified it was a high crime area but did not testify to any specific statistics indicating why it was a higher crime area than others in the District. 2/6/22 Tr. 5:15-19, 45:7-22.

Approximately 42 minutes after Officer Green was called to the scene, he saw an individual, later identified as Mr. Greer, walking normally down the street in the area near the metro station at Georgie Avenue. 2/6/22 Tr. 12:1-13, 46:12-19, 47:18-22, 50:4-7. Another officer alerted Officer Green to Mr. Greer indicating the officer believed he had a firearm on his person. 2/6/22 Tr. 16, 17:1-13, 50:11-22. Officer Green proceeded to follow Mr. Greer down the street and called out to Mr. Greer to stop. 2/6/22 Tr. 18:1-4, 51:2-16. Mr. Greer was on his cellphone at the time and partially turned around to speak with Officer Green. 2/6/22 Tr. 18:16-23. Officer Green testified he characterized this movement as “blading,” a movement indicative of an armed individual. 2/6/22 Tr. 19:12-17. Officer Green asked if Mr. Greer had anything on him and asked to see his waistband. 2/6/22 Tr. 27:5-19, 63. At this time, Officer Green stood in front of Mr. Greer while other officers were nearby. 2/6/22 Tr. 64. When Mr. Greer did not consent to showing his waistband and said “he was good,” Officer Green grabbed Mr. Greer, took him to the ground, then proceeded to put handcuffs on him. 2/6/22 Tr. 28:12-20, 65. Additional officers joined Officer

Green in bringing Mr. Greer to the ground. 2/6/22 Tr. 30:12-15. At one point, Officer Green tells Mr. Greer they will “shoot him” while they were handcuffing him on the ground. 2/6/22 Tr. 66:9-13, 68:15-24. After Mr. Greer is on the ground and in handcuffs, the officers touch his groin area and say he has a gun. 2/6/22 Tr. 31:7-10. The entire encounter was observed on the officer’s body worn camera and was submitted into evidence as government’s exhibit 1 and 2. As the video depicts, the encounter between Mr. Greer and the officers, before the firearm is found, lasts approximately one minute and thirty seconds.

Though the bodyworn camera nor the pictures submitted into evidence show a clear depiction of a gun in Mr. Greer’s pants, Officer Green testified he could clearly see an L shaped outline of a gun in Mr. Greer’s pants prior to taking him to the ground and handcuffing him. 2/6/22 Tr. 23:7-16, 70:9-25. Mr. Greer was wearing multiple layers of clothing which covered his waistband on the day of his arrest, but Officer Green testified he could clearly see the L shaped bulge through those layers of clothing. 2/6/22 Tr. 52:7-13. Officer Green also testified that Mr. Greer took a step to the left, which Officer Green believed was an indication that he was going to flee. 2/6/22 Tr. 29:17-25. Like the bulge, the step to the left is not clearly depicted on the bodyworn camera prior to Officer Green taking Mr. Greer to the ground.

The trial court denied the motion to suppress. 2/6/22 Tr. 111:1-2. Specifically, it found that the officers had reasonable articulable suspicion because (1) Mr. Greer being in a high crime area (2/6/22 Tr. 106:4-14); (2) another officer alerting Officer Green to Mr. Greer’s waistband indicating a firearm (2/6/22 Tr. 106:15-24); (3) an L shaped bulge (2/6/22 Tr. 108:10-16); (4) Mr. Greer “blading” his body (2/6/22 Tr. 109:1-13); and (5) Mr. Greer taking a step to the left before being taken to the ground by the officers and handcuffed (2/6/22 Tr. 109:18-22). Notably, the trial court indicated that if there was only testimony of a bulge present the officers would not have had

reasonable articulable suspicion. 2/6/22 Tr. 111:12-23. But the trial court distinguished the facts of *Singleton* from this case noting that the facts it cited gave the officers enough suspicion to stop and search Mr. Greer. 2/6/22 Tr. 111:24-25, 112:1.

After the motions hearing, Mr. Greer stipulated to the trial and was found guilty of carrying a pistol without a license outside home or place of business, possession of unregistered firearm, unlawful possession of ammunition, and possession of a large capacity ammunition feeding device.

ARGUMENT

I. ALL TANGIBLE EVIDENCE MUST BE SUPPRESSED BECAUSE THE SEARCH AND SEIZURE OF MR. GREER VIOLATED HIS FOURTH AMENDMENT RIGHTS.

The Fourth Amendment of the United States Constitution guarantees the right of people to be secure in their persons and protects them against unreasonable searches and seizures by the police. U.S. Const. Amend IV. The District of Columbia is subject to the prohibition against unreasonable searches and seizures contained in the Fourth Amendment, but the District of Columbia has the power to impose higher standards on searches and seizures than required by the Federal Constitution if it chooses to do so. *Cooper v. State of Cal.*, 386 U.S. 58 (1967). Evidence obtained through such an illegal search is inadmissible under both federal law, *Mapp v. Ohio*, 367 U.S. 643 (1961), and District of Columbia law, *Bliss v. United States*, 445 A.2d 625 (D.C. 1982), opinion amended, 452 A.2d 172 (D.C. 1982). The exclusionary sanction applicable to evidence derivatively obtained from a violation of the Fourth Amendment applies to any “fruits” of a constitutional violation, including tangible, physical material actually seized in an illegal search. *United States v. Crews*, 445 U.S. 463 (1980).

Warrantless seizures are presumptively unreasonable. *See Katz v. United States*, 389 U.S. 347, 357 (1967). There are very few exceptions to this time-honored rule. *See id.* Courts cannot

authorize an “on-the-street warrantless search of a person’s effects based upon a police officer’s suspicion or hunch.” *United States v. Boswell*, 347 A.2d 270, 276 (D.C. 1975). Rather, when a person is arrested without a warrant, the government bears the burden of proving the propriety of such action if any evidence resulting from the seizure is to be used at trial. *See Malcolm v. United States*, 332 A.2d 917, 918 (D.C. 1975).

There are three types of permissible encounters between the police and citizens which do not violate the Fourth Amendment: (1) consensual encounters, which do not require any level of suspicion prior to initiation; (2) investigative detentions, which if nonconsensual, must be supported by a reasonable, articulable suspicion of criminal activity prior to initiation; and (3) arrest, which must be supported by probable cause prior to initiation. *Gordon v. United States*, 120 A.3d 73, 78 (D.C. 2015). Both investigative detentions and arrests are seizures under the Fourth Amendment; mere consensual encounters are not. *Id.*

Investigatory stops are only permitted if a reasonably prudent officer, with the facts available at the time of the stop, would view the information as logically inferring that the stop was justified. *See Coolidge v. New Hampshire*, 403 U.S. 443, 455 (1971). This is an objective test, and cannot be judged by the subjective “intuition” or “good faith efforts” of the officer involved in the stop. *See e.g., Terry v. Ohio*, 392 U.S. 1 (1968). The Supreme Court has repeatedly concluded that the courts “must look at the ‘totality of the circumstances’ of each case to see whether the detaining officer has a ‘particularized and objective basis’ for suspecting legal wrongdoing.” *Arvizu*, 534 U.S. at 273, 122 S.Ct. 744 (quoting *United States v. Cortez*, 449 U.S. 411, 417–18, 101 S.Ct. 690, 66 L.Ed.2d 621 (1981)). An officer’s “inchoate and unparticularized suspicion or hunch of criminal activity” is insufficient to justify a stop. *Illinois v. Wardlow*, 528

U.S. 119, 123–24, 120 S.Ct. 673, 145 L.Ed.2d 570 (2000) (quotation marks omitted); *accord Arvizu*, 534 U.S. at 274, 122 S.Ct. 744; *Terry*, 392 U.S. at 27, 88 S.Ct. 1868.

Terry recognized that the officer making a reasonable investigatory stop should not be denied the opportunity to protect himself from attack by a hostile suspect. *Adams v. Williams*, 407 U.S. 143, 146 (1972). When an officer is justified in believing that the individual, whose suspicious behavior he is investigating at a close range, is armed and presently dangerous, he may conduct a limited protective search for concealed weapons. *Id.* Leaving the area where police are cannot be considered flight, but even if it is, flight alone is not sufficient to justify a *Terry* stop. *See Williamson v. United States*, 607 A.2d 471, 479 (D.C. 1992). Furthermore, provoked flight is not substantially indicative of criminal activity when there are no circumstances that the flight can be viewed in an incriminating light. *Miles v. United States*, 181 A.3d 633, 644 (D.C. 2018) (citing a myriad of reasons an innocent person might run away from the police by a natural fear or dislike of authority, a distaste for police officers based upon past experience, an exaggerated fear of police brutality or harassment, a fear of being apprehended as the guilty party, or other legitimate personal reasons.).

In assessing the constitutionality of an investigatory stop, a court's determination of the existence of reasonable suspicion "cannot be a mere ratification of the conclusions of others." *Illinois v. Gates*, 462 U.S. 213, 239, 76 L. Ed. 2d 527, 103 S. Ct. 2317 (1983). A judge has the responsibility to make an independent assessment of the sufficiency of the basis for the stop, and to do so the judge must be "apprised of sufficient facts to enable him [or her] to evaluate the nature and reliability of that information." *In re T.L.L.*, 729 A.2d 334, 341 (D.C. 1999). "A court may not simply rely on a police officer's conclusory assertions in deciding whether a search or seizure was justified under the Fourth Amendment, but rather must evaluate the facts underlying those

assertions." *Sanders v. United States*, 751 A.2d 952, 955 (D.C. 2000). An individual's presence in a "high crime area," standing alone, is not enough to support a reasonable, particularized suspicion of criminal activity, though a location's characteristics are relevant in determining whether the circumstances are sufficiently suspicious to warrant further investigation. *Illinois v. Wardlow*, 528 U.S. 119, 123–24, 120 S.Ct. 673, 145 L.Ed.2d 570 (2000) (citing *Adams v. Williams*, 407 U.S. 143, 144, 147-148, 32 L. Ed. 2d 612, 92 S. Ct. 1921)). Thus, without more, conclusory testimony by police officers that a particular location is known as a high-crime area is not a sufficient basis for a judge to determine that a stop was justified.

In reviewing the trial court's denial of a motion to suppress, the Court of Appeal's scope is limited. Deference must be given to the trial court's factual findings. *Lawrence v. United States*, 566 A.2d 57, 60 (D.C. 1989). The facts and all reasonable inferences therefrom must be viewed in favor or sustaining the trial court's ruling. *Peay v. United States*, 597 A.2d 1318, 1320 (D.C. 1991) (en banc). However, the review of the trial court's legal conclusions is de novo. *Lewis v. United States*, 632 A.2d 383, 385 (D.C. 1993).

A. There was no suspicion of criminal activity by Mr. Greer prior to his unlawful seizure.

Mr. Greer's Fourth Amendment rights were violated because the officers did not have the reasonable grounds to stop and seize Mr. Greer when no suspicion of criminal activity was present prior to the stop. In *T.W. v. United States*, this Court identified factors and circumstances that might signify a seizure which include: (1) the presence of several officers, (2) the display of a weapon by an officer, (3) some physical touching of the person, (4) the use of language or tone of voice indicating that compliance must be compelled, (5) if individual is "by himself" so police presence is apparently exclusively on him, (6) the encounter is secluded or out of public sight, (7) the officers are uniformed or have their weapons drawn, (8) the officers have blocked the potential

individual's potential paths of exit or means of egress, (9) the officers' questions are accusatory; (6) and the officers repeat accusatory questions in the face of an initial denial, signaling that they have "refused to accept" the answer given. *See T.W. v. United States*, 292 A.3d 790, 795 (D.C. 2023); *see also Golden v. United States*, 248 A.3d 925, 939 (D.C. 2021).

In this case, most of the above-mentioned factors are present indicating Mr. Greer was seized on the sidewalk prior to the officers finding the firearm on his person. The only reason why Officer Green approached Mr. Greer on Georgia Avenue was because another officer indicated to him that he believed Mr. Greer may have a gun in his waistband, essentially a hunch. Officer Green admitted he did not see a gun or a bulge in the waistband initially, but nevertheless followed Mr. Greer. At this point, Officer Green has no other suspicion other than a hunch of another officer. Mr. Greer was walking normally down the street. He had one hand holding his phone up to his ear and the other arm hanging by his side, swinging naturally. He was walking at a casual pace down the street next to caution tape and a large, uniformed, armed police presence, but he did not appear to be nervous or even acknowledge their presence until Officer Green approached him.

While Officer Green followed Mr. Greer down the street, he called out to him to stop and asked if he had a gun on him. At this point, Mr. Greer was unlawfully seized as he was not free to leave. Officer Green repeated these accusatory questions even after Mr. Greer stated "no," "he was good," and he was "positive" he did not have a gun. Officer Green was not satisfied by these answers and asked these questions while he quickly approached Mr. Greer and then stood in front of him, blocking his passage down the street. Officer Green took it a step further when he physically grabbed Mr. Greer by the arm. Then, Officer Green and other officers took Mr. Greer to the ground, pulled his arms behind his back, told Mr. Greer they would shoot him, and then put handcuffs on him. After handcuffs were on Mr. Greer with officers on top of him on the ground,

Officer Green reached around to the front of Mr. Greer's waist and groin region and felt what he perceived to be a gun.

During this unlawful seizure, Officer Green observed movements he characterized as "blading" and "almost fleeing." However, in actuality from what is depicted on the bodyworn camera, Officer Green is following behind Mr. Greer and approaches him from his right side when he initially calls out to him. Mr. Greer turns towards the officer but then continues to walk down the street as he is allowed to do. Instead of allowing him to walk down the street, Officer Green gets closer to Mr. Greer to get him to stop as Officer Green catches up with him. Mr. Greer is standing perpendicular to the street but turned towards Officer Green. Then, Officer Green stands in front of him blocking his path down the street. Mr. Greer uses his hand not holding his phone to touch his waist and pockets to indicate to Officer Green that he does not have a firearm. As seen on the bodyworn camera, as soon as Mr. Greer takes a slight step to the left Officer Green and immediately grabs his arm and takes him to the ground. Additionally, Officer Green was not the only officer present at the time of this accusatory questioning and seizure.

Other than being alerted by another officer that he thought Mr. Greer had a gun in his waistband, Officer Green did not make any other observations of suspicion prior to approaching Mr. Greer and unlawfully seizing him. The trial court heavily relied on Officer Green's conclusory observations rather than independently analyzing the totality of the circumstances to determine that because Mr. Greer was walking in a high crime area, had an L shaped bulge, 'bladed' his body, and took a step to the left to "flee" was enough for reasonable suspicion to detain Mr. Greer. *See Singleton v. United States*, 998 A.2d 295, 299 (D.C. 2010) (Other factors that may warrant a conclusion that a stop was justified include "the time of day, flight, the high crime nature of the location, furtive movements, an informant's tip, a person's reaction to questioning, a report of

criminal activity or gunshots, and viewing of an object or bulge indicating a weapon.”). However, it is clear the bodyworn camera evidence contradicts the officer’s conclusory opinions and the trial court’s reasoning. Most notably, these observations took place *after* Mr. Greer was unlawfully seized and not before, which the trial court failed to determine.

Since there was no indication that Mr. Greer was involved in criminal conduct or suspicious activity was occurring, the officers had no justification or reasonable suspicion to immediately stop and seize him. *See Maye v. United States*, 260 A.3d 638, 649 (D.C. 2021) (finding being in a high crime area does not transform innocuous behavior like adjusting one’s waistband and placing hand in one’s pocket into suspicious behavior justifying a seizure); *Posey v. United States*, 201 A.3d 1198, 1203 (D.C. 2019) (finding a lookout for a suspect of an armed robbery in a high-crime area with the flight of the defendant who did not display any other suspicious activity was not enough reasonable articulable suspicion for a protective pat down); *see also Dozier v. United States*, 220 A.3d 933 (D.C. 2019) (holding a defendant walking in an alley known for drug activity did not rise to the level of reasonable suspicion necessary for officers to approach and conduct a protective pat down effectively unlawfully seizing him.).

B. There was no suspicion Mr. Greer was armed and dangerous prior to the officers seizing him in violation of his Fourth Amendment rights.

Even if the officers' believed Mr. Greer was armed and dangerous, the narrow exception of the *Terry* doctrine limits an officer to conduct a pat-down to find weapons that he reasonably believes or suspects are then in the possession of the person at the time of the stop. In this case, the officers did not conduct a protective pat-down. Instead, the officers immediately seized Mr. Greer when they approached him on the street, asked him accusatory questions, grabbed his arm, took him to the ground, told him they would shoot him, placed him in handcuffs, effectively arrested him, *then* conducted the pat-down. *See United States v. Melendez-Garcia*, 28 F.3d 1046,

1052 (10th Cir. 1994) ("The use of handcuffs. . . is a far greater level of intrusion."); *United States v. Del Vizo*, 918 F.2d 821, 824-25 (9th Cir. 1990) (finding that armed officers, by ordering suspect to the ground and handcuffing him, exceeded the scope of *Terry* stop and arrested defendant where defendant was compliant and only suspected of drug-trafficking); *United States v. Delgadillo-Velasquez*, 856 F.2d 1292, 1295-96 (9th Cir. 1988) (holding that the use of handcuffs was not justified under the circumstances); *cf. Crawford v. United States*, 369 A.2d 595, 599 (D.C. 1977) (reaffirming that "detention must be properly limited"); *Oliveira v. Mayer*, 23 F.3d 642, 645-46 (2nd Cir. 1994), *cert. denied*, 130 L. Ed. 2d 627, 115 S. Ct. 721, 115 S. Ct. 722 (1995) (in a § 1983 action for unlawful arrest, handcuffing of suspect amounted to arrest because degree of force was unwarranted due to nature of underlying crime and number of officers present on the scene). At the time, the only basis for this arrest was due to the officer's hunch that Mr. Greer may have a gun on his person. As discussed above, Mr. Greer was walking normally down the street, in broad daylight, was not nervous, indicated he did not have a gun on his person multiple times, and was not involved in any criminal activity at the time of the seizure. In this case, the reason for the initial stop was to search Mr. Greer's person for weapons, which is unconstitutional when not supported by specific articulable facts of suspicious criminal activity prior to the stop.

These officers placed their hands on him, took him to the ground, threatened to shoot him, handcuffed him, effectively arresting him, for no justifiable reason. Then, the officers continued to unreasonably detain Mr. Greer to continue to search for evidence of a potential crime. If an investigative stop continues indefinitely, at some point it can no longer be justified as an investigative stop. *See United States v. Sharpe*, 470 U.S. 675, 685 (1985) ("While it is clear that the brevity of the invasion of the individual's interests under the Fourth Amendment is an important factor in determining whether the seizure is so minimally intrusive as to be justifiable

on reasonable suspicion, there is the need to consider the law enforcement purposes to be served by the stop as well as the time reasonably needed to effectuate those purposes.”); *see also Rodriguez v. United States*, 135 S. Ct. 1609, 1612 (2015). If the officers had obtained evidence of possible criminal activity before unlawfully seizing Mr. Greer, the seizure may have then fit the narrow scope of a protective *Terry* stop and seizure. But without this prior knowledge, the stop, search, and seizure of Mr. Greer fails the test.

Therefore, the trial court erred in denying appellant’s motion to suppress tangible evidence because the stop, search and seizure was not based on reasonable articulable suspicion when it was not established that Mr. Greer was involved in criminal activity prior to the search or that he was armed and dangerous. Mr. Greer’s convictions should be reversed.

CONCLUSION

The trial court erred in denying appellant’s motion to suppress and because of that error there is insufficient evidence to support the appellant’s convictions for carrying a pistol without a license outside home or place of business, possession of unregistered firearm, unlawful possession of ammunition, and possession of a large capacity ammunition feeding device. Therefore, this Court must reverse the judgment of convictions as a matter of law.

RELIEF SOUGHT

Appellant Daiquon Greer’s convictions must be reversed with instructions to enter a judgment of acquittal.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on November 27, 2023, a copy of the forgoing Appellant's Brief, was e-filed attention Chrisellen Kolb, Assistant United States Attorney for DC, via D.C. Court of Appeals E-Filing System.

/s/ Sweta Patel /s/
Sweta Patel, Esq.

APPENDIX

Judgment and Commitment Order

Cited Transcript Pages

District of Columbia Court of Appeals

REDACTION CERTIFICATE DISCLOSURE FORM

Pursuant to Administrative Order No. M-274-21 (amended May 2, 2023), this certificate must be filed in conjunction with all briefs submitted in all criminal cases designated with a “CF” (criminal felony), “CM” (criminal misdemeanor), “CT” (criminal traffic), and “CO” (criminal other) docketing number. Please note that although briefs with above designations must comply with the requirements of this redaction certificate, criminal sub-case types involving child sex abuse, cruelty to children, domestic violence, sexual abuse, and misdemeanor sexual abuse will not be available for viewing online.

If you are incarcerated, are not represented by an attorney (also called being “pro se”), and not able to redact your brief, please initial the box below at “G” to certify you are unable to file a redacted brief. Once Box “G” is checked, you do not need to file a separate motion to request leave to file an unredacted brief.

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21, amended May 2, 2023, and Super. Ct. Crim. R. 49.1, and removed the following information from my brief:

- A. All information listed in Super. Ct. Crim. R. 49.1(a) has been removed, including:
- (1) An individual’s social-security number
 - (2) Taxpayer-identification number
 - (3) Driver’s license or non-driver’s’ license identification card number
 - (4) Birth date
 - (5) The name of an individual known to be a minor as defined under D.C. Code § 16-2301(3)
 - (6) Financial account numbers

(7) The party or nonparty making the filing shall include the following:

(a) the acronym “SS#” where the individual’s social-security number would have been included;

(b) the acronym “TID#” where the individual’s taxpayer-identification number would have been included;

(c) the acronym “DL#” or “NDL#” where the individual’s driver’s license or non-driver’s license identification card number would have been included;

(d) the year of the individual’s birth;

(e) the minor’s initials;

(f) the last four digits of the financial-account number; and

(g) the city and state of the home address.

- B. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.
- C. All pre-sentence reports (PSRs); these reports were filed as separate documents and not attached to the brief as an appendix.
- D. Information about protection orders, restraining orders, and injunctions that “would be likely to publicly reveal the identity or location of the protected party,” 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266(5) (defining “protection order” to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).
- E. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.
- F. Any other information required by law to be kept confidential or protected from public disclosure.

Initial here

G. I certify that I am incarcerated, I am not represented by an attorney (also called being “pro se”), and I am not able to redact this brief. This form will be attached to the original filing as record of this notice and the filing will be unavailable for viewing through online public access.

 /s/ Sweta Patel
Signature

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Name

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Email Address

 23-CF-389
Case Number(s)

 11/27/2023
Date