NOT YET SCHEDULED FOR ORAL ARGUMENT
24-CT-1078

IN THE DISTRICT OF COLUMBIA
COURT OF APPEALS

LEON E. WILLIAMS
Appellant,

v.

DISTRICT OF COLUMBIA,
Appellee.

On Appeal From The Superior Court
Of The District Of Columbia
Criminal Division

OPENING BRIEF FOR APPELLANT LEON E. WILLIAMS

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DISCLOSURE STATEMENT

Appellee in this Court is the United States. Counsel who appeared for the District of Columbia before the Superior Court of the District of Columbia was Assistant Attorney General Jeff Cargill.

Defendant in the Superior Court and Appellant in this Court is Mr. Leon Williams. Counsel who appeared for Mr. Williams before the Superior Court was Stephen Logerfo. Appellate counsel now appearing before this Court is Jason Clark.

RULE 28(A)(5) STATEMENT

This appeal is from a final order or judgment that disposes of all the parties' claims at issue.

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ISSUES PRESENTED

1. Whether the initial stop of Williams was supported by reasonable articulable suspicion.
2. Whether the police unlawfully searched Williams's vehicle?
3. Whether Williams violated the District's holster regulation, 24 DCMR § 2344.2, by placing his firearm inside his locked vehicle?
4. Whether Williams violated D.C. Code § 7-2509.04 when, while outside his vehicle and approached by officers, he declined to disclose that he had a firearm secured in his nearby locked vehicle?
5. Whether Williams unlawfully "transported" his firearm pursuant to D.C. Code § 22-4504.02(b), by temporarily storing it in a parked vehicle that he did not subsequently drive or otherwise move?
6. Whether the trial court abused its discretion by denying Williams's motion to dismiss under the Second Amendment without providing any substantive discussion or analysis, leaving the parties without insight into the court's legal reasoning or factual findings?
7. Whether application of 24 DCMR § 2344.2, D.C. Code § 7-2509.04, or § 22-4504.02(b) unconstitutionally infringed upon Williams's Second Amendment Right to bear arms?

STATEMENT OF THE CASE

This case is an appeal from a criminal conviction after a bench trial. Prior to trial Appellant Williams filed three motions: (1) Defendant's Motion to Suppress Tangible Evidence; R. at 58 (2) Defendant's Motion to Suppress Statements, R. at 53, and (3) Defendant's Motion to Dismiss the Information Under the Second Amendment. R. at 62. The District opposed the two motions to suppress in an opposition filed on April 21, 2024. R. at 74. The District opposed the Second Amendment motion to Dismiss in a separate filing submitted on April 22, 2024, R. at 102, and a supplemental filing on June 25, 2024. R. at 142.

On July 25, 2024, the court held an evidentiary hearing to address the pending motions. 7/25 Tr. At that hearing the court heard the testimony of Officer Chase Williams and the Appellant Leon E. Williams. The court did not make any findings that day and instead asked the parties to submit proposed findings and conclusions of law. 7/25 Tr. 11.

On September 19, 2024, the trial court denied the defendant's three motions in a written order. R. at 167 (Order Denying Defendant's Motions).

On October 16, 2024, the trial court conducted a "trial" which did not consist of any additional testimony. Rather, the trial court permitted the government to incorporate the testimony from the motions hearing, along with a stipulation. 10/16 Tr. 6-8. The defense presented no evidence. 10/16 Tr. 8.

The trial court made no further factual findings and immediately concluded that Mr. Williams was guilty of all three charged offenses. 10/16 Tr. 9. The trial court sentenced Mr. Williams to a fine and a suspended sentence.

A notice of appeal was timely filed. R. at 176 (Notice of Appeal).

Table of Offenses and Outcomes

Count	Offense	Code Section	Outcome	Sentence
1	Failure to Notify of Concealed Carry: did fail to disclose to a law enforcement officer initiating an investigative stop that he/she was carrying a firearm in violation	D.C. Code §§ 7-2509.04, 7-2509.10.	Guilty	180 days, ESS all
2	Attempt Unlawful Transportation of a Firearm - In a Vehicle	D.C. Code § 22-4504.02(b), 22-1803	Guilty	180 days, ESS all
3	Failure to Holster: being a holder of a concealed carry pistol license, did fail to carry the pistol in a holster on his/her person	24 DCMR § 2344.2, for which a penalty is provided in 24 DCMR § 100.6.	Guilty	$100 fine

STATEMENT OF THE FACTS

Appellant Leon Williams worked as an armed Special Police Officer and security officer. 10/16 Sentencing Tr. 12 (armed SPO); 7/25 Tr. 44 (worked security at Howard University). Williams owned a pistol and was duly licensed to carry a firearm in the District of Columbia. 10/16 Sentencing Tr. 12.

A. Leon Williams

On September 23, 2023, Appellant Leon Williams was at the Crown Gas Station, located at 908 Florida Avenue Northwest. 7/25 Tr. 14, 43. At around 5:55 p.m., Williams was at the gas station to fill up the gas tank of his black GMC Yukon.[1] *Id*. Having worked security at nearby Howard University, Williams was familiar with the area and had been robbed at that gas station on a prior occasion. Williams pulled up to a pump and parked. Upon parking at the pump, Williams exited his vehicle and went to the rear of his GMC Yukon, opened the trunk, and retrieved his lawfully possessed pistol from its lock box. 7/25 Tr. 44-45; *see also* 10/16 Sentencing Tr. 12.

Williams was apparently unable to pay at the pump and needed to go inside the store to pay the clerk directly. Williams did not want to bring the firearm with him inside the store and placed it in the console of his GMC Yukon. Williams then locked the vehicle and went inside to pay. 7/25 Tr. 44-46.

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[1] Though not elicited at trial, the record explains that Williams' GMC Yukon was registered in Virginia and had tags issued from that state. R. at 75 (District's Opp., Pg. 2 of 27).

Williams returned a few moments later to start pumping gas. The vehicle remained locked. At this time, MPD Officer Chase Williams (hereinafter Ofc. Chase[2]), and two other officers, *id*. at 36, approached Appellant Williams and asked about a fire department sticker on the Yukon. 7/25 Tr. 45. It is unclear if Williams ever started pumping gas before he was interrupted by Ofc. Chase. Ofc. Chase noted that the front tag was in the windshield of the vehicle, not affixed to the front. 7/25 Tr. 45-46. Ofc. Chase apparently began to issue a warning and asked for Williams' ID. 7/25 Tr. 46.

Williams' ID was locked inside the vehicle, so rather than retrieve the ID, he simply provided Ofc. Chase with his information. 7/25 Tr. 46. Ofc. Chase ran the information and discovered an outstanding warrant for failing to appear in court. 7/25 Tr. 47. Ofc. Chase placed Williams under arrest and searched him. *Id*. at 38-39. Williams explained that he felt like he was being "harassed and messed with for no reason" and apparently never gave permission for the police to search his vehicle. 7/25 Tr. 48. At some point, the police asked Williams if there was anything illegal in the car, and he answered "no." 7/25 Tr. 51.

The police stood around with Williams for about half an hour before they transported him. 7/25 Tr. 47. While he stood around for about half an hour, Williams' "lady" came down and spoke to the police. *Id*. at 25, 47. Ofc. Chase described the woman as Williams's "significant other." *Id*. at 25. Williams expressed

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[2] Because Appellant Williams and the District's only witness share the same last name, I will refer to Officer Chase Williams by his title and first name to prevent confusing him with Appellant Williams.

his desire for his lady to take his keys and drive the car home. 7/25 Tr. 48. The police denied the request and would not permit Williams's lady to take the car. *Id*. at 25, 48.

As Williams was in the back of the MPD transport vehicle, a sergeant came over and took Williams's car key out of an evidence bag, which contained his personal property. 7/25 Tr. 49. Williams was then driven to the station for processing. Williams explained that he was not on scene when the police used a K9 to sweep his vehicle or when they used his car key to enter and search the Yukon. 7/25 Tr. 49. He only learned about the search after the fact. 7/25 Tr. 49. Police used Williams's key to open the vehicle and search inside.

B. Officer Chase Williams

Ofc. Chase testified that he observed a black GMC Yukon pull into the Crown Gas Station at 908 Florida Avenue Northwest without a front tag displayed. 7/25 Tr. 14, 34. The officer passed by and then looped around, intending to return to the gas station. *Id*. at 17, 36. At some point, Ofc. Chase saw Williams exit the vehicle. *Id*. at 17, 35. When Ofc. Chase proceeded back to the gas station, he pulled into the gas station to make a stop of the vehicle. *Id*. at 16. He pulled up to the front of the vehicle and activated his emergency lights. *Id*. at 16. The Yukon was parked at the pump. *Id*. at 17. Williams was outside of his vehicle when police approached. 7/25 at 35. Ofc. Chase could not recall where the front license plate was, but "it wasn't affixed to the front where it was supposed to be." *Id*. at 18.

Ofc. Chase notified Williams that he was being stopped. *Id*. at 20. Williams provided his name and information. Ofc. Chase ran the information and discovered that Williams had an outstanding warrant out of Rockville, Maryland. *Id*. at 21. By

the time Williams was informed about the warrant and told that he was going to be arrested, two other officers and a sergeant had already arrived at the scene. *Id*. at 23. The record is unclear as to when Williams was placed in handcuffs, but it is evident that he was at some point. *Id*. 24.

Officers requested a K9 unit to sweep the vehicle. *Id*. at 24. It took the K9 officer "anywhere from 20 to 35 minutes" to arrive. *Id*. at 26. Ofc. Chase testified that he observed the K9 alert to an odor, and that police subsequently searched the vehicle. *Id*. at 27-28. Inside the vehicle, officers located a handgun in the center console area of the vehicle, along with his "employment badge." *Id*. at 28, 30. The handgun was lawfully registered to Williams and he had a license to carry a pistol. *Id*. at 31.

During the motions hearing, Ofc. Chase seemed to claim that the vehicle was searched pursuant to an inventory search, because "it would have had to have been removed." *Id*. at 32. However, during cross-examination Ofc.Chase explained that an Inventory Search would occur at Blue Plains, the District's Evidence Control Branch. *Id*. at 40. Ofc. Chase agreed that what MPD did was not an inventory search.

Finally, Ofc. Williams noted that the vehicle "windows were heavily tinted." *Id*. at 33. There was no testimony that the tints were actually measured, and Ofc. Williams did not even opine that the tints were illegal, only that they appeared "heavy." *Id*. at 33.

STANDARD OF REVIEW

This court reviews a trial court's denial of a motion to suppress evidence, in the light most favorable to the prevailing party, which is the government in this case. *(Gregory) Smith v. United States, 283 A.3d 88, 94 (D.C. 2022)*. While the will draw all reasonable inferences in favor of upholding the trial court's ruling, the trial court's legal conclusions are reviewed de novo. *Id.*

A challenge to the sufficiency of the evidence to support a conviction is reviewed de novo. This court will "review the sufficiency of the evidence de novo, viewing the evidence in the light most favorable to sustaining the judgment, and making no distinction between direct and circumstantial evidence." *Fitzgerald v. United States*, 228 A.3d 429, 436 (D.C. 2020) (citations, brackets, and internal quotation marks omitted).

When assessing the sufficiency of the evidence, this court reviews the evidence in the light most favorable to the government, giving full play to the right of the fact-finder to determine credibility, weigh the evidence, and draw justifiable inferences of fact . . . ." *Cherry v. District of Columbia*, 164 A.3d 922, 929 (D.C. 2017) (internal quotation marks omitted). The evidence is sufficient if, "after viewing the evidence in the light most favorable to the [government], any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Smith v. United States*, 175 A.3d 623, 627 (D.C. 2017) (emphasis and internal quotation marks omitted).

ARGUMENT SUMMARY

Appellant Williams respectfully submits that his convictions must be reversed for multiple, independent reasons, each of which underscores clear violations of his constitutional rights and fundamental errors in the proceedings below.

First, Williams argues that the trial court erred in denying his motion to suppress evidence and statements because his initial seizure was unlawful—unsupported by any reasonable, articulable suspicion as required by the Fourth Amendment. Even if the initial stop had been justified, the officers' subsequent warrantless search was plainly impermissible: it was neither supported by probable cause nor valid as a search incident to arrest.

Second, the District's trial evidence was legally insufficient to sustain any of the three convictions. For each statute relied upon by the government, the prosecution failed to prove the necessary conduct to bring Williams within its scope. Because the government did not show that Williams was ever carrying a pistol on his person, he cannot be convicted of failing to holster a firearm that was not on his person. Likewise, he cannot be convicted of failing to notify officers of a concealed weapon on his person when he was not carrying one on his person. And he cannot be convicted of unlawfully transporting a firearm when he never moved the firearm in his vehicle while stored in an unlawful manner.

Finally, even if the District had proven every element it alleged, Williams's convictions still cannot stand because they unconstitutionally burdened his core Second Amendment right to keep and bear arms for self-defense. Under *Bruen* and this Nation's historical tradition, the District's restrictions and their application to

Williams's conduct are inconsistent with the constitutional protections guaranteed to him.

For these reasons, Williams respectfully requests that this Court reverse his convictions and vacate the judgment below.

ARGUMENT

I. The Search of Williams's Vehicle Was Unlawful, And Evidence of The Pistol Recovered from His Vehicle Should Have Been Suppressed.

A. The initial seizure of Williams was unsupported by Reasonable Articulable Suspicion.

The trial court could uphold the stop of Williams as a lawful seizure under *Terry v. Ohio*, only if justified by reasonable articulable suspicion that "the person has been, is, or is about to be engaged in criminal activity." *United States v. Place*, 462 U.S. 696, 702 (1983) (citing *Terry v. Ohio*, 392 U.S. 1, 10 (1968)). The requirement is not onerous, but it is not toothless either." *Robinson v. United States*, 76 A.3d 329, 336 (D.C. 2013) (internal quotation marks omitted). The stop cannot rest on a police officer's "inchoate and unparticularized suspicions[s]" or "inarticulate hunches." *Terry*, 392 U.S. at 22, 27. Rather, there must be a "particularized and objective basis for suspecting the particular person stopped of criminal activity," *Miles v. United States*, 181 A.3d 633, 637 (D.C. 2018) (quotined *United States v. Cortez*, 449 U.S. 411, 417-18 (1981)), founded upon "the facts available to the officer at the moment of the seizure," *Mayo v. United States*, 315 A.3d 606, 620 (D.C. 2024) (en banc) (quoting *Terry*, 392 U.S. at 21-22). The existence of reasonable suspicion is a legal determination that this court reviews de novo. *Mayo*, 315 A.3d at 616.

At issue is whether the trial court could find the District established reasonable articulable suspicion for the initial seizure of Williams. At the motions hearing, Ofc. Chase explained that he looped around and pulled up to Williams with his

emergency lights flashing to effectuate a "stop" of Williams. 7/25 at 16. Ofc. Chase explained that in that initial encounter, "I just told him that he was stopped and notified him why he was stopped and then asked for identification and things of that nature." 7/25 Tr. 20. Ofc. Chase told Williams that the reason for the stop was that his front license plate was not properly affixed. 7/25 Tr. 36. The trial court found that the "initial stop was reasonable given the alleged violation . . . ." R. at 171 (Order Denying, 5). The trial court appeared to find that the initial stop was supported by a reasonable suspicion that Williams was violating 18 DCMR § 422.1, which requires the display of a front license plate tag.[3]

1. Williams' display of a tag in the front windshield of his vehicle complied with 18 DCMR § 422.1.

Officer Chase's initial decision to stop Williams for the failure to display a front tag was not supported by the plain meaning of 18 DCMR § 422.1. The evidence from the motions hearing established that while Williams' vehicle did not have a tag affixed to his bumper, it was on display in his windshield. *See, e.g.*, 7/25 Tr. 45-46. 18 DCMR § 422.1 only requires that two tags be displayed, "with one (1) in the front, and the other in the rear." The trial court, R. at 168, seemed to understand that this regulation required the tag to be affixed to the front bumper. That interpretation was erroneous. The regulation is not so specific. As the tag was

[3] The trial court never explicitly cited 18 DCMR § 422.1, only stating that "officers approached the vehicle due to the lack of a license plate on the front bumper." R. at 168 (Order Denying, pg. 2, of 6). The District's Opposition cited 18 DCMR § 422 in support of their position. R. at 75.

"displayed in the front" windshield, the fact that it did not adorn the bumper could not establish reasonable articulable suspicion for the stop initiated by Ofc. Chase.

2. 18 DCMR § 422.1 did not apply to Williams's vehicle because it was not "operated or left standing upon any public highway."

Moreover, 18 DCMR § 422.1 only applies to vehicles being "operated or left standing upon any public highway." Williams's vehicle was parked on private property under the control of the Crown Gas station. Williams's vehicle was not at the moment he was stopped by Ofc. Chase, standing or being operated on any public highway, and was thus not in violation of this regulation. Ofc. Chase was not witnessing an ongoing traffic violation that would have given him a reasonable suspicion to initiate the traffic stop.

3. The trial court erroneously concluded that Williams's window tint was darker than the legal limit.

Alternatively, the trial court may have erroneously assumed that Williams's window tint was darker than the legal limit. In its brief factual findings, the trial court wrote, "the tint of the defendant's windows was darker than the legal limit." R. at 168 (Order Denying, 2). This factual determination was unsupported by the record evidence. At trial Ofc. Chase only testified that "the windows were heavily tinted . . . ." 7/25 Tr. 33. He never measured the tints, nor did he opine that they appeared to cross any threshold of legality. Thus, the court's conclusion that the tint was darker than the legal limit is not established in the record. While the trial court is "not required to inventory all the evidence and explain how [it] weighed each evidentiary item," *id*. (quoting *In re I.B.*, 631 A.2d 1225, 1232 (D.C. 1993), it is an abuse of the

court's discretion if its "stated reasons [for ruling] do not rest upon a specific factual predicate," *Johnson v. United States*, 398 A.2d 354, 364 (D.C. 1979).

Moreover, Ofc. Chase testified that he stopped Williams due to the front tag. 7/25 Tr. 14. The officer's observation of a dark tint was at best an afterthought that the officer did not note until after the seizure had occurred and could not justify the initial stop. Finally, D.C. Code § 50-2207.02(a), which prescribes the limits of permissible window tints, only applies to vehicles "operated or parked upon the public streets," and was inapplicable to Williams's vehicle parked on private property.

* * *

Because the initial seizure of Williams lacked reasonable articulable suspicion, the trial court erred in declining to suppress the physical evidence and statements that followed the unlawful seizure.

B. The search of Williams's vehicle was not lawful.

Having confirmed the extraditability of the warrant for Williams, he was placed under arrest. Of course, if the initial seizure of Williams was unlawful, evidence of what followed the arrest still should have been suppressed. Even assuming the initial stop was permissible, however, the police lacked sufficient legal justification for the search they then conducted of Williams's vehicle.

"A search conducted without a warrant is per se unreasonable under the Fourth Amendment unless it falls within a few specific and well-established exceptions." *Ellison v. United States*, 238 A.3d 944, 949 (D.C. 2020) (quoting *United States v.*

Taylor, 49 A.3d 818, 821 (D.C. 2012)). Here, the trial court found that the search was "permissible because probable cause had been established by the alert of the police dog and also the vehicle fell into the 'search incident to arrest' exception." R. at 5 (Order Denying, 5).

1. The search of Williams's vehicle was not a permissible search incident to arrest.

Whether officers can search an object or area incident to a suspect's arrest generally depends upon whether it is within the suspect's "immediate control" at the arrest's inception. *See Chimel v. California*, 395 U.S. 752, 763 (1969). That means officers can search things within the suspect's reach or lunge when the arrest begins, *i.e.*, "the area from within which he might gain possession of a weapon or destructible evidence." *Id*.

Nor is the rule without other limits. For instance, the search must be roughly contemporaneous with the arrest. *See Greenfield v. United States*, 333 A.3d 866, 875 (D.C. 2025). "If officers unduly delay their search—say the suspect is already down at the station when officers decide to search a bedroom nightstand he was standing next to when arrested—this exception will no longer obviate the warrant requirement." *Id*. Even where an object is within arrestee's immediate control, court must "consider whether the events occurring after the arrest but before the search made the search unreasonable." *(Marcus) Young v. United States*, 982 A.2d 672, 680 (D.C. 2009) (quoting *(Mark) Young v. United States*, 670 A.2d 903, 907 (D.C. 1996)). That is because the search incident to arrest exception is justified by the "inherent necessities of the [arrest] situation," and must be closely tethered to the two

purposes that justify it, namely, (1) "to remove any weapons that the [arrestee] might seek to use in order to resist arrest or effect his escape" and (2) to "seize any evidence on [or around] the arrestee's person in order to prevent its concealment or destruction." *Chimel*, 395 U.S. at 759, 763 (quoting *Trupiano v. United States*, 334 U.S. 699, 708 (1948)).

In *Arizona v. Gant*, 556 U.S. 332, 335 (2009), the Supreme Court revised the application of the search incident to arrest exception in the context of vehicular searches. *Gant* held, contrary to prior precedent, that once a suspect is removed from a vehicle and secured (typically handcuffed), a free-ranging *Chimel* search of the vehicle can no longer be justified.

At the time officers searched Williams's vehicle, he had been placed under arrest and transported from the scene. 7/25 Tr. 49. The search of his vehicle was not permissible because it had already been secured by officers and was under their exclusive control at that time. Williams had been removed from the scene and the search of the vehicle without a warrant was unreasonable under the Fourth Amendment.

2. The search of Williams's vehicle was not a permissible search pursuant to the vehicle exception.

As a second basis, the trial court suggested that the K9 alert supported a probable cause finding that Williams's vehicle contained contraband and could be searched pursuant to the automobile exception to the Fourth Amendment's warrant requirement.

As an initial matter, the K9 handler did not testify, and the only evidence admitted on the subject was Ofc. Chase's apparent observation that the dog alerted to some unspecified odor. *Id*. at 27-28. There is no indication that Ofc. Chase had the training or expertise to interpret this K9's signals. Nor does the record specify what this K9 was trained to alert on. Certainly, the detection of any "odor" does not establish probable cause that evidence of an offense will be located in the area to be searched.

Even assuming the K9 alerted on the scent of a firearm, the police could not assume illegality, particularly given that Williams had informed the officers that he worked in some capacity as a law enforcement officer. Moreover, MPD was, of course, aware that Williams lawfully owned a firearm, as he had registered it and been issued a concealed carry permit. Thus, while they may have some reason to believe a firearm could be found, there was no indication of illegal possession. While the Fourth Amendment may permit the search of an automobile without a warrant, there must still be probable cause to believe the location to be searched contains evidence of a criminal offense. The record here establishes none.

* * *

Because the search of Williams's vehicle was made without a warrant or a valid exception, the trial court erred in declining to suppress the gun found inside Williams's locked vehicle.

II. Williams Did Not Fail To Holster His Firearm In Violation Of 24 DCMR 2344.2 Because He Did Not Possess A Firearm On His Person.

At the time police stopped Williams, he was not *carrying* a firearm. To be sure, Williams had possession of a firearm, stored securely in his locked vehicle, but he was not carrying the weapon within the meaning of that term given by 24 DCMR § 2344.2. In its entirety, 24 DCMR § 2344 states:

> 2344 PISTOL CARRY METHODS
>
> 2344.1 A licensee shall carry any pistol in a manner that it is entirely hidden from view of the public when carried on or about a person, or when in a vehicle in such a way as it is entirely hidden from view of the public.
>
> 2344.2 A licensee shall carry any pistol in a holster on their person in a firmly secure manner that is reasonably designed to prevent loss, theft, or accidental discharge of the pistol.

24 DCMR § 2344 (Final Rulemaking published at 62 DCR 9781 (July 17, 2015)). Section 2344.2 must be read in conjunction with § 2344.1. In context, it is clear that § 2344.2 does not require a licensee to carry a pistol on their person at all times; rather, when carrying a pistol on their person, it must be secured in a holster. The provision applies only when the firearm is "on their person," not whenever it is possessed. *Cf. Deneal v. United States*, 551 A.2d 1312, 1317 (D.C. 1988) ("while the concepts of 'possession' and 'carrying' are indeed similar … they are not identical").

Moreover, 24 DCMR § 2344.1 and § 2344.2 distinguish between "carried on or about a person" and "on [the] person."[4] Basic tenets of statutory construction

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[4] In a similar context the City Council has chosen the broader language of "on or about" when criminalizing the unlicensed carrying of a pistol. *See* D.C. Code § 22–4504, which prescribes the offense of Carrying concealed weapons, states that no "No person shall carry within the District of Columbia either openly or concealed *on or about their person*, a pistol without a license . . . ."

demand that the counsel's choice of two distinct terms be given effect. Thus, "on or about the person" must be read to have a different meaning than the narrower "on [the] person." The failure to holster offense prescribed by § 2344.2 is a narrowly scoped requirement that only applies to actual physical possession of a firearm on the person. It does not apply to a firearm being stored in a nearby vehicle. To violate § 2344.2, the person must have a firearm physically on their person, not merely about them.

Williams then did not violate 24 DCMR § 2344.2 because the evidence was that the firearm was inside Williams's locked vehicle, not on his person. The District did not produce sufficient evidence at trial to prove beyond a reasonable doubt that Williams carried a firearm on his person outside of a holster.

III. Williams Did Not Violate D.C. Code § 7-2509.04 Because He Was Not Carrying a Concealed Weapon Upon His Person.

D.C. Code § 7-2509.04 requires that a person carrying a pistol pursuant to a concealed carry license under D.C. Code § 22-4506 must disclose to law enforcement that they are carrying a concealed pistol when stopped. Under § 22-4506, the license specifically authorizes a person to "carry a pistol concealed upon his or her person." By its plain terms, this statutory scheme regulates only the act of carrying a pistol *upon the person*—not all forms of possession.

This reading is reinforced by the statutory requirement that individuals licensed to carry, and who are in fact carrying, must submit to a *pat-down search* of their *person*. The statute does not require consent to a search of surrounding vehicles, containers, or other locations. It follows that the disclosure obligation applies only

when the individual physically bears the concealed pistol on their body at the time of the police encounter.

In this case, Mr. Williams did not have a firearm concealed *on his person* when stopped by officers. Instead, the firearm was secured inside his locked vehicle—a location he could not freely access once he was seized by police. Accordingly, because the statutory disclosure duty applies only to a person *carrying* a pistol "upon his or her person," Williams was under no legal obligation to inform officers about the firearm inside the vehicle. His failure to do so does not violate § 7-2509.04.

IV. Williams Did Not Unlawfully Transport A Pistol By Vehicle Pursuant to D.C. Code § 22-4504.02(b).

Williams pulled up to a pump at the gas station. 7/25 Tr. 44. Williams, who had been robbed in that gas station on a previous occasion, explained that he removed his pistol from the lock box in the trunk of his vehicle and placed it in the center console.[5] 7/25 Tr. 44. Williams then locked his car and went inside to pay for his gas. 7/25 Tr. 44. Williams paid and returned to the pump. 7/25 Tr. 45. Officer Chase then stepped out of his vehicle and engaged Williams. The interaction resulted in Williams's arrest, and he did not return to his vehicle, drive it away, or in any other manner transport the firearm while in the vehicle's console. At no time did

[5] At sentencing, Williams' counsel explained that having retrieved the firearm from the lock-box in the trunk, Williams apparently thought better of bringing the pistol inside the store and decided to place it in the center console of his locked vehicle while he went inside to pay for gas. 10/16 Sentencing Tr. 12.

Williams drive his vehicle on any public road or highway with the firearm in his center console.

Pursuant to D.C. Code § 22-4504.02(b), a person may not *transport* a firearm by a vehicle unless it is unloaded and in a locked container other than the console. The term transport by vehicle does not cover Williams's conduct. The decision to momentarily store a firearm in the console of his vehicle after it has been parked is not an act of transportation. Merriam-Webster defines transport as "to transfer or convey from one place to another." Dictionary.com defines transport as "to carry, move, or convey from one place to another." All definitions of transportation convey a measure of movement. Essentially, as Williams was charged with unlawfully moving the pistol by vehicle, the District needed to prove that he caused the vehicle to move after the pistol was placed in the console. As Williams never caused the vehicle to move once the firearm was in the console, he never transported the firearm by vehicle within the meaning of § 22-4504.02(b).

V. Williams's Convictions Must All Be Vacated Because His Convictions Represent an Unconstitutional Infringement Upon His Second Amendment Rights.

Williams moved to dismiss the indictment against him, alleging that the statutes and regulations he was charged with violating ran afoul of the Second Amendment. R. at 62 (Motion to Dismiss the Information Under the Second Amendment).

The Second Amendment commands that "the right of the people to keep and bear Arms, shall not be infringed." U.S. CONST. AMEND. II. In *District of*

Columbia v. Heller, 554 U.S. 570 (2008), the Supreme Court held "on the basis of both text and history" that the Second Amendment guarantees an "individual right to possess and carry weapons in case of confrontation." *Id*. at 592, 595. More recently, in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), the Supreme Court "h[e]ld that when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." 597 U.S. at 17. In such circumstances, "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id*. The Court explained that "[o]nly if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's 'unqualified command.'" *Id.* (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.10 (1961)); *see also Ward v. United States*, 318 A.3d 520, 525-26 (D.C. 2024).

The Court also clarified the framework courts must use to evaluate Second Amendment challenges to government actions and regulations. If the defendant is an "ordinary, law-abiding, adult citizen[]," and so "part of 'the people' whom the Second Amendment protects," the court "turn[s] to whether the plain text of the Second Amendment protects [the defendant's] course of conduct." *Bruen, 597 U.S.* at 31-32. If "[t]he Second Amendment's plain text . . . presumptively guarantees [the defendant] a right to 'bear' arms in public for self-defense," then "the burden falls on [the government] to show that [its regulation] is consistent with this Nation's historical tradition of firearm regulation. Only if [the government] carr[ies] that

burden can [it] show that the pre-existing right codified in the Second Amendment . . . does not protect [the defendant's] course of conduct." *Id* at 33-34.

In assessing whether a firearm regulation is consistent with historical tradition, *Bruen* advised that courts will often have to analogize the challenged regulation to the firearms regulations that were in place when the Second Amendment was ratified. "[D]etermining whether a historical regulation is a proper analogue for a distinctly modern firearm regulation requires a determination of whether the two regulations are 'relevantly similar.'" *Bruen*, 597 U.S. at 28-29 (quoting C. Sunstein, *On Analogical Reasoning*, 106 HARV. L. REV. 741, 773 (1993)). Although the Court did "not . . . provide an exhaustive survey of the features that render regulations relevantly similar under the Second Amendment," it did identify "at least two metrics: how and why the regulations burden a law-abiding citizen's right to armed self-defense." *Bruen* at 29. The Court explained that, "[f]or instance, when a challenged regulation addresses a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment." *Id*. at 26. Similarly, historical regulations that "addressed the societal problem, but did so through materially different means, . . . could be evidence that a modern regulation is unconstitutional" and "attempt[s] to enact analogous regulations during this timeframe" that "were rejected on constitutional grounds . . . surely would provide some probative evidence of unconstitutionality." *Id*. at 26-27.

Conducting this inquiry, the *Bruen* Court held that "the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home." 597 U.S. at 10. That right is not unlimited, however, and "[t]hroughout modern Anglo-American history, the right to keep and bear arms in public has traditionally been subject to well-defined restrictions governing the intent for which one could carry arms, the manner of carry, or the exceptional circumstances under which one could not carry arms." *Id.* at 38.

More recently, in *United States v. Rahimi*, 602 U.S. 680 (2024), the Court upheld 18 U.S.C. § 922(g)(8), which prohibits individuals subject to a domestic violence restraining order from possessing a firearm. The Court held that since the Nation's founding, firearms laws have included regulations to stop individuals who threaten physical harm to others from misusing firearms. As such, § 922(g)(8) was consistent with the Second Amendment.

A. The Court's Second Amendment Analysis Represents an Abuse of Its Discretion

For its analysis, the trial court simply wrote:

> Finally, the Court must also address the Defendant's Motion to Dismiss the Information Under the Second Amendment. Defense indicated in the Hearing that it would rest on the papers for that point of contention. Accordingly, there was also no response to the government's opposition and supplement which point to superseding cases in the interim. Specifically, the contention that the recent Supreme Court case *United States v. Rahimi*, 144 S. Ct. 1889, renders the defendant's motion moot because it squarely addresses and upholds the constitutionality of the regulations for which the Motion to Dismiss seeks to challenge. Therefore, based on *Rahimi*, the motion is also DENIED.

R. at 172. The court's analysis leaves the record so unclear that it amounts to an abuse of discretion. "In reviewing for abuse of discretion, we must determine whether the decision maker failed to consider a relevant factor, whether [the decision maker] relied upon an improper factor, and whether the reasons given reasonably support the conclusion." *Doe v. United States*, 333 A.3d 893, 898 (D.C. 2025) (internal quotations omitted). To begin with, it is not apparent what the court considers so closely analogous between 24 DCMR § 2344.2, D.C. Code § 7-2509.04, and D.C. Code § 22-4504.02(b), and the federal prohibition on firearm possession by individuals subject to domestic violence restraining orders. There is no evidence that Williams was ever subject to such a domestic violence order, nor was he charged under any statute that could reasonably be considered similar. Absent any clear similarity to *United States v. Rahimi*, and with no meaningful analysis in the record, it is impossible to discern the basis for the trial court's denial of Williams's Second Amendment motion to dismiss. If the trial court identified some comparable restriction in the historical record at the time of the Founding, that discovery is not made clear. As the record now stands, it appears that the trial court's legal analysis assumed that because *Rahimi* upheld one specific restriction on firearm possession, any restriction on the possession or use of firearms must likewise be consistent with the Second Amendment. But that plainly misreads *Rahimi*; the decision does not stand for such a sweeping proposition. "A court by definition abuses its discretion when it makes an error of law." *Vining v. District of Columbia*, 198 A.3d 738, 754 (D.C. 2018) (internal quotation marks omitted); *see also Johnson v. United States*, 398 A.2d 354 (D.C. 1979) ("[T]he appellate court should inquire whether the trial

court's reasoning is substantial and supports the trial court's action."); *In re J.D.C.*, 594 A.2d 70, 75 (D.C. 1991) (judicial discretion must be founded upon correct legal principles, and a trial court abuses its discretion when it rests its conclusions on incorrect legal standards).

B. Application of 24 DCMR § 2344.2's On-Person Holster Requirement Unconstitutionally Infringed Upon Williams's Second Amendment Right.

Application of 24 DCMR § 2344.2's on-person holster requirement is not consistent with this Nation's historical tradition of firearm regulation. Williams's decision to place his firearm in a location more readily accessible to him while in an area he knew to be dangerous was conduct plainly aimed at self-defense and therefore falls squarely within the Second Amendment's plain text. As *Bruen* makes clear, "[w]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." *Bruen*, 597 U.S. at 17.

Under *Bruen*, the government bears the burden of demonstrating that its regulation is consistent with this Nation's historical tradition of firearm regulation. The District cannot meet that burden here because no well-established historical analogue supports an on-person holster mandate. There is no evidence that, during the Founding era or at the time of the ratification of the Fourteenth Amendment, any jurisdiction required individuals to carry handguns exclusively in a holster on the body, and the trial court found none. To the contrary, the historical record indicates that armed individuals often kept firearms close at hand in various ways, suited to self-defense, including in saddlebags, satchels, or other vehicles of the day.

Modern attempts to impose rigid holster requirements represent a novel regulatory approach unsupported by any comparable historical tradition. Accordingly, under *Bruen*, the District's on-body holster mandate cannot be sustained, and Williams's conduct remains protected by the Second Amendment.

C. Application of D.C. Code § 22-4504.02(b)'s Transportation Statute Unconstitutionally Infringed Upon Williams's Second Amendment Right.

Application of D.C. Code § 22-4504.02(b)'s restrictions on the vehicular transportation of firearms is inconsistent with this Nation's historical tradition of firearm regulation. Williams's act of storing a firearm in his vehicle—in a location more readily accessible to him while in an area he knew to be dangerous—was plainly conduct aimed at self-defense, and therefore falls within the Second Amendment's plain text. As *Bruen* makes clear, "[w]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." *Bruen*, 597 U.S. at 17.

Under *Bruen*, the burden then shifts to the government to demonstrate that its restriction is consistent with this Nation's historical tradition of firearm regulation. Here, the District did not carry that burden because no well-established historical analogue exists and the trial court found none. There is no evidence that, at the time of the Founding or the ratification of the Fourteenth Amendment, any jurisdiction prohibited individuals from carrying or transporting firearms in locations readily accessible while traveling by horse, carriage, or wagon. In fact, at least one jurisdiction—Georgia—expressly recognized an exception for "horse pistols" when

it otherwise restricted pistols carried by the person. *See Acts of the General Assembly of the State of Georgia Passed in Milledgeville at an Annual Session in November and December, 1837*, pp. 90–91 (Milledgeville: P.L. Robinson, 1838) (Dec. 25, 1837). These horse pistols were typically carried in pouches draped over a horse, the historical equivalent of modern vehicle transport.

Thus, under *Bruen*, because there is no distinctly similar, well-established historical analogue supporting the District's restriction, Williams's conduct remains protected by the Second Amendment.

CONCLUSION

This court should vacate Mr. Williams's convictions.

July 7, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2025, I caused the foregoing to be served via the Court's electronic filing and service system, upon all counsel of record.

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