SCHEDULED FOR ORAL ARGUMENT ON FEBRUARY 4, 202
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

REPLY BRIEF FOR APPELLANT LEON E. WILLIAMS

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I. Williams Did Inform Police There Was A Pistol In His Car Because The Statute Did Not Require Him To.

Pursuant to D.C. Code § 7-2509.04(d), when law enforcement stops a person licensed to carry a concealed pistol, they must inform the officer that they are "carrying a concealed pistol" and identify the location of the pistol presently concealed on their body. If officers request, the statute further requires the licensee to submit to a pat-down of his body and to temporarily surrender his firearm for the duration of the investigative stop. Of course, none of this applied to Appellant Williams because the fundamental prerequisite was not present: he was not carrying a pistol.

The District responds that Mr. Williams, who was stopped, handcuffed, and arrested by police as he exited a gas station convenience store to return to his vehicle, should have immediately volunteered to officers that some unspecified distance away, inside his unoccupied and locked SUV, inside the closed storage area of his center console, lay his legally owned pistol.

The District's argument is fatally flawed in at least two ways. First, the District mistakenly reads into the disclosure obligation an expanded '**on or about**' concept of carrying when mandatory disclosure only applies to a pistol presently carried 'upon' the person. Second, even if the District were correct that licensees must disclose pistols "on or about" them, Williams's pistol was neither *on* nor *about*

him. Indeed, Williams's pistol was neither accessible to him nor in reach. Ultimately, evidence that Williams temporarily stored a pistol in his locked SUV, when police stopped and arrested him an unspecified distance away, was insufficient to prove beyond a reasonable doubt that he had triggered the disclosure provision of D.C. Code § 7-2509.04(d). Williams is not guilty simply because the statute did not apply to his circumstances.

A. Mandatory disclosure is limited to pistols physically *upon* the person.

Section 7-2509.04(d) applies only when "a law enforcement officer initiates an investigative stop of a licensee *carrying* a concealed pistol *pursuant* to D.C. Code § 22-4506." The disclosure obligation attaches only when the licensee is engaged in the conduct authorized by § 22-4506—concealed carry *upon the person*. § 22-4506 (requiring a license "to carry a pistol concealed ***upon*** his or her person"). The operative clause of D.C. Code § 7-2509.04(d) required Williams to disclose only if he was presently carrying a pistol concealed "upon his [] person." Consistent with that understanding, the disclosure mandated is that the person is presently "carrying a concealed pistol," § 7-2509.04(d)(1), and where the pistol is concealed.

The government's reliance on D.C. Code § 7-2509.01(2) to read into the statute an expanded "on or about" concept of carrying is misplaced. While that provision defines "concealed pistol" to include a pistol carried "on or about a person in a vehicle," that definition does not expand § 22-4506's more limited scope, which confines itself to those pistols "upon" the person. If the Council intended § 7-

2509.04(d)'s disclosure requirement to apply to all "concealed pistols" as defined by § 7-2509.01(2), it would not have included the proviso "pursuant to § 22-4506."[1]

The statutory duties imposed during an investigative stop further confirm the limited scope. Section 7-2509.04(d)(4) requires a licensee to comply with lawful orders, "including allowing a pat down of his or her person and permitting the law enforcement officer to take possession of the pistol for so long as is necessary for the safety of the officer or the public." Notably absent is any authorization to search a vehicle or seize any firearm stored inside. The statute contemplates a pat-down of the *person* for hidden pistols, not a search of vehicles.

The District's contention that the pat-down is merely a non-exhaustive example of a lawful order misreads the statute. Br. at 16. Section 7-2509.04(d)(4) is not an illustrative list; it is a targeted carve-out requiring licensees to *allow* and *permit* intrusions that would otherwise be constitutionally suspect. The operative verbs—"allowing" and "permitting"—impose affirmative consent to a pat-down and temporary surrender of the firearm even in the absence of reasonable articulable suspicion that the licensee is dangerous.[2] Absent this mandated consent, a pat-down

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[1] "One of the most basic interpretive canons is that a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Stevens v. D.C. Dep't of Health*, 150 A.3d 307, 315-316 (D.C. 2016)(internal brackets and quotations omitted).

[2] A person can indeed be armed but not considered dangerous under the legal standard for a *Terry* frisk. Courts have emphasized that the officer must have a reasonable belief, based on specific facts, that the individual is both armed *and* dangerous. *See e.g.*, *Arizona v. Johnson*, 555 U.S. 323, 326-27 (2009)("[T]o proceed from a stop to a frisk, the police officer must reasonably suspect that the person stopped is armed *and* dangerous.")(emphasis added). In cases where there is no

is not categorically lawful, as lawful firearm possession alone does not establish dangerousness. If the statute intended officers to routinely search for and seize firearms located inside locked vehicles, it would have expressly conditioned licensure on consent to pat-downs and vehicle searches.

Rather, the statute is narrowly tailored to address the safety of officers and licensees during close-quarters encounters, where a pistol is physically concealed on the licensee and would be discovered during a routine pat-down.[3] In that context, mandatory disclosure prevents fearful misinterpretation or sudden reaction upon the unwarned discovery of a firearm during an investigative stop. That rationale does not extend to a firearm secured inside a locked vehicle, which would not otherwise be encountered during a pat-down.

Moreover, the text, purpose, and history of statutes that prohibit carrying firearms "on or about" a person effectuates the "policy" of preventing a person from having a weapon "so near him or her that he or she could promptly use it, if prompted to do so by any violent motive." *Jones v. United States*, 972 A.2d 821, 827

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indication of threatening behavior, suspicious movements, or other contextual factors suggesting danger, the disclosure of a weapon does not automatically justify a frisk. Likewise, a lawfully held pistol is personal property that is not otherwise categorically subject to surrender.

[3] The District misapprehends the safety concern underlying the disclosure requirement. Br. at 17 (asserting that a pistol stored in a nearby vehicle presents the same safety risk as a pistol carried on the person). The statute does not regulate the disclosure of firearms secured in vehicles; rather, it addresses the *unexpected discovery* of a weapon on an unknown person during a police encounter. In such high-stakes interactions, an officer may misinterpret a licensee's movements as hostile if a concealed weapon is discovered by surprise. These risks are absent when a firearm is secured within a stationary vehicle.

(D.C. 2009) (quoting *White v. United States*, 714 A.2d 115, 119–20 (D.C. 1998)); *Henderson v. United States*, 687 A.2d 918, 922 n.7 (D.C. 1996) (quoting *Brown v. United States*, 30 F.2d 474, 475 (D.C. Cir. 1929)). That policy has no application to a licensee.

The text of § 7-2509.04, the nature of the required disclosure, and the statute's evident purpose all confirm that the Council deliberately confined the disclosure obligation to situations in which a licensee is actively carrying a pistol upon his person. Expanding that obligation to firearms not carried on the person would contradict the statutory text and transform a carefully limited safety provision into a generalized reporting requirement divorced from any immediate risk—an expansion the statute does not permit. "Perhaps the [District's] argument is really that we should ignore context and give the word[] [carrying] . . . [its] broadest possible meaning[], which [*might*] . . . capture [Williams's] conduct here. But that is simply not a defensible approach to statutory interpretation, particularly as to a criminal statute." *Cardozo v. United States*, 315 A.3d 658, 667 (D.C. 2024). To the extent there is genuine ambiguity in the meaning of the statute, it must be resolved in favor of Williams.[4]

[4] The rule of lenity provides that criminal statutes should be strictly construed and that genuine ambiguities should be resolved in favor of the defendant. *See, e.g.*, *Lemon v. United States*, 564 A.2d 1368, 1381 (D.C. 1989). Any ambiguity concerning the timing, scope, or trigger of the disclosure obligation should be resolved in Williams's favor.

B. Williams did not have a pistol *on or about* him: i.e., it was not *conveniently* accessible and within *reach*.

Even if the District were correct that the statute embraced the expanded concept of "on or about" carrying, that does not help the District here, because it still would not reach Williams's conduct in this case. The phrase "on or about the person" refers to the requirement that the object be in such proximity to the individual as to be "*convenient of access and within reach*." *See Howerton v. United States*, 964 A.2d 1282, 1289-90 (D.C. 2009). The standard requires that the object be close enough to the person that it could be **readily accessed** without an obstacle to its ***immediate*** use. *See id.*; s*ee also White*, 714 A.2d at 119-20 ("[O]ur focus must be on whether 'the location of the [pistol] . . . presented an obstacle such as to deny appellant convenient access to the weapon or place it beyond his reach.'" (quoting *Porter v. United States*, 282 A.2d 559 (D.C. 1971))). A person standing outside a vehicle—physically separated from a pistol by locked vehicle doors and police officers—does not have *convenient*, unobstructed access to the pistol. Rather, multiple obstacles place it beyond Williams' immediate reach.[5]

The District responds that Williams's detention by police officers is irrelevant to assessing his access to the pistol. They argue that the proper inquiry is whether

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[5] The concept of "reach" operates in two related but distinct senses. In one sense, it is a measure of physical distance; in another, it denotes practical attainability. The case law emphasizes the latter, as the underlying policy is to prevent rapid or impulsive violence. Thus, the concept of reach is one of attainability, and an item not available upon impulse could be close yet unattainable. Accordingly, even if Williams was pressed against his vehicle as police stopped him (something the record does *not* establish), the practical reality remained that the pistol locked inside was not readily attainable.

Williams could have accessed the firearm *had police not intervened*. Br. at 19 ("reasonably[6] accessible *when* he was stopped"). That cannot be. Any evaluation of convenient access must account for the limitations imposed by law enforcement after the stop is initiated.[7] The statute imposes no duty to disclose until *after* an investigative stop is underway, and the District cannot fault a licensee for failing to disclose an inaccessible firearm by claiming it was hypothetically accessible at an earlier time when no duty to disclose existed.[8] Accessibility is the practical measure of the moment, and even under the District's preferred statutory reading, the disclosure obligation should only arise when the permit holder is: (1) stopped, and (2) the gun is presently and actually conveniently accessible.

The District stretches the record to support its mistaken interpretation of the statute, filling evidentiary gaps with speculation about where Williams may have been standing and how he might have accessed the pistol before being detained. Such conjecture only underscores the insufficiency of the record and the fundamental due

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[6] The District repeatedly states that the pistol was "reasonably" accessible. The "on or about" standard entails a two-part formula requiring *convenient* accessibility and being *within reach*. Williams contends that the record establishes neither that the pistol was within reach nor that it was conveniently accessible.

[7] In a related context, courts have recognized that assessments of accessibility must account for the post-intervention practicalities of police detention. *Cf. Arizona v. Gant*, 556 U.S. 332, 335 (2009) (holding that, in determining whether an area is within an arrestee's "immediate control" for Fourth Amendment purposes, courts must consider whether the arrestee has been secured.).

[8] It would be a strange outcome to require licensees to determine the exact moment of their seizure and then determine how far back in time they must consider whether the gun was hypothetically conveniently accessible.

process problems that result when applying the District's broad and amorphous definition of what it means to be *carrying* a concealed pistol *pursuant* to § 22-4506.

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

Here the District adopts a position which seems antithetical to the one it just advocated. After arguing that Williams was "carrying" a pistol for purposes of § 7-2509.04(d) by leaving it in his car, the District simultaneously contends that he violated § 22-4504.02(b) by *not* carrying the pistol on his person. Br. at 20. According to the District, Williams's acknowledgment that a firearm was located in the rear of his SUV establishes unlawful transportation because the pistol was not on his person. Under the District theory, a licensee apparently does not "carry" a firearm while co-located with it inside a vehicle, but does carry when leaving it behind. That internally inconsistent reading finds no support in the statutory scheme.

Even setting aside that contradiction, the District misstates the record. Williams did not admit to driving with a *loaded* firearm. He testified that he retrieved the pistol from a lock box in the rear of his SUV. 7/25/24 Tr. 55; 10/16/25 Tr. 12. He further explained that the firearm was loaded *at the time it was placed* in the center console. 7/25/24 Tr. 55. Williams never said *when* he loaded the gun, and there is no reason to believe that he did not load the firearm upon removing it from the lock box. Assuming otherwise is speculation, not inference. The evidence, therefore, was insufficient to establish a completed offense of unlawful transportation.

The District alternatively argues that it proved an attempt. That argument fares no better. An attempt requires an overt act undertaken with the intent to commit the offense that would have resulted in its completion but for some interference. *See Evans v. United States*, 779 A.2d 891, 894 (D.C. 2001). The mere fact that Williams was walking toward his vehicle when arrested does not satisfy that standard. The record shows that after retrieving the pistol from the lock box, Williams placed it in the console because he did not wish to bring it into the convenience store. There is no evidence that he intended to drive away with the firearm in that condition. It is equally plausible that, before leaving, Williams intended to holster the firearm, or unload and return it to the lock box in the rear of the SUV. The District's theory rests on speculation, not proof.

Finally, even if the record supported an intent to drive away with the firearm loaded in the console, that conduct would not violate the statutory scheme. A licensed carrier may keep a loaded pistol in a vehicle so long as it is concealed from public view. D.C. Code § 7-2509.01(2); *see also* DCMR § 24-2344.1.

III. Williams Did Not Fail To Holster His Firearm In Violation Of DCMR 24-2344.2 Because The Evidence Did Not Establish That He Carried A Pistol Unholstered.

Williams did not violate DCMR § 24-2344.2 because the evidence established that the firearm was secured inside his locked vehicle, not carried on his person. The District's contrary interpretation would render any pistol not physically on a person and not in a holster unlawful at all times and in all places within the District. Under

that reading, the District asserts that Williams violated the regulation merely by momentarily moving the pistol from the rear of his SUV to the front—an outcome untethered from the regulation's text or purpose.[9]

The District's construction would also make compliance practically impossible. A licensee seated alone in a locked vehicle could not temporarily set a firearm aside to adjust clothing, remove the firearm from a holster to check its condition, or even transfer the firearm from a lock box into a holster—because each action would necessarily involve a brief moment when the pistol is not holstered on the person. Nothing in the regulatory scheme suggests the Council it intended such sweeping and impractical restrictions.

Properly construed, and in harmony with the surrounding statutory and regulatory framework, the holster requirement applies only to pistols physically carried on the person for an *appreciable* amount of time.[10] Any broader reading would produce absurd results and must be rejected.

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[9] The District speculates that Williams moved the pistol without a holster. Br. at 24 ("[A]ll indications are that he did so without a holster."). But the record contains no evidence addressing whether the firearm was moved with or without a holster. The District's assertion rests entirely on silence in the record, effectively arguing that because no witness affirmatively stated that Williams used a holster, he must not have. That reasoning improperly shifts the burden to Williams, who had no obligation to present evidence on the point.

[10] Appreciable as in the sense of "considerable," "substantial," or "significant." *Cf. Cardozo v. United States*, 315 A.3d 658, 666 (D.C. 2024) ("[W]e agree that this context makes clear that the kidnapping statute proscribes only detentions of substantial duration, and that Congress did not mean 'holding or detaining' in their broadest senses as capturing any momentary grasps.").

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

A. Williams did not forfeit his reasonable suspicion claim.

The government asserts that Willims forfeited his reasonable articulable suspicion (RAS) claim by failing to argue it below. Williams clearly did everything required to preserve his claim. Not only did he file a pre-trial motion to suppress, arguing the police lacked RAS for the initial seizure, but the District responded to those specific allegations, and the trial court likewise made findings and ruled upon the legal issue. *See, e.g.*, R. at 59 (Defendant's Mot. to Suppress Tangible Evid., pg. 2); R. at 86 (District's Opp. To Motion to Suppress); R. at 171 (Order Denying, pg. 5)("The Court finds that the stop was reasonable . . . .").

B. Police Lacked Reasonable Articulable Suspicion

The trial court's conclusion that Williams's stop was supported by reasonable articulable suspicion was an abuse of discretion. That conclusion rested on an erroneous interpretation of the governing traffic regulation and erroneous factual findings unsupported by the record.

The evidence at the suppression hearing established that although Williams's vehicle did not have a tag affixed to the bumper, the tag was displayed in the windshield. *See*, *e.g.*, 7/25 Tr. 45–46. DCMR § 18-422.1 requires only that a temporary tag be displayed; it does not mandate that the tag be affixed to the front bumper. The trial court nevertheless appeared to conclude that the regulation required bumper placement. *See* R. at 168. That interpretation was incorrect. The regulation requires only that the tag be fastened horizontally so as to prevent

swinging. Evidence that the tag was not affixed to the bumper does not establish that it was not properly fastened within the meaning of the regulation. Moreover, Officer Chase's observations of the tag were made while the vehicle was parked on private property, not on a public roadway.

The government's alternative justification for the stop fares no better. In its written findings, the trial court stated that "the tint of the defendant's windows was darker than the legal limit." R. at 168 (Order Denying at 2). That finding lacks record support. Officer Chase testified only that the windows were "heavily tinted." 7/25 Tr. 33. No testimony established that the tint exceeded the legal limit, and no witness was asked to quantify what "heavily tinted" meant. Absent such an explanation, the court's conclusion that the tint was unlawfully "heavy" was speculative. An observation that tint appeared "heavy" does not establish illegality, as it could equally describe tint that approaches—but does not exceed—the legal threshold.

C. Williams' Pistol Should Have Been Excluded

Even assuming the initial stop was permissible, the police lacked legal justification for the subsequent search of Williams's vehicle. As a threshold matter, the District forfeits any reliance on the search-incident-to-arrest doctrine by failing to address it substantively in its brief, instead asserting that the vehicle search was supported by probable cause or inevitable discovery. Br. at 28. That argument still fails because the District presented no competent evidence of either.

1. The record does not establish probable cause.

The record does not support the claim that a canine alert justified the search. Attempting to avoid this evidentiary deficiency, the District again asserts that Williams forfeited the issue. He did not. Williams challenged the warrantless vehicle search both in a pretrial motion and during the evidentiary hearing. Once the search was challenged, the burden was on the government to establish probable cause through competent evidence. *In re D.M.*, 94 A.3d 760, 764 (D.C. 2014) (the government bears the burden of proving, by a preponderance of the evidence, that the search was constitutionally permissible). The government did not carry that burden.

Ofc. Chase's testimony concerning the canine was, at best, "vague and unenlightening." *Cf. In re K.H.*, 14 A.3d 1087, 1092 (D.C. 2011)(vague testimony based on the detective's understanding of the situation did not support probable cause). Ofc. Chase testified only that he observed a canine "signifying" something to its handler. 7/25 Tr. 27–28. Ofc. Chase was not a trained canine officer, and the record does not describe the purported signal, how it was given, or what it meant.[11] Ofc. Chase did not even report speaking with the canine officer to confirm that what he observed was; (1) an actual alert, (2) by a trained canine, (3) directed at Williams' vehicle.[12] Without that, the testimony does not establish any reliable evidence

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[11] The record does not describe how the canine purportedly "signified" its handler, leaving no factual basis to conclude that an alert relevant to probable cause even occurred.

[12] Ofc. Chase did not testify that the dog was reliable or qualified to detect the odor of anything. The record gives no reason to believe the dog was what the District now

supporting probable cause to search Williams' vehicle. Ofc. Chase's testimony on the essential point was too unreliable and uncertain to support the court's factual findings.

On appeal, this court reviews de novo whether the District met its burden, while accepting the trial court's factual findings unless they lack evidentiary support in the record. *In re D.M.*, 94 A.3d at 764. Here, the record is devoid of such support. For all the facts reflect, Officer Chase may have observed nothing more than a puppy in training scratching itself for fleas. The District presented no evidence that the dog was trained to detect firearms—let alone the odor of any other contraband. Nor did Ofc. Chase testify that the dog alerted to a firearm, much less one located inside Williams's vehicle.[13] Indeed, the District offered nothing to suggest this dog was certified, qualified, or reliable in any relevant capacity.[14] The trial court's conclusion that a "trained firearm detecting dog . . . alerted to the presence of a firearm inside the defendant's vehicle," lacks evidentiary support and must be rejected. R. at 170-

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purports it to be. For all we know, Ofc. Chase observed a puppy in training scratching itself for fleas.

[13] It strains credulity to suppose that even a trained canine could distinguish the scent of a firearm inside a vehicle from the scent of firearms worn on the belts of the multiple officers standing around it. More fundamentally, the District offers no basis—scientific or otherwise—for believing that a dog can reliably differentiate firearms from the countless commonplace industrial objects composed of the same materials and emitting indistinguishable odors.

[14] Law enforcement canine units are trained in various specialized capacities. Patrol dogs are typically utilized for tracking, building searches, and the physical apprehension or restraint of suspects. Scent-detection dogs can be trained in specific discrimination tasks, most commonly for narcotics or explosives. Additionally, Human Remains Detection (HRD) dogs, or "cadaver dogs," specialize in locating biological remains, while Search and Rescue (SAR) dogs focus on locating live subjects.

71 (Order Denying, pg. 4-5). Ultimately, nothing in the record supports the conclusion that the dog was what the District now claims it to be, or what the trial court assumed it was. The District's request that this Court treat speculation as evidence and infer probable cause where it failed to prove it below should be declined.

2. Inevitable discovery does not apply

Finally, the District invokes the inevitable discovery doctrine, arguing that the SUV would have been subject to an inventory search. That argument fails. As a threshold matter, the trial court made no findings or ruling regarding an inventory search. Regardless, the inevitable discovery doctrine does not apply based on this record. Although the doctrine permits admission of evidence obtained through unlawful means if the government proves, by a preponderance of the evidence, that the evidence would have been discovered through lawful means, its application requires satisfaction of two conditions: (1) the lawful process that would have led to discovery must have *commenced* prior to the unconstitutional search, and (2) there must be a "requisite actuality" that the evidence would ultimately have been discovered through lawful means. *Smith v. United States*, 283 A.3d 88, 98 (D.C. 2022) (rejecting arguments that police could have searched incident to arrest when it was the government's burden to prove they would have searched regardless the illegality); *Jones v. United States*, 168 A.3d 703, 717 (D.C. 2017) (inevitable discovery did not apply because the lawful process never occurred); *Gore v. United States*, 145 A.3d 540, 548 (D.C. 2016) (the inevitable discovery doctrine did not

apply because at the time of the entry, the officer had not applied for the search warrant).

The District cannot satisfy either requirement. Nothing in the record shows that officers took any steps to initiate an inventory search before conducting a general evidentiary search of the vehicle. Police did not call for a tow truck, did not impound the SUV, and did not begin any part of the inventory process before conducting a general search for evidence. On the contrary, the record affirmatively shows that no inventory search was ever commenced. *See* 7/25 Tr. 40. "[T]he inevitable-discovery doctrine is applicable in cases in which the police engaged in lawful and unlawful processes in parallel," but does not apply when police had options and "for whatever reason, chose the option that turned out to be unlawful." *Jones v. United States*, 168 A.3d 703, 717 (D.C. 2017). Inevitable discovery does not apply when, as here, the lawful process never commenced. *Id*.

Nor was an inventory search inevitable. Police routinely leave private vehicles parked where the driver left them following an arrest. Here, before officers removed Williams from the scene—but before they searched the SUV—Williams's significant other arrived. Williams directed officers to release the vehicle to her.[15] *See* 7/25 Tr.

[15] The District cites to MPD General Order 602.01 for support but it offers none. As the General Order makes clear, "When a person is arrested for a crime while in custody of a vehicle that is not needed as evidence, members shall ensure that the vehicle is released to a person authorized to take custody, secured and legally parked, or inventoried and towed for safekeeping . . . ." Moreover, MPD GO-OPS-303.03 (Vehicle Towing and Impoundment) clarifies that "Members shall only request a traffic violation tow for unregistered vehicles . . . and vehicles deemed unsafe to be operated . . . that require towing to a vehicle inspection station." Police could not

25, 48. She ultimately drove the vehicle away after the officers completed their general search.[16] On these facts, any suggestion that an inventory search commenced or would have been completed is speculative, if not flatly contradicted by the record. 7/25 Tr. 40 (Ofc. Chase testifying no inventory search occurred). It was the District's burden to establish "a requisite actuality that the discovery would have ultimately been made." *See Smith v. United States*, 283 A.3d 88, 99 (D.C. 2022). It introduced no evidence to that end, and its claim of inevitable discovery must be rejected on this record. Accordingly, the inevitable discovery doctrine provides no basis to uphold this warrantless search.

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

A. Williams did not forfeit any Second Amendment claims and carried his *Bruen* step one burden.

Williams properly raised his Second Amendment claims in a pretrial motions, the District had ample opportunity to respond, and the trial court clearly had the issue in mind when it made its rulings. The District quibbles with Williams pretrial motion

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meet the tow requirement and would not inventory the vehicle with no intent to tow it.

[16] Admittedly, the record is not clear concerning what happened to the vehicle after police concluded their search. It is reasonably clear that Williams' significant other (his wife) was on scene and that she repeatedly denied police permission to search the vehicle. 7/25 Tr. 25. And police denied conducting any inventory search, which the government argues would have been required to tow the vehicle. It is counsel's understanding from speaking to the relevant parties that William's wife drove the car away from the gas station, but I will leave it to this court to determine if that fact is reasonably inferable from this record.

alleging it failed to "show that the Second Amendment's text protected his conduct." Br. at 33. Williams did.

In the initial "text" portion of the text-and-history test, the only question is whether "the Second Amendment's plain text covers an individual's conduct." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24 (2022). If the challenged statute "regulates arms-bearing conduct," "the Constitution presumptively protects that conduct," and the government "bears the burden to 'justify its regulation'" "by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Id*. at 17, 19, 24; *United States v. Rahimi*, 602 U.S. 680, 691 (2024) (quoting *Bruen*, 597 U.S. at 24). Under the Second Amendment, Williams' right to carry a handgun publicly for self-defense was clearly implicated by the plain text of the Second Amendment, and he clearly meets any step one burden. *See, e.g., Russell v. District of Columbia*, 2025 U.S. Dist. LEXIS 187852, at *22 (D.D.C. Sep. 24, 2025) (off-body carry in the District of Columbia clearly implicates the plain text of the Second Amendment and meets Bruen's initial step). The government thus bears the burden to "justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24.

B. The District's laws do not comport with the Nation's historical traditions.

Here, as in *Bruen*, the government has "failed to meet [its] burden to identify an American tradition justifying" its apparent prohibition on the temporary storage of a firearm, or momentary movement of a firearm from one secured position to another in public for the ultimate purpose of self-defense. *Bruen*, 597 U.S. at 38–39. "Under

Heller's text-and-history standard, the statutes and regulations at issue here are therefore unconstitutional." *Id*. at 39. This text-and-history inquiry is exclusive: a firearm regulation is constitutional only if the government affirmatively proves it is consistent with the Nation's historical tradition.

The District's scattershot invocation of historical statutes does not carry its burden. "Not all history is created equal." *Bruen*, 597 U.S. at 34. Because constitutional rights have the scope they were understood to have at ratification, the government must identify historical analogues that reflect the public understanding of the Second Amendment in 1791. *Id*. at 34–37. Evidence that long predates ratification—or postdates it in ways that depart from founding-era practice—carries little weight. *Id*. at 34–35, 37. And while a modern regulation need not be a precise historical twin, it must be *relevantly similar* to founding-era regulations in both *why* and *how* it burdens the right to keep and bear arms. *Rahimi*, 602 U.S. at 692, 698 (quoting *Bruen*, 597 U.S. at 29). Where a purported societal problem existed at the founding and was addressed through materially different means—or not at all—that historical silence is evidence the modern regulation is unconstitutional. *Bruen*, 597 U.S. at 26–27.

The District offers no such analogue. Instead, it assembles a grab bag of inapt statutes that neither address the same problem nor impose a comparable burden, and thus fail to justify the infringement of Williams's Second Amendment rights.

CONCLUSION

This court should vacate Mr. Williams's convictions.

January 23, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2026, 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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