No. 24-CT-1078

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

LEON ERNEST WILLIAMS,
APPELLANT,

V.

DISTRICT OF COLUMBIA,
APPELLEE.

ON APPEAL FROM A JUDGMENT OF THE
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

BRIEF FOR APPELLEE THE DISTRICT OF COLUMBIA

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STATEMENT OF THE ISSUES

In September 2023, a police officer asked Leon Williams for identification after noticing that Williams's truck had, among other things, no front license plate securely fastened to the vehicle, in violation of 18 DCMR § 422. Williams claimed to be a law-enforcement officer and denied having any weapons. But a check of Williams's information revealed an extraditable warrant for his arrest in Maryland, and, after a K9 unit detected the presence of a firearm in his truck, officers found a loaded handgun in the center console. Williams was charged with multiple firearms offenses, and the Superior Court denied his motion to suppress under the Fourth Amendment and his motion to dismiss under the Second Amendment. Williams was convicted on all counts after a bench trial. The questions presented are:

1. Whether sufficient evidence supports Williams's convictions.

2. Whether the Superior Court correctly denied Williams's motion to suppress when his Fourth Amendment claims are unpreserved, meritless, or both.

3. Whether the Superior Court correctly denied Williams's motion to dismiss when his Second Amendment claims are unpreserved, meritless, or both.

STATEMENT OF THE CASE

Williams was arrested on September 23, 2023. R. 18-19. He was charged with failure to notify of concealed carry under D.C. Code § 7-2509.04(d); attempted unlawful transportation of a firearm in a vehicle under D.C. Code § 22-4504.02; and

failure to holster under 24 DCMR § 2344.2. R. 50. Williams moved to suppress evidence under the Fourth and Fifth Amendments, and to dismiss the information under the Second Amendment. R. 53-68. The District opposed Williams's motions. R. 74-136, 142-44. On July 25, 2024, the Superior Court held a hearing and Williams submitted his motion to dismiss on the papers. 7/25 Tr. 7-9, 11-12. The court denied Williams's motions on September 17, 2024. R. 167-72.

The Superior Court held a bench trial on October 16, 2024. Without objection, the government moved to incorporate the evidence from the July 25 hearing as its case-in-chief. 10/16 Tr. 3-4, 7-8. Based on that evidence and a joint stipulation, the court found Williams guilty of all offenses. 10/16 Tr. 9. For the failure-to-notify and attempted-unlawful-transportation offenses, Williams received 180 days of suspended sentence for each offense, to run concurrently, and one year of unsupervised probation and a suspended fine of $1,000 for each offense. R. 174-75. For the failure-to-holster offense, Williams was fined $100. R. 174. Williams timely filed a notice of appeal on November 15, 2024.[1]

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[1] The notice of appeal at R. 176 is date-stamped as filed on November 21, 2024, which would make it untimely, D.C. App. R. 4(b)(1). But it appears that Williams's counsel filed a timely notice on November 15 that was not entered on the Superior Court's docket, potentially due to an inaccurate case number on the first page (i.e., citing 2023 DC 002061 instead of 2023 DC 007061). Supplemental Appendix 1-2. The District believes that Williams's November 15 notice was timely filed and establishes jurisdiction over this appeal. *See* D.C. App. R. 3(c)(7).

STATEMENT OF FACTS

1. Legal Background.

A. District statutes and regulations.

i. Relevant firearm regulations.

Gunowners may carry a concealed pistol in the District by obtaining a license from the Metropolitan Police Department (MPD) and by following MPD rules, including "standards for safe holstering." D.C. Code § 7-2509.11(a)(3); *id.* § 22-4506. Licensees must "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." 24 DCMR § 2344.1. Licensees must also "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." *Id.* § 2344.2. Violations may result in a fine of up to $300. *Id.* § 100.6.

Concealed-carry licensees have unique responsibilities. As relevant here, "[i]f a law enforcement officer initiates an investigative stop of a licensee carrying a concealed pistol pursuant to § 22-4506," the licensee must (1) "[d]isclose to the officer that he or she is carrying a concealed pistol"; (2) "[p]resent the license and registration certificate"; (3) "[i]dentify the location of the concealed pistol"; and (4) "[c]omply with all lawful orders and directions from the officer, 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." D.C. Code § 7-2509.04(d). Violations are punishable by fines of up to $1,000 and/or imprisonment of up to 180 days. *See id.* § 7-2509.10(a)(1).

Concealed-carry licensees may "transport" a loaded handgun in a vehicle only if, among other things, "the firearm [is] concealed upon their person," *id.* § 22-4504.02(a), (d)—i.e., "firmly secure" in "a holster," 24 DCMR § 2344.2. If the firearm is not concealed on their person, licensees must ensure that it is "unloaded" and not "readily accessible or directly accessible from the passenger compartment," D.C. Code § 22-4504.02(b)(1), or that it is "unloaded" and "contained in a locked container other than the glove compartment or console" when "the transporting vehicle does not have a compartment separate from the driver's compartment," *id.* § 22-4504.02(b)(2); *see* 18 U.S.C. § 926A (similar). The violation, or attempted violation, of these conditions of lawful firearm transportation is subject to fines of up to $2,500 and/or imprisonment of up to 1 year. D.C. Code § 22-4515.

ii. Relevant traffic regulations.

Like many jurisdictions, the District regulates how license plates are displayed on cars. *See* 18 DCMR § 422. With exceptions not relevant here, "[w]henever a motor vehicle" is "being operated or left standing upon any public highway, such vehicle shall display two (2) current identification tags, with one (1) on the front and the other on the rear." *Id.* § 422.1. Such "identification tags shall at all times be securely fastened in a horizontal position to the vehicle." *Id.* § 422.4.

The District also regulates window-tinting. A "motor vehicle" generally may not "be operated or parked upon the public streets or spaces of the District of Columbia" if it has (1) "[a] front windshield or front side windows that allow less than 70% light transmittance," or (2) "[a] rear windshield or rear side windows that allow less than 50% light transmittance." D.C. Code § 50-2207.02(a). These limits "protect public safety" because "deeply tinted windows on motor vehicles impair a driver's vision," "contribute to accidents," and "threaten police" during "traffic stops." *Tucker v. United States*, 708 A.2d 645, 648 (D.C. 1998) (internal quotation marks omitted). As a result, an officer "may order the immediate removal of a motor vehicle from the public streets to an official District Inspection Station if" he or she "determines that the health and safety of the public is at risk due to window tinting in violation of subsection (a)." D.C. Code § 50-2207.02(f).

B. The Fourth Amendment framework.

The Fourth Amendment states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]" U.S. Const. amend. IV. Police may stop a person when they have "reasonable suspicion" of wrongdoing. *Terry v. Ohio*, 392 U.S. 1, 16-31 (1968); *see United States v. Glover*, 851 A.2d 473, 476 (D.C. 2004) (upholding stop based on improper display of front license tag). Police may search a person and their effects if they have "probable cause" to believe that evidence of a crime is present.

Illinois v. Gates, 462 U.S. 213, 238-39 (1983); *see Harris v. United States*, 260 A.3d 663, 683-84 (D.C. 2021) (upholding search of car with probable cause). Also, even improperly seized evidence may be admissible at trial if it would have inevitably been discovered during, for example, a lawful "inventory search" of a car. *See Hicks v. United States*, 730 A.2d 657, 659-62 (D.C. 1999); *see also Speight v. United States*, 671 A.2d 442, 450 n.6 (D.C. 1996) (discussing "inventory searches").

C. The Second Amendment framework.

The Second Amendment states: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II; *see NYSRPA, Inc. v. Bruen*, 597 U.S. 1 (2022). Yet "the Second Amendment is not unlimited" and it does not confer "a right to keep and carry any weapon whatsoever in any manner whatsoever[.]" *Picon v. United States*, --- A.3d ---, No. 23-CF-0344, 2025 WL 2536082, at *3 (D.C. Sept. 4, 2025) (quoting *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008)).

Second Amendment claims are analyzed under "a two-part test." *Picon*, 2025 WL 2536082, at *4. First, challengers must show that their conduct fits within the Amendment's "plain text." *Bruen*, 597 U.S. at 17. As historically understood, the Second Amendment's text codifies a limited right of law-abiding citizens "to keep and bear" common "Arms" for lawful purposes, and it protects that right only from being "infringed." *See Heller*, 554 U.S. at 576-603, 626-27; *Robertson v. Baldwin*,

165 U.S. 275, 281-82 (1897) (noting that the Second Amendment is "not infringed by" historically "well-recognized exceptions"). Second, if challengers make their initial textual showing, the burden shifts to the government to show that the challenged law is "consistent with the principles that underpin our regulatory tradition." *United States v. Rahimi*, 602 U.S. 680, 692 (2024). Because the Second Amendment requires only a "historical *analogue*, not a historical *twin*," gun laws need only be "relevantly similar" to historical precursors in terms of "how and why" they regulate the "right to armed self-defense." *Bruen*, 597 U.S. at 29-30.

2. Factual Background.

On September 23, 2023, MPD Officer Chase Williams and two other officers were patrolling the 900 block of Florida Avenue when they saw a GMC Yukon truck with heavily tinted windows pull into a gas station. 7/25 Tr. 13-14, 16, 33-36; *see* R. 18.[2] After circling around to get another look, Officer Chase saw the driver exit the truck but did not see a license plate fastened to the front of the vehicle, as required by 18 DCMR § 422. 7/25 Tr. 14-18, 33-36; *see* R. 18. Once the driver returned to his truck, Officer Chase approached him, explained the issues with the windows and license plate, and asked for identification. 7/25 Tr. 18-20, 35-36; *see* 7/25 Tr. 45-46.

[2] This brief uses the same terminology as the opening brief to avoid confusion, given that Defendant Williams and Officer Williams share the same surname.

The man said his name was Leon Williams and that he was a law-enforcement officer but refused to provide any details. 7/25 Tr. 20, 37.

Officer Chase then returned to his squad car to check Williams's information on the Washington Area Law Enforcement System (WALES), which revealed that Williams had an extraditable warrant for his arrest in Maryland. 7/25 Tr. 20-23, 37-38, 47; R. 18; *see United States v. Hutchinson*, 408 F.3d 796, 799 (D.C. Cir. 2005) (describing the information available on the WALES database). After confirming the warrant's validity, Officer Chase arrested Williams and collected his personal items, including his keys. 7/25 Tr. 22-24, 38-39, 49. The officers did not turn the truck over to Williams's girlfriend at the gas station because they concluded that the truck needed to be towed to the impound lot. *See* 7/25 Tr. 25, 27, 32, 41, 47-48.

During his interactions with the officers, Williams refused to say whether he had a gun, but given his vague remarks about being a law-enforcement officer, the officers called a K9 unit to sweep Williams's truck for firearms. 7/25 Tr. 22-26, 51, 57-58. After sniffing around Williams's truck, the MPD dog signaled to its handler that it detected the presence of firearms. 7/25 Tr. 27-28; R. 18. The officers then found an unsecured loaded handgun in the center console of Williams's truck. 7/25 Tr. 28-29, 39-40; R. 18-19. Later at the stationhouse, the officers learned that the firearm was registered to Williams, that he had a concealed-carry license, and that he was not a law-enforcement officer. 7/25 Tr. 31, 41; R. 19.

3. Procedural Background.

The District charged Williams by information with failure to notify of concealed carry in violation of D.C. Code § 7-2509.04(d); attempted unlawful transportation of a firearm in violation of D.C. Code § 22-4504.02; and failure to holster in violation of 24 DCMR § 2344.2. R. 50. As relevant here, Williams moved to suppress his firearm under the Fourth Amendment, R. 58-59, and to dismiss the charges against him under the Second Amendment, R. 62-66.

In his two-page motion to suppress, Williams argued that police lacked "probable cause or reasonable suspicion" to search his truck. R. 58-59. The District responded that the MPD dog's alert provided probable cause to search, and that the handgun was admissible under the inevitable-discovery doctrine because officers would have found it during an inventory search. R. 88-93. Williams filed no reply.

Williams's motion to dismiss argued that the District's laws were inconsistent with regulations in 1791. R. 62-63. The District responded that Williams had forfeited his claim by ignoring his threshold burden to show that the Second Amendment's text covers his conduct, R. 114-16; Williams had not shown that the District's laws "infringed" the Second Amendment, R. 118-23; and the laws at issue were consistent with historical tradition, R. 123-33. In a supplemental filing, the District explained that the Supreme Court's decision in *Rahimi* "underscore[d]" the flaws in Williams's claim by reaffirming that the Second Amendment has "always

permitted reasonable regulations on the manner of carrying, storing, or transporting firearms." R. 142-44. Williams filed no reply.

The Superior Court held a hearing and Williams submitted his Second Amendment motion without argument. 7/25 Tr. 6, 8-9, 11-12. On the suppression issues, Williams's counsel did not deny that police had reasonable suspicion to stop him. *See* 7/25 Tr. 10-11. He argued instead that, even if the MPD dog detected a firearm, "police did not have probable cause to search the vehicle." 7/25 Tr. 11.

Officer Chase and Williams testified. Williams stated that, after reaching the gas station, he moved his handgun from the back of the truck to the center console before going inside to pay. 7/25 Tr. 44, 55. The officers approached him once he returned to the gas pump, at which point they told him about the window tints and improperly displayed tag. 7/25 Tr. 45-46. Williams admitted that he was driving his truck without a front license plate affixed to the vehicle, 7/25 Tr. 52; that his handgun was loaded and not holstered to his person, 7/25 Tr. 55-56; and that when officers asked him if he had anything illegal in his truck, he answered, "No," 7/25 Tr. 51. Officer Chase testified that, after arresting Williams, he asked an MPD K-9 unit "to do a sweep of the vehicle" because he was "concerned that there was some sort of weapon in the vehicle" "based on the fact that [Williams] stated that he was law enforcement" but "was very dismissive" when asked if "there was a firearm or something of that nature in the vehicle." 7/25 Tr. 20, 24-26. Officer Chase

recounted that the MPD dog signaled to its handler after sniffing near Williams's truck, 7/25 Tr. 26-29, and that police would have conducted "an inventory search" of Williams's truck after towing it, including its "center-console area," 7/25 Tr. 32.

The trial court denied Williams's motions. In admitting Williams's handgun, the court found that the officers complied with the Fourth Amendment because they approached Williams only after observing potential traffic infractions; they arrested him only after discovering an extraditable warrant; and they searched his truck only after "probable cause had been established by the alert of the police dog." R. 170-71. In denying the Second Amendment motion to dismiss, the court noted that, because Williams had chosen to "rest on the papers," he offered "no response to the government's opposition," and so his motion failed under *Rahimi*. R. 172.

At trial, the District moved without objection to incorporate the evidence from the motions hearing as its case-in-chief, and the parties jointly stipulated that Williams's firearm was registered and that he had a concealed-carry license. *See* 10/16 Tr. 4-5, 7-10; R. 173. Williams declined to testify, and his counsel made no closing argument. 10/16 Tr. 8-9. The Superior Court found William guilty of all offenses and sentenced him as discussed above. 10/16 Tr. 9; *see* R. 174.

STANDARD OF REVIEW

Sufficiency-of-the-evidence claims are reviewed de novo, viewing the facts in favor of the government. *Mattete v. United States*, 902 A.2d 113, 115-16 (D.C.

2006). Orders denying suppression motions are reviewed de novo, viewing the facts in favor of affirmance, but plain-error review governs unpreserved challenges to such orders. *Broom v. United States*, 118 A.3d 207, 217 n.3 (D.C. 2015). Second Amendment challenges are reviewed de novo if preserved and reviewed for plain error if unpreserved. *Sims v. United States*, 963 A.2d 147, 150 (D.C. 2008).

SUMMARY OF ARGUMENT

This Court should affirm the judgment of conviction.

1. The trial court had sufficient evidence to convict Williams of all offenses. First, the District did not need to prove that Williams was carrying a concealed pistol "on his person" to establish his failure-to-notify offense under D.C. Code § 7-2509.04(d). It needed only to prove that he was carrying the pistol "on or about his person," and the evidence shows that Williams's pistol was reasonably accessible in his nearby truck when the officers approached him. Second, the District also did not need to prove that Williams completed the offense of transporting a firearm unlawfully because he was charged with *attempting* to transport a firearm in violation of D.C. Code § 22-4504.02. But the evidence proves Williams's guilt either way: he took overt acts with the intent to transport a loaded firearm that was not concealed on his person, and he admittedly *did* transport a loaded firearm that was not concealed on his person before pulling into the gas station. Finally, Williams's own testimony proves that he violated 24 DCMR § 2344.2 by failing to

carry his pistol on his person firmly secure in a holster, and none of his counterarguments changes that fact.

2. Williams's motion to suppress was properly denied. He never challenged the legality of his stop in the trial court, and his reasonable suspicion claim lacks merit in any event because police had an objective, reasonable basis to believe that Williams had committed at least two traffic infractions before they ever spoke with him. Williams's remaining challenge fails as well because the MPD dog's signal provided probable cause to search his truck in light of all relevant circumstances, and because Williams's firearm would have inevitably been discovered during the post-impoundment inventory search that MPD policy requires.

3. The trial court correctly rejected Williams's Second Amendment claim. Williams ignored his threshold burden at *Bruen* step one in the trial court, and he makes no effort on appeal to show plain error on that point. But even if Williams could get past the first step of *Bruen*, his challenge fails at step two because the District's laws are consistent with the history and tradition of gun regulation.

ARGUMENT

I. Williams's Convictions Are Supported By Sufficient Evidence.

Bench-trial convictions carry "a presumption of correctness" and are upheld unless defendants show that they are "plainly wrong or without evidence to support them." *Mattete*, 902 A.2d at 115-16 (cleaned up). When defendants request no

specific findings of fact at trial, "findings will be implied in support of" the trial court's general determination of guilt on appeal "if the evidence, viewed in a light most favorable to the government, warrants them." *Thomas v. United States*, 985 A.2d 409, 411 (D.C. 2009) (quoting *United States v. Musser*, 873 F.2d 1513, 1519 (D.C. Cir. 1989)). Here, rather than dispute the facts and evidence, Williams relies on newly raised arguments about the meaning of certain terms in the laws he violated—most notably, "carry" and "transport." Br. 23-26. But Williams misconstrues the relevant provisions, ignores critical testimony, and improperly views the evidence in the light most favorable to *him*, not the District.

A. Sufficient evidence supports Williams's conviction for failure to notify of concealed carry.

Williams's conviction under D.C. Code § 7-2509.04(d) should be upheld. When police stop "a licensee carrying a concealed pistol," the licensee must, among other things, "[d]isclose to the officer that he or she is carrying a concealed pistol." D.C. Code § 7-2509.04(d). The purpose of this law is "to protect both law enforcement and the licensees" during the inherently uncertain and potentially dangerous process of an investigative stop. Comm. on Judiciary and Pub. Safety, Report on Bill 20-930, at 11-12 (Nov. 25, 2014) ("Comm. Report"), https://tinyurl.com/yw79tyun. Williams acknowledges his "failure" to "inform officers about the firearm inside his vehicle," but says he could not have violated this statute because he "did not have a firearm concealed *on his person*." Br. 25.

But that is not what "carrying a concealed pistol" means under Section 7-2509.04(d), and Williams's failure to challenge the evidentiary sufficiency of his conviction under the proper legal standard is reason enough to affirm this conviction.

1. Section 7-2509.04(d) does not require licensees to be "carrying a concealed pistol" on their person.

The statutory text, structure, and purpose confirm that Section 7-2509.04(d)'s phrase "carrying a concealed pistol" does not require that licensees have a pistol "on their body at the time of the police encounter." Br. 24-25. "Carrying" means to "'convey, originally by cart or wagon, hence in any vehicle'"—it is "not limited to the carrying of weapons directly on the person." *Muscarello v. United States*, 524 U.S. 125, 128, 131 (1998) (quoting 2 Oxford English Dictionary 919 (2d ed. 1989)). "Concealed pistol" is defined as "a loaded or unloaded pistol carried on *or about* a person entirely hidden from view of the public, or carried on *or about* a person in a vehicle in such a way as it is entirely hidden from view of the public." D.C. Code § 7-2509.01(2) (emphases added). And "on or about" means "convenient of access and within reach"—not actual physical possession or immediate access. *Howerton v. United States*, 964 A.2d 1282, 1289-90 (D.C. 2009) (internal quotation marks omitted); *see Snowden v. United States*, 52 A.3d 858, 877 (D.C. 2012) (explaining that "on or about" "is not synonymous with" "easily accessible").

Williams thus cannot engraft onto Section 7-2509.04(d) an unwritten "on his person" limitation. Resisting this conclusion, Williams notes that

Section 7-2509.04(d) mentions D.C. Code § 22-4506, and a concealed-carry license issued under Section 22-4506 "authorizes a person to 'carry a pistol concealed upon his or her person.'" Br. 24-25. That is a non-sequitur. Section 22-4506 just describes the nature of concealed-carry licenses, and Section 7-2509.04(d) mentions that provision only to indicate the source of authority to carry (i.e., "carrying a concealed pistol pursuant to § 22-4506"). Neither provision limits or expands the other. And that is especially so given the myriad other provisions that expressly use the sort of language that Williams tries to add to Section 7-2509.04(d).[3] *See Ruffin v. United States*, 76 A.3d 845, 855 (D.C. 2013) (recognizing that a legislature "acts intentionally" when it "includes particular language in one section of a statute but omits it in another provision" (internal quotation marks omitted)).

Nor does a licensee's duty to "submit to a pat-down search" under Section 7-2509.04(d)(4) support Williams's crabbed reading. Br. 24-25. Pat downs are "includ[ed]" in the statute as *one example* of the sort of "lawful orders" licensees must "[c]omply with" during a stop, D.C. Code § 7-2509.04(d)(4)—they do not exhaustively limit the statute's application, *see Aboye v. United States*, 121 A.3d 1245, 1249 (D.C. 2015) ("[T]he participle *including* typically indicates a partial list."

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[3] *See, e.g.*, D.C. Code § 7-2509.07(d)(1) (allowing licensees to carry concealed pistols "along a public street" if "carried *on his or her person*" (emphasis added)); *id.* § 22-4502(a) (enhancing sentences for those who commit violent or dangerous crimes "*when armed with*" a pistol (emphasis added)).

(internal quotation marks omitted)). After all, the statute also requires licensees to identify "the *location* of the concealed pistol," D.C. Code § 7-2509.04(d)(3) (emphasis added), and a firearm may be "located" in a vehicle just as naturally as it can be "located" on a person, *see United States v. Toms*, 136 F.3d 176, 181 (D.C. Cir. 1998) (describing "the location of the gun" as "the passenger's seat"). And this makes good sense: the safety concerns that underpin Section 7-2509.04(d) are not ameliorated simply because a pistol is in a nearby truck rather than physically attached to the licensee. *See* Comm. Report 12; *see also Roberts v. United States*, 216 A.3d 870, 884 (D.C. 2019) ("We decline to read in an implicit limitation that would permit easy circumvention of [a criminal] statute's evident purpose.").

2. Williams was "carrying a concealed pistol" within the meaning of Section 7-2509.04(d).

The District was accordingly not required to prove that Williams's pistol was on his person to convict under Section 7-2509.04(d). Because that is Williams's only argument on this point, the Court can affirm his conviction without further analysis. *See Larson-Olson v. United States*, 309 A.3d 1267, 1273 (D.C. 2024) (affirming where defendant failed to carry the "heavy burden" of showing "no evidence" supported conviction (internal quotation marks omitted)). But sufficient evidence also supports Williams's conviction under the correct legal test.

Licensees are "carrying a concealed pistol" under Section 7-2509.04(d) so long as their pistol is reasonably accessible to them when stopped by police. As

noted, "carrying" does not require that weapons be worn directly on the person, and the definition of "concealed pistol" includes pistols "on *or about*" the carrier—i.e., "convenient of access and within reach." *See supra* pp. 15-17. This standard does not require "easy access or close proximity to the firearm." *Clyburn v. United States*, 48 A.3d 147, 152, 155 (D.C. 2012) ("'[O]n or about' and 'armed with or readily available' are not equivalent terms."); *see Snowden*, 52 A.3d at 877. To the contrary, it encompasses firearms several feet away from the defendant as well as guns stashed in a vehicle. *See Howerton*, 964 A.2d at 1285, 1289-90 (holding that "gun was 'convenient of access,'" and being "carried," when it was "about 18-20 feet from" defendant); *White v. United States*, 714 A.2d 115, 119-20 (D.C. 1998) (holding that pistol in the back of ice cream truck was "convenient of access").

Here, given his admitted "failure" to "inform officers about" his pistol, Br. 25, Williams's own testimony confirms that sufficient evidence supports his conviction. Williams testified that, after he "pulled in the gas station," he grabbed the loaded pistol in "the trunk" of his vehicle and moved it to "the console" because he had "been robbed at that gas station before." 7/25 Tr. 44, 55; *see* Br. 9, 25. And Williams testified that, by the time Officer Chase "stepped out" to approach him, Williams had "just got[ten] to the pump" adjacent to his truck containing the loaded pistol. 7/25 Tr. 45; *see* Br. 9-10, 25. This testimony was largely corroborated by Officer Chase's account. *See* 7/25 Tr. 14-16, 19-20, 34-36. A rational trier of fact

could thus find that Williams's handgun was reasonably accessible to him at the gas pump, and thus he was "carrying a concealed pistol" when Officer Chase initiated the stop. *See, e.g.*, *Jeffrey v. United States*, 892 A.2d 1122, 1125, 1128-30 (D.C. 2006) (recognizing that defendant was "carrying" gun left in his parked car even after he "jumped out" and "started walking to the front of the car").

Williams denies none of this on appeal. While he passingly asserts that "he could not freely access" the "inside" of his "locked vehicle" "once he was seized," Br. 25, he does not dispute that his pistol was *reasonably* accessible *when* he was stopped. Far from it. Williams admits that, "[a]t the time police stopped" him, his pistol was in the console of his "nearby vehicle," Br. 23-24—where he had stashed the pistol so it would be "more readily accessible to him" at the gas station, Br. 31, 32; *see* 7/25 Tr. 32 (Officer Chase testifying that the truck's "center-console area" was "easily accessible" to one with "access to the vehicle"). Williams thus cannot show that no evidence supports the trial court's implicit finding that a licensee in his position had reasonable access to his firearm—and thus was "carrying a concealed pistol"—as Williams needed only to unlock his door and reach in the console to grab his weapon. Given Williams's admitted failure to disclose the existence of his firearm, the evidence sufficiently proved that he violated Section 7-2509.04(d).

B. Sufficient evidence supports Williams's conviction for attempted unlawful transportation of a firearm.

The trial court also had sufficient evidence to convict Williams of attempting to transport a firearm in violation of D.C. Code § 22-4504.02—and notably, Williams does not argue otherwise. He instead claims that, because "he did not return to his vehicle" and "drive it away," he never actually "transport[ed]" his handgun after Officer Chase approached him. Br. 25-26. But that is beside the point. Williams was charged with and convicted of *attempting* to transport a firearm unlawfully, R. 50, 174; 10/16 Tr. 9, and so "the completed crime does not have to be proved," *Smith v. United States*, 813 A.2d 216, 219 (D.C. 2002). Williams's failure to dispute the sufficiency of the evidence underlying the offense for which he was convicted warrants affirmance by itself. *See G.W. v. United States*, 323 A.3d 425, 436 n.11 (D.C. 2024) (holding that defendant "abandoned" his "sufficiency-of-the evidence challenge" by not arguing the point on appeal).

At any rate, Williams's conviction is amply supported. An "attempt" is proven by evidence that the defendant took "an overt act" with "the intent to commit a crime," or by evidence that they "completed [the] offense." *Fatumabahirtu v. United States*, 26 A.3d 322, 330 (D.C. 2011) (internal quotation marks omitted). To prove that a concealed-carry licensee attempted to transport a firearm unlawfully, then, the evidence need only show that the licensee took an overt act with the intent to transport a loaded firearm that was not "concealed upon their person," or that the

licensee had in fact transported a loaded handgun that was not "concealed upon their person." D.C. Code § 22-4504.02(a), (b), (d); *see Sacramento Nav. Co. v. Salz*, 273 U.S. 326, 329 (1927) ("To transport means to convey or carry from one place to another."). Williams's conviction can be affirmed on either ground.

First, Williams admits (Br. 25) that when Officer Chase approached him he had returned to "put gas in [his] car" (i.e., an overt act), 7/25 Tr. 45, and the trial court could infer that Williams did so with the intent to drive away with a loaded pistol in the center console (i.e., the intent to transport a loaded firearm not concealed on his person), *see* 7/25 Tr. 43-48. *See Jones v. United States*, 386 A.2d 308, 312-13 (D.C. 1978) (upholding attempted-robbery conviction where defendant was proceeding toward a bank he planned to rob). The primary reason for refueling a vehicle, after all, is to continue driving it, and Williams had no qualms about driving his truck with a loaded firearm in the trunk and not on his person, *see* 7/25 Tr. 43-44, 54-55. Williams thus cannot show that no evidence supports his conviction for attempting to transport a firearm in violation of Section 22-4504.02. *See Wormsley v. United States*, 526 A.2d 1373, 1374-75 (D.C. 1987) (upholding attempted-theft conviction as "one could infer" defendant "intended to" steal an item even if her "actions may have been ambiguous" and she never "attempted to leave").

Second, Williams's own testimony also proves a completed offense, because he admitted that, before pulling into the gas station, he drove his truck with a *loaded*

firearm in the back of the vehicle (i.e., transported a loaded firearm not concealed on his person). 7/25 Tr. 43-44; *see* 7/25 Tr. 55 ("[T]he gun was in the back of my trunk. I placed it . . . in the console after I stopped."). Such conduct violates Section 22-4504.02, regardless of whether Williams drove "on any public road or highway with the firearm in his console," Br. 25-26. For one, Section 22-4504.02 does not require proof of transportation on a "public road or highway." For another, the evidence supports an inference that Williams did in fact transport a loaded firearm in his truck on a public road (i.e., Florida Avenue). *See* 7/25 Tr. 14-18, 43-46. And for yet another, the location of the firearm in Williams's truck is immaterial—the fact that it was loaded and not concealed on his person violates Section 22-4504.02, because location within a vehicle matters only when a firearm is *unloaded*, *see supra* pp. 3-4. Williams's conviction can be affirmed for this reason, too. *See Evans v. United States*, 122 A.3d 876, 887-94 (D.C. 2015) (finding evidence sufficient to prove "attempted possession" of unregistered guns based on defendant's "constructive possession" of guns).

C. Sufficient evidence supports Williams's conviction for failing to carry his concealed pistol in a holster.

Sufficient evidence also supports Williams's failure-to-holster conviction. When licensees "carry any pistol," the pistol must be "in a holster on their person" and carried "in a firmly secure manner that is reasonably designed to prevent loss, theft, or accidental discharge." 24 DCMR § 2344.2. Here, Williams was "carrying"

a pistol in his truck while at the gas station, *supra* pp. 14-19, and he admits that it was not in a holster on his person, *see, e.g.*, 7/25 Tr. 55 ("It wasn't on me, no."). Those facts establish a clear violation of 24 DCMR § 2344.2.

Williams's counterarguments fail. He insists that Section 2344.2 "only applies to actual physical possession of a firearm on the person," such that licensees cannot violate the rule if their unholstered pistol is "in a nearby vehicle." Br. 24. But Section 2344.2 does not say that "[a] licensee shall carry any pistol in a holster *only if* it is carried on their person." It says that "[a] licensee shall carry *any pistol in a holster on their person*," 24 DCMR 2344.2 (emphasis added), which necessarily means that licensees cannot carry pistols unless they are holstered on their person. For good reason. Williams's contrary rule would greenlight the haphazard carrying of loaded, unholstered pistols loosely stashed in a backpack, purse, or trunk—despite the manifest safety concerns that arise from such unsecured firearms. *See United States v. Taylor*, 743 F. Supp. 3d 168, 179 (D.D.C. 2024) (noting that carrying gun in a "satchel, not in a holster," would violate 24 DCMR § 2344.2).

Unable to rewrite Section 2344.2, Williams urges the Court to ignore its text because Section 2344.1 mentions the carrying of a pistol "on or about a person." Br. 23-24. Williams misunderstands both rules. Section 2344.1 details how licensees must *conceal* pistols (i.e., "entirely hidden from view of the public"). Section 2344.2 details how licensees must *secure* pistols when carrying them (i.e.,

"firmly" "in a holster on their person"). But by requiring pistols to be concealed *if* "on or about a person," Section 2344.1 does not affirmatively authorize the unholstered, unsecured carry of pistols in any context, much less in vehicles. Rather, it at most creates an ambiguity about the legality of such conduct, which Section 2344.2 immediately clarifies by prohibiting licensees from carrying a pistol unless "in a holster on their person." *See Harman v. United States*, 718 A.2d 114, 116-18 (D.C. 1998) (instructing courts to harmonize laws where possible). Nothing in Section 2344.1 thus obscures Williams's violation of Section 2344.2. And besides, even if a plain-text reading of Section 2344.2 narrowed Section 2344.1, Williams's atextual position creates a far worse problem by effectively nullifying Section 2344.2's unambiguous holster-on-the-person mandate. *See Bufkin v. Collins*, 604 U.S. 369, 386-87 (2025) (noting that the "canon against surplusage" applies only if "a competing interpretation would avoid superfluity").

Finally, Williams violated Section 2344.2 even under his own construction and even according to his own testimony. Williams admittedly carried his pistol on his person when he moved the handgun from the back of the truck to the center console, and all indications are that he did so without a holster. *See* 7/25 Tr. 44 ("I go to my trunk, get my firearm from the trunk, put it in my console[.]"); 7/25 Tr. 55 ("[T]he gun was in the back of my trunk. I . . . put it in the console after I stopped.").

By his own admission, then, Williams violated Section 2344.2, and the fact that he was not caught red-handed while doing so is no reason to toss his conviction.

II. Williams's Fourth Amendment Claims Are Forfeited, Meritless, Or Both.

A. Williams's "reasonable suspicion" claim is forfeited and wrong.

Williams forfeited any challenge to his *Terry* stop by failing to raise it below, and he has not shown plain error on appeal. *See Broom v. United States*, 118 A.3d 207, 217 n.3 (D.C. 2015) (defendant forfeited "*Terry* stop" claim by "raising other Fourth Amendment contentions" instead). Indeed, although the trial court found the stop to be "reasonable," R. 171, Williams himself challenged only the search of his truck, R. 58-59, 164-65. He never directly argued that officers lacked reasonable suspicion to stop him—whether in his motion, R. 58-59, or at the hearing, 7/25 Tr. 10-11—just as he never argued plain error in his opening brief. *See Smith v. United States*, 283 A.3d 88, 100 n.9 (D.C. 2022) (rejecting "late-breaking arguments" where defendant "has not even made an effort to" show "plain error").

Even if preserved, Williams's claim fails. Reasonable suspicion requires only "a particularized and objective basis for suspecting the particular person stopped of breaking the law." *Heien v. North Carolina*, 574 U.S. 54, 60 (2014) (internal quotation marks omitted). This standard is met when officers observe a "civil traffic infraction," such as a "front license plate" that is "not 'securely fastened,'" *Glover*, 851 A.2d at 476, or "excessively tinted" windows, *United States v. Vinton*, 594 F.3d

14, 18, 21 (D.C. Cir. 2010). Here, Officer Chase reasonably suspected that Williams committed at least two traffic infractions before he spoke with him: an improperly displayed front tag under 18 DCMR § 422 and illegally tinted windows under D.C. Code § 50-2207.02(a). *See United States v. Draine*, 48 F.3d 562, 1995 WL 66735, at *1 (D.C. Cir. 1995) (upholding stop based on defendant's "failure to display a license tag on his front bumper" and "heavy tint on" his vehicle's windows).

First, Williams effectively admits (Br. 17-18) that Officer Chase saw him violate 18 DCMR § 422 by driving his truck without a front license tag securely fastened to the vehicle. 7/25 Tr. 52. A vehicle "being operated or left standing upon any public highway" must display "identification tags" "securely fastened" to the "front" and "rear" of the vehicle. 18 DCMR §§ 422.1, 422.4. Here, Officer Chase saw Williams's truck "pull into the gas station" on Florida Avenue, 7/25 Tr. 34; he saw Williams "exit the vehicle," 7/25 Tr. 17; and he saw that the truck's license plate "wasn't affixed to the front," 7/25 Tr. 18. Officer Chase thus had a reasonable basis to conclude that Williams had violated 18 DCMR § 422, *see* R. 170-71. *Glover*, 851 A.2d at 476 (upholding traffic stop where defendant's "front license plate was propped up against his windshield and hence was not 'securely fastened'"); *see Hawkins v. United States*, 902 A.2d 99, 101 (D.C. 2006) (same, rear tag).

Williams's counterarguments fail. Even if Section 422.1 does not require a tag on the "front bumper" (Br. 17), Section 422.4 requires front tags to be "securely

fastened," and Williams admits that his tag was merely "display[ed] in his windshield" (Br. 17-18)—i.e., not securely fastened, *see* 7/25 Tr. 45, 46, 52. Also, even if Williams's truck was "on private property" and not "being 'operated or left standing upon any public highway'" at the precise "moment he was stopped" (Br. 18), Officer Chase saw the truck being operated on a public road without a securely fastened front tag when he saw it "pull into the gas station" from a public street (Florida Avenue) without a tag "affixed to the front," 7/25 Tr. 14, 18, 34.

Second, Williams's excessively tinted windows reasonably appeared to violate D.C. Code § 50-2207.02(a). *See* R. 170-71; 7/25 Tr. 33. Vehicles generally cannot "be operated or parked upon the public streets or spaces of the District" if the front windows "allow less than 70% light transmittance" or the rear windows "allow less than 50% light transmittance." D.C. Code § 50-2207.02(a). Because this 70% light transmittance standard "permits only a 'very, very light' tint," *United States v. Person*, 754 F. Supp. 3d 231, 240 (D.D.C. 2024), "a 'heavy tint'" on a car's windows "establishes" that they "probably allowed less than 70% light transmittance," *United States v. Wallace*, 213 F.3d 1216, 1220 (9th Cir. 2000) (California law). Here, after seeing Williams drive a truck with "heavily tinted" windows, 7/25 Tr. 33, 34, Officer Chase had reasonable suspicion to question him before Williams jeopardized public safety again by driving that truck back onto the public roadways, *see Vinton*, 594 F.3d at 18-21; *Tucker*, 708 A.2d at 648 (discussing public-safety concerns).

Williams has no viable response. Far from making a "factual determination" that the window tint exceeded "the legal limit" (Br. 18), the trial court upheld Williams's stop based on "the *alleged* violation[]" of "what *appeared to be* an illegal tint," R. 170-71 (emphases added). *See Person*, 754 F. Supp. 3d at 240 (holding that officers need "not conduct a tint reading before stopping" a car). Nor were the windows "an afterthought" (Br. 19)—Williams himself testified that Officer Chase told him "about the tints" before the "improper display of tag," 7/25 Tr. 45. Lastly, the officers had good reason to treat the gas station as a "public space" for purposes of the window-tint law, *see Person*, 754 F. Supp. 3d at 246-50, but even if the gas station was purely "private property" (Br. 19), Officer Chase saw Williams operate a vehicle with "heavily tinted" windows on a public street (Florida Avenue) before Williams pulled into the gas station, *see* 7/25 Tr. 14, 17-18, 33-36.

B. Williams's firearm was properly admitted.

The trial court upheld the search of Williams's truck under the Fourth Amendment because "probable cause had been established by the alert of the police dog." R. 171. That determination was correct, and in any event, the court's decision can be affirmed under the inevitable-discovery doctrine.[4]

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[4] The trial court also relied on "the 'search incident to arrest' exception." R. 171. The District did not argue that point below, *see* R. 74-93, and this Court need not address that issue for the reasons explained above.

1. Police had probable cause to search Williams's truck.

As Williams admits (Br. 22), police may search a car "if there is probable cause to believe the vehicle contains evidence of criminal activity." *Harris*, 260 A.3d at 683. An alert from a trained police dog provides probable cause that a car contains evidence of a crime. *See Florida v. Harris*, 568 U.S. 237, 248 (2013) (holding that a dog sniff provides "probable cause" when "all the facts surrounding a dog's alert, viewed through the lens of common sense, would make a reasonably prudent person think that a search would reveal contraband"). Here, "a trained firearm detecting police dog" sniffed the exterior of Williams's truck and "alerted to the presence of a firearm inside." R. 170-71; *see* 7/25 Tr. 27-28. This confirmed the officers' initial belief "that there was some sort of weapon in the vehicle" because Williams had "stated that he was law enforcement" but "was very dismissive" when asked "if there was a firearm or something of that nature in the vehicle." 7/25 Tr. 24; *see* 7/25 Tr. 25-26. Probable cause thus existed to search the truck. *See United States v. Williams*, 773 F.3d 98, 105 (D.C. Cir. 2014) ("[A] dog's detection of drugs constitutes probable cause absent a showing of the dog's unreliability.").

Williams nevertheless asserts (Br. 22) that the dog sniff was insufficient because "the record" does not "specify what this K9 was trained to alert on," and because Williams sees "no indication" that Officer Chase "had the training or expertise to interpret this K9's signals." But Williams forfeited these objections by

failing to voice them below, because his silence deprived the District of the opportunity to present responsive evidence. *See Broom*, 118 A.3d at 217 n.3. And his arguments lack merit anyways. *See Harris*, 568 U.S. at 247-48 (rejecting an "inflexible set of evidentiary requirements" for dog sniffs). Drawing all reasonable inferences in favor of the trial court's ruling, the record indicates that the MPD dog was trained in gun detection because that was the officers' sole reason for calling a K-9 unit: "we were concerned that there was some sort of weapon in the vehicle. So we contacted K-9 to do a sweep of the vehicle." 7/25 Tr. 24. Also, Officer Chase did not rely on his own "observation" of the dog's signals—he relied on the MPD dog handler's description of those signals, *see* 7/25 Tr. 26, 27-28, which Officer Chase undoubtedly had the "training" and "expertise" to understand, Br. 22.

Lastly, Williams insists (Br. 22) that, even if "the K9 alerted on the scent of a firearm," "there was no indication of illegal possession" because MPD was supposedly "aware that Williams lawfully owned a firearm, as he had registered it and been issued a concealed carry permit." Not so. At the time of the search, the officers did *not* know about Williams's registration or license: a WALES check does not reveal such information and Williams said nothing about it. *See* 7/25 Tr. 24, 51, 57-58; R. 19. Also, because "innocent behavior frequently will provide the basis for a showing of probable cause," *Gates*, 462 U.S. at 243 n.13, the mere possibility that Williams lawfully owned the gun detected in his truck does not invalidate the search,

see Harris, 260 A.3d at 683 n.13 (recognizing that "innocent explanations" do "not undermine probable cause"). Finally, even if the officers were required to assume that the gun in Williams's truck was entirely lawful (and Williams cites no authority for that proposition), this just confirms that the officers had probable cause to believe the gun was evidence of a crime—namely, that Williams violated D.C. Code § 7-2509.04(d) by not disclosing his firearm when stopped, *see supra*, pp. 14-19.

2. Alternatively, Williams's firearm was admissible under the "inevitable discovery" doctrine.

Regardless, Williams's handgun was properly admitted under the inevitable-discovery doctrine. That doctrine applies when (1) "the lawful process which would have ended in the inevitable discovery had commenced before the constitutionally invalid seizure," and (2) "there is 'requisite actuality' that the discovery would have ultimately been made by lawful means." *Sanders v. United States*, 330 A.3d 1013, 1030 (D.C. 2025) (internal quotation marks omitted); *see United States v. Gale*, 952 F.2d 1412, 1416-17 & n.7 (D.C. Cir. 1992) (admitting drugs seized from car that would have been discovered during inventory search despite *Miranda* violation).

Both criteria are met here. First, the lawful process that would have inevitably revealed the handgun was Williams's arrest based on his extraditable Maryland warrant, which started long before the search of his truck. *See* 7/25 Tr. 20-28. Second, the officers would have inevitably found the firearm because they had "exclusive control" over the truck, Br. 21; they had a lawful basis to tow it since its

heavily tinted windows rendered it unsafe to drive, *see* 7/25 Tr. 32-33, 41; D.C. Code § 50-2207.02(f); and pursuant to MPD policy, the officers would have conducted "an inventory search" of the truck at the impound lot, including in its "center-console area" where Williams stashed his handgun, 7/25 Tr. 32; *see* MPD Gen. Order, No. 602.01, Vehicle Searches and Inventories, at 5 (June 20, 2019), https://tinyurl.com/yc5sx28d (requiring "an inventory in all areas of the vehicle in which personal property . . . may reasonably be found").

The gun was accordingly admissible under the inevitable-discovery doctrine, regardless of whether the trial court relied on this ground. *See Harris*, 260 A.3d at 684 (affirming denial of suppression motion "for reasons other than those given by the trial court"). Indeed, the District argued inevitable discovery below, R. 89-92, and Williams ignored the issue until *after* the motions hearing, R. 164-65. No additional factfinding is needed to reject Williams's challenge on this basis. *Cf. McFerguson v. United States*, 770 A.2d 66, 76-77 & n.16 (D.C. 2001).

III. Williams's Second Amendment Claim Is Forfeited And Lacks Merit.

Despite claiming that "[a]ll" his convictions violate the Second Amendment, Williams addresses only D.C. Code § 22-4504.02(b) and 24 DCMR § 2344. Br. 26-33. His conviction under D.C. Code § 7-2509.04(d) therefore must be upheld. *See Duffee v. District of Columbia*, 93 A.3d 1273, 1276 n.2 (D.C. 2014) (declining to

address "the constitutionality of" statute that "appellants do not challenge"). But even as to the convictions that he does challenge, Williams cannot prevail.

A. Williams forfeited his claim by ignoring his threshold burden to show that the Second Amendment's text protects his conduct.

1. Williams never argued in the trial court that the Second Amendment's plain text covers his conduct.

Williams forfeited his Second Amendment claim below by ignoring his threshold burden to show that the Second Amendment's text protects his conduct. *See Bruen*, 597 U.S. at 17. That oversight was fatal. Because "the party asserting the right must establish the plain text of the Second Amendment covers their conduct," any failure to carry that burden "amounts to a failure to present a claim of a Second Amendment violation." *United States v. Jackson*, 138 F.4th 1244, 1251 (10th Cir. 2025); *see Md. Shall Issue, Inc. v. Moore*, 116 F.4th 211, 218-24 (4th Cir. 2024) (en banc) (rejecting Second Amendment claim "under step one of the *Bruen* framework" where challengers failed to show that the state law "infringed" their Second Amendment rights), *cert. denied*, 145 S. Ct. 1049 (2025).

Just so here. Williams's cursory trial-court motion made no effort to fit his conduct within the Second Amendment's text, R. 62-66, and he continued to ignore that obligation even after the District highlighted it, R. 114-23; *see* R. 172 (noting Williams filed "no response"). Indeed, Williams's counsel declared at the motions hearing that the "Second Amendment motion will be argued on the papers" and "rest

on the record." 7/25 Tr. 6, 9. Williams therefore never showed that his conduct fell within the Second Amendment's plain text, and that forfeiture is conclusive given his failure to argue plain error on appeal. *See Smith*, 283 A.3d at 100 n.9. The Court need go no further in order to reject Williams's claim. *See, e.g.*, *United States v. Manney*, 114 F.4th 1048, 1051-53 (9th Cir. 2024) (rejecting claim at *Bruen* step one), *cert. denied*, 145 S. Ct. 1151 (2025); *Oakland Tactical Supply, LLC v. Howell Township*, 103 F.4th 1186, 1194-99 (6th Cir.) (similar), *cert. denied*, 145 S. Ct. 603 (2024); *McRorey v. Garland*, 99 F.4th 831, 836-39 (5th Cir. 2024) (similar).

2. Williams has not shown that the trial court erred, let alone plainly so, in rejecting his *Bruen* claim.

Williams could not show plain error even had he tried. On plain-error review, defendants must show (1) error, (2) that is plain, (3) that affected substantial rights, and (4) that essentially caused a miscarriage of justice. *Sims*, 963 A.2d at 149-50 (rejecting "unpreserved Second Amendment claim" because alleged errors on "questions" that "remain to be answered" are "not 'clear' and 'obvious'"). Williams cannot make any of those showings as to his threshold failure at *Bruen* step one because, most fundamentally, he has not shown that the District's commonsense manner-of-carry laws "infringed" his Second Amendment rights—let alone that such infringement was obvious under existing law. *See Md. Shall Issue*, 116 F.4th at 220 ("[A] regulation falls within the ambit of the Second Amendment only if the regulation 'infringes' the Second Amendment right[.]").

As construed, the Second Amendment provides that the right of law-abiding citizens "to keep and bear" common "Arms" for lawful purposes "shall not be infringed." *Heller*, 554 U.S. at 576-603, 626-27. At the Founding, "infringe" meant "destroy," "violate," "transgress," or "hinder" (i.e., "obstruct," "stop," "prevent")—it was not synonymous with "regulate" (i.e., "adjust by rule or method") or "govern" (i.e., "to influence; to direct"). Samuel Johnson, *A Dictionary of the English Language* (1st ed. 1755), https://tinyurl.com/yfnassuv. The Framers of the Second Amendment and the people who ratified it, therefore, would have understood that laws which simply guide and regulate the keeping and bearing of arms without effectively preventing such activities do not "infringe" the right to armed self-defense and thus fall outside the Second Amendment's purview. *See, e.g.*, *Brown v. United States*, 979 A.2d 630, 639 (D.C. 2009) (upholding licensing law that was not "a substantial obstacle to the exercise of Second Amendment rights").

Several cases illustrate this point. The law in *Bruen*, for example, "infringed" the Second Amendment by "broadly prohibiting" public carry of handguns absent "a special need for self-defense," 597 U.S. at 38, and the law in *Heller* did so through a "complete prohibition" on "handgun possession in the home," 554 U.S. at 628-29. But the Second Amendment is not "infringed by" reasonable manner-of-carry regulations, such as "laws prohibiting the carrying of concealed weapons." *Robertson*, 165 U.S. at 281-82. The same goes for "regulations on the means of

acquiring, transporting, and storing firearms" that do not "meaningfully constrain the right to possess and carry arms." *United States v. Vereen*, --- F.4th ---, No. 24-162, 2025 WL 2394444, at *3 (2d Cir. Aug. 19, 2025) (upholding ban on unlicensed dealers transporting out-of-state guns). Challenges to such "self-evidently de minimis" regulations fail at the threshold. *See Heller v. District of Columbia*, 801 F.3d 264, 273-74 (D.C. Cir. 2015) (holding that "basic registration requirements" do "not impinge upon the Second Amendment").

Here, Williams cannot show that his rights were "infringed" (much less obviously so) because the Second Amendment confers no unfettered right to carry or store pistols in any manner he likes. *See Heller*, 554 U.S. at 626-27. As applied, D.C. Code § 22-4504.02 and 24 DCMR § 2344 just required Williams to keep his firearm securely holstered on his person or unloaded and safely stored in his truck. *See supra* pp. 3-4. Those de minimis obligations did not disarm him, did not render him helpless, and did not otherwise destroy his right to armed self-defense. *See Md. Shall Issue*, 116 F.4th at 224-25 (suggesting that a "law 'infringes'" only if it "effectively denies the right" (comma omitted)). They are instead just the sort of reasonable "manner of carry" rules that even Williams admits do not infringe "the right to keep and bear arms," Br. 29 (quoting *Bruen*, 597 U.S. at 38).

Williams nonetheless maintains that this case fits within the Second Amendment because his "decision to place his firearm in a location more readily

accessible to him" was "aimed at self-defense." Br. 31, 32. But "whether a regulation is covered by the Second Amendment's plain text must be tied to the conduct the regulation prevents the individual from engaging in." *Manney*, 114 F.4th at 1052 (cleaned up). And here, the District's laws did not prevent Williams from carrying his pistol in a "readily accessible" place for "self-defense." Much to the contrary, Williams could have carried his pistol in the *most* readily accessible place: holstered on his person. He simply chose not to. *See* 7/25 Tr. 44-46, 55. But that hardly suggests Williams's Second Amendment rights were "infringed."

B. Williams's claim fails under any standard because the District's laws comport with historical traditions.

Williams's claim fails at *Bruen*'s second step as well. The Second Amendment is not "a regulatory straightjacket." *Bruen*, 597 U.S. at 30. Even modern gun laws "that were unimaginable at the founding" need only be "relevantly similar" to historical analogues "from before, during, and even after the founding" in terms of "how" and "why" they regulate arms-bearing conduct. *Id.* at 27-29. The government need not unearth "a historical *twin*" for "a modern-day regulation," and this is especially true in cases involving "dramatic technological changes," which demand an even "more nuanced approach." *Id.* at 27-28, 30. The critical question is whether relevant historical practices, "[t]aken together," show that a law's application is "consistent with the principles that underpin our regulatory tradition." *Rahimi*, 602 U.S. at 692, 698; *see Picon*, 2025 WL 2536082, at *3-8.

Here, the District's holster rule and transportation law were validly applied to Williams as traditional manner-of-carry regulations. Historical laws allowed people to carry and transport weapons by horse, train, or car as long as proper precautions were taken to minimize the risks of mobilizing deadly firepower (e.g., holstering the firearm, unloading it, stowing it in a separate compartment, locking it in a case). *See infra* pp. 39-42. And as applied here, the District's laws allowed Williams to carry and transport his handgun by following certain precautions to ensure his own safety as well as that of fellow drivers and pedestrians (e.g., securing his firearm in a holster on his person, or unloading and storing it in a locked container). *See supra* pp. 3-4. The District's laws are thus relevantly similar to their historical analogues in how and why they applied here, and Williams offers no sound counterpoint.

1. The historical tradition includes manner-of-carry laws.

As Williams admits (Br. 29), "manner of carry" laws are among those "well-defined restrictions" that have "traditionally" limited "the right to keep and bear arms." *Bruen*, 597 U.S. at 38. Indeed, the very first codification of the right to bear arms—the English Bill of Rights—provided that Protestants "may have arms for their defence suitable to their conditions and *as allowed by law*." 1 W. & M., Sess. 2, c. 2, § 7, p. 35 (1689), https://tinyurl.com/36hjdzhu (emphasis added). In memorializing this "principle that arms-bearing was constrained 'by Law,'" *Rahimi*, 602 U.S. at 694, the English Bill of Rights recognized the continuing authority of

legislatures to prescribe "under what circumstances those arms could be borne," Patrick J. Charles, *Armed in America* 61 (2018); *see Rahimi*, 602 U.S. at 697-98 (discussing early American laws prohibiting "riding or going armed" in public "to the Terror of the People" (internal quotation marks omitted)).

Consider militia holster rules. The Second Militia Act of 1792, for example, required "officers" to "be armed with" a "pair of pistols" and "holsters." 1 Stat. 272, ch. 33, § 4 (May 8, 1792), https://tinyurl.com/45yd8jnb. And states adopted similar rules, including New Hampshire, which fined militiamen "twenty cents" for failing to carry "holsters." The Militia Law of New Hampshire, § 13, at 53 (1829), https://tinyurl.com/52emcswf; *see An Act for the Regulation of the Militia of the Commonwealth of Pennsylvania*, ch. 1696, § 5, at 458 (April 11, 1793), https://tinyurl.com/4y52j3c8. As even some of the Framers recognized, these holster rules reflected a broader historical truth: the Second Amendment allows the carrying of firearms "under judicious precautions"—not "carrying them carelessly in the pocket." Benjamin Vaughan Abbott, *Judge and Jury* 333 (1880), https://tinyurl.com/4yjv2eab, *cited with approval by Heller*, 554 U.S. at 626; *see* George Washington Letter To Maj. Gen. Philip Schuyler (Feb. 9, 1777), https://tinyurl.com/3yy2txc9 (suggesting the cavalry was not "properly equipped" without "Holsters" and "Pistols"); Thomas Jefferson, Report of Committee to

Prepare a Plan for a Militia (Mar. 25, 1775), https://tinyurl.com/4zxfcckd (recommending that "every horseman" receive "pistols and Holsters").

Similar manner-of-carry laws arose during the 19th century as handguns became cheaper, deadlier, and easier to load and shoot. *See, e.g.*, *Bianchi v. Brown*, 111 F.4th 438, 465-67 & n.4 (4th Cir. 2024) (en banc) (citing examples), *cert. denied*, 145 S. Ct. 1534 (2025); *see also Hanson v. District of Columbia*, 120 F.4th 223, 240-43 & n.11 (D.C. Cir. 2024) (noting "dramatic technological advances" in pistols during this period), *cert. denied*, 145 S. Ct. 2778 (2025). By 1813, states and cities were banning the concealed carry of pistols and regulating the movement of gunpowder. *E.g.*, 1813 Ky. Acts 100-01, ch. 89, § 1, https://tinyurl.com/547d6cd7; 1813 La. Laws 172-73, § 1, https://tinyurl.com/mre8kw5c; 1821 Tenn. Acts 15-16, ch. 13, https://tinyurl.com/hhkw6497; 1838 Va. Laws, ch. 101, § 1, https://tinyurl.com/2k83umdn; *see* 1793 N.H. Laws, 465, https://tinyurl.com/bdzh6dp3 (regulating the "transport or carry" of "gun-powder"); *An Ordinance Containing Regulations as to Gun-powder*, ch. II, § 3 (Jul. 27, 1816), https://tinyurl.com/enff5twp (similar in Pittsburgh). And courts upheld concealed-carry regulations as "lawful under the Second Amendment or state analogues." *Heller*, 554 U.S. at 626; *see Bruen*, 597 U.S. at 52-53 & nn.16-17.

Many of these laws regulated the manner of carry during transportation, too. *See, e.g.*, *Barton v. State*, 66 Tenn. 105, 105-06 (1874) (convicting defendant of

"riding along the public road" with firearm "in a scabbard hung to the horn of his saddle"). Texas, for example, outlawed the carrying of pistols "on or about" a "person," "saddle," or "saddle bags," and allowed "persons traveling" to carry "arms" only "with their baggage." 1871 Tex. Gen. Laws 25, ch. 34, § 1, https://tinyurl.com/4vwx93z4. Arkansas had a similar law. *Fife v. State*, 31 Ark. 455, 456-57 (1876). And other jurisdictions regulated the manner of carry by, among other things, requiring travelers who "stop at any settlement for a longer time than fifteen minutes" to "remove all arms" and "not resume the same until upon eve of departure." 1887 Terr. N.M. Laws, ch. 30, § 9, https://tinyurl.com/2k9xembd; *see* 1889 Terr. Ariz. Laws, No. 13, §§ 1, 6, https://tinyurl.com/4enzf9am (allowing travelers "to carry arms" for "one-half hour after arriving" but otherwise banning pistols in a "saddle" or "saddlebags"). As courts of the time recognized, restrictions of this sort were necessary to prevent "cities and towns" from becoming "infested with armed men." *Stilly v. State*, 11 S.W. 458, 458-59 (Tex. Ct. App. 1889); *see McGuirk v. State*, 1 So. 103, 104 (Miss. 1887); *State v. McManus*, 89 N.C. 555, 557-59 (1883); *Eslava v. State*, 49 Ala. 355, 356-57 (1873).

This regulatory tradition continued with modern forms of transportation. *See Schoenthal v. Raoul*, --- F.4th ---, No. 24-2643, 2025 WL 2504854, at *11-20 (7th Cir. Sept. 2, 2025) (public transit). Railroads often required passengers to stow guns in a baggage car, *Int'l & G.N. Ry. Co. v. Folliard*, 1 S.W. 624, 625 (Tex. 1886), and

transporting firearms by train hidden on or about one's person violated concealed-carry laws, *Willis v. State*, 32 S.E. 155 (Ga. 1898); *Impson v. State*, 19 S.W. 677 (Tex. Ct. App. 1892); *Diffey v. State*, 5 So. 576 (Ala. 1889). Also, as cars began to revolutionize American life, states responded by, among other things, prohibiting "any gun or rifle" from being carried "in any vehicle or automobile" unless "unloaded, and knocked down or unloaded and inclosed within a carrying case," 1921 Wis. Sess. Laws 870, ch. 530, § 1, https://tinyurl.com/yc7mvzda, or by prohibiting pistols "in any vehicle" "without a license," 1923 N.D. Laws 380, ch. 266, § 6, https://tinyurl.com/3h499ra8; *see* 1931 Pa. Laws 498, No. 158, § 5, https://tinyurl.com/26y33ku3; 1925 Mich. Pub. Acts 473, § 5, https://tinyurl.com/5svtzk4s. As with earlier postbellum laws and territorial rules, these directives exemplified the long tradition of regulating the manner in which firearms are carried. *See Antonyuk v. James*, 120 F.4th 941, 989 n.41, 1038 (2d Cir. 2024) (noting that "[t]wentieth-century evidence" remains "probative as to the existence of an American tradition" if consistent with "previously settled practices"), *cert. denied*, 145 S. Ct. 1900 (2025); *Hanson*, 120 F.4th at 238 n.7 (similar).

2. The District's laws are consistent with the historical tradition of manner-of-carry regulations.

Taken together, the examples above confirm a tradition that amply supports Williams's convictions because the holster rule and transportation law are relevantly similar to their historical analogues in both "how" and "why" they regulate

arms-bearing conduct. In analyzing such issues, courts view the historical evidence as a whole while seeking to harmonize the challenged laws with the Second Amendment. *See Rahimi*, 602 U.S. at 698-701. They do not simply "'pick off the Government's historical sources one by one, viewing any basis for distinction as fatal.'" *United States v. Harrison*, --- F.4th ---, No. 23-6028, 2025 WL 2452293, at *21 (10th Cir. Aug. 26, 2025) (quoting *Rahimi*, 602 U.S. at 704 (Sotomayor, J., concurring) (cleaned up)); *see United States v. Perez-Garcia*, 96 F.4th 1166, 1191 (9th Cir. 2024) ("[A] divide-and-conquer approach to the historical evidence misses the forest for the trees."), *cert. denied,* 145 S. Ct. 2707 (2025).

The proper "how" and "why" analyses proceed as follows. The "how" element is met when a modern law and its analogues impose "comparable" burdens. *Hanson*, 120 F.4th at 240 (holding that "historical restrictions on particularly dangerous weapons" were "relevantly similar" to "magazine cap"). Such burdens need not be identical, however, and modern gun laws may pass muster even if their historical analogues "impose[d] a lesser burden." *Antonyuk*, 120 F.4th at 1011-13 (finding gun ban in "treatment centers" relevantly similar to "three militia laws and the tradition of prohibiting firearms in schools"). The "why" element is met if a modern law and its analogues "share a common rationale." *McCoy v. ATF*, 140 F.4th 568, 577 (4th Cir. 2025) (upholding age limits on gun sales as the "infancy doctrine" in contract law was also "motivated by a recognition that individuals under

the age of 21 lack good judgment and reason"). This determination turns on the objective text of the various laws, not "the subjective intent of legislators." *Schoenthal*, 2025 WL 2504854, at *15 n.23 (upholding law banning accessible guns on public transportation based on historical sensitive-places laws).

The holster rule satisfies both conditions. As to "how," 24 DCMR § 2344.2 required Williams to carry his pistol secured in a holster on his person, and early militia laws required officers and cavalrymen to carry pistols in holsters. *See McCoy*, 140 F.4th at 575 (holding that age limits on gun sales imposed "relevantly similar" burden to the "founding-era rule that contracts with individuals under the age of 21 were unenforceable"). As to "why," 24 DCMR § 2344.2's purpose is to ensure that Williams carries his concealed pistol safely and securely to prevent loss, theft, or accidental discharge, and the purpose of the early militia laws was also to ensure safe, secure carry of firearms. *See Hanson*, 120 F.4th at 237-40 (holding that historical laws banning Bowie knives and sawed-off shotguns "share[d] the same basic purpose" as a modern ban on large-capacity magazines, i.e., inhibiting "unprecedentedly lethal criminal activity"). So as applied in this case, 24 DCMR § 2344.2 and the militia laws operate similarly and share a common rationale—and the same could be said of other historical manner-of-carry laws, too, because they embodied the same fundamental regulatory *principles* regardless of whether they specifically required holstering, *see supra* pp. 40-42. *See, e.g.*, *Frey v. City of New*

York, --- F.4th ---, No. 23-365, 2025 WL 2679729, at *12-13 (2d Cir. Sept. 19, 2025) (finding "open carry ban" relevantly similar to the "converse" "post-enactment tradition" of banning "concealed carry of pistols").

So, too, with the transportation law. As to "how," Section 22-4504.02 required Williams to transport his pistol concealed on his person or unloaded and securely stored in his vehicle, and the statute's analogues required holstering, secure storage, licensing, and even disarmament during stops. *See United States v. Seiwert*, --- F.4th ---, No. 23-2553, 2025 WL 2627468, at *8-10 (7th Cir. Sept. 12, 2025) (upholding law disarming drug users as applied to "persistently" impaired defendant based on "historical laws" disarming the "intoxicated" and "mentally ill"). As to "why," Section 22-4504.02 seeks to ensure that Williams transports his pistol safely and securely, and the statute's analogues were likewise intended to minimize the risks of unsafe transportation of firearms on horseback, on railroads, and in cars. *See United States v. Diaz*, 116 F.4th 458, 468-69 (5th Cir. 2024) (finding common justification among felon-disarmament statute and historical laws punishing felons with death and forfeiture, i.e., "to deter violence and lawlessness"). Williams's Section 22-4504.02 conviction was thus consistent with historical tradition. *See Wolford v. Lopez*, 116 F.4th 959, 1001 (9th Cir. 2024) (suggesting that the "historical tradition of prohibiting the carry of loaded firearms or the carry of firearms not

properly stored" may support laws allowing "a person to transport a firearm in a private vehicle if the firearm is locked in an appropriate lock box").[5]

3. Williams's counterarguments lack merit.

Williams offers no persuasive reason to question the historical pedigree of the District's laws or to otherwise reverse the trial court's judgment. He principally argues that the District's laws fail *Bruen*'s historical inquiry because "no evidence" supposedly exists that early American laws "required individuals to carry handguns exclusively in a holster on the body," or that they "prohibited individuals from carrying or transporting firearms in locations readily accessible while traveling." Br. 31-32. Williams thus surmises that the District's laws embody "a novel regulatory approach" with "no distinctly similar" historical precursors. Br. 31, 32.

But that is legally immaterial and historically dubious. The Second Amendment does not require "'a historical *twin*' or 'dead ringer'"—it requires only "relevantly similar" historical *analogues*. *Picon*, 2025 WL 2536082, at *4 (quoting *Bruen*, 597 U.S. at 29-30). Modern laws, in other words, need only be "'consistent with the *principles* that underpin our regulatory tradition,' not applications of those

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[5] The Third Circuit's decision in *Koons v. Attorney General of New Jersey*, --- F.4th ---, No. 23-1900, 2025 WL 2612055 (Sept. 10, 2025), does not change this analysis. *Koons* involved a facial challenge to a categorical ban on carrying operable firearms in private automobiles. *See id.* at *3, 39-40 (discussing N.J. Stat. § 2C:58-4.6(b)(1)). Unlike this case, it did not involve an as-applied challenge to a transportation law like the District's, which provides licensees a simple, easy way to lawfully transport a loaded pistol (i.e., concealed on their person).

principles found in particular laws." *McCoy*, 140 F.4th at 574 (quoting *Rahimi*, 602 U.S. at 692). And here, holstering rules date back to Founding-era militia laws, and the historical record is replete with regulations preventing individuals from carrying or transporting firearms in their preferred, readily accessible locations when traveling. *See supra* pp. 39-42. To be sure, militia-related holstering rules applied only to a subset of the populace (e.g., militiamen), and some historical transportation laws allowed loaded firearms (e.g., certain traveler exceptions). But as applied in this case, the District's holster rule also governs only a subset of the populace (concealed-carry licensees like Williams), and the transportation law also allowed Williams, as a licensee, to carry and transport his loaded pistol on his person (by concealing that pistol in a holster). *See supra* pp. 3-4.

Williams's convictions are accordingly consistent with the time-honored tradition of regulating the manner of carrying and transporting firearms, regardless of whether identical laws existed in the past. After all, "modern-day firearm restrictions rarely mirror exactly those from the Founding Era," *Seiwert*, 2025 WL 2627468, at *4, and yet "novelty does not mean unconstitutionality," *Antonyuk*, 120 F.4th at 970 (internal quotation marks omitted). A contrary approach wrongly "'assumes that founding-era legislatures maximally exercised their power'" based on an implausible "'use it or lose it' view of legislative authority" that this Court has rejected. *Picon*, 2025 WL 2536082, at *7 (quoting *Rahimi*, 602 U.S. at 739-40

(Barrett, J., concurring)); *see Schoenthal*, 2025 WL 2504854, at *17 ("'[C]ommon sense' informs the *Bruen* inquiry." (quoting *Rahimi*, 602 U.S. at 698 (maj. op.))).

For this reason, Williams's claims fail even if "the historical record indicates that armed individuals often kept firearms close at hand in various ways." Br. 31. The historical existence of conduct does not make it constitutionally protected. *See Antonyuk*, 120 F.4th at 969-70 & n.14. One can find examples in the historical record of people carrying pistols without a license, for instance, but that does not render all licensing regimes unconstitutional. *See Bruen*, 597 U.S. at 38 n.9. One could also find examples in history of domestic abusers carrying firearms with impunity, but that does not bar modern legislatures from disarming such wrongdoers. *See Rahimi*, 602 U.S. at 690-701. And one can find examples in history of 18- to 20-year-olds carrying firearms, particularly in the militia, but that does not mean jurisdictions now must let all persons under the age of 21 carry firearms. *See Picon*, 2025 WL 2536082, at *3-7. So, too, with the District's holster rule and transportation law, both of which grew out of a tradition that responded to rapid developments in the lethality of handguns and profound shifts in American travel. *See Bruen*, 597 U.S. at 27 (recognizing that laws enacted in response to "dramatic technological changes" deserve an even "more nuanced" historical inquiry); *Frey*, 2025 WL 2679729, at *9-10 (holding that law banning guns on "mass transit systems" did not require "'a distinctly similar historical regulation'").

Besides, Williams disproves his own claims by citing (Br. 31-32) an 1837 Georgia law allowing citizens "to have about their persons" only "horseman's pistols." *An Act to Guard and Protect the Citizens of This State, Against the Unwarrantable and Too Prevalent Use of Deadly Weapons*, § 1 (Dec. 25, 1837), https://tinyurl.com/2pw7fpxb. Horse pistols were large, muzzle-loaded firearms that were too big to be worn directly on a person and could be carried only by mounted troops in a "*holster* that was meant to be draped over a saddle." David B. Kopel & Joseph G.S. Greenlee, *The History of Bans on Types of Arms Before 1900*, 50 J. of Leg. 223, 288 (2024) (emphasis added). In practical operation, then, the 1837 Georgia law prohibited citizens from carrying concealed, unholstered pistols on their person (because the only allowable pistols could not be carried this way), and it effectively prescribed the manner in which pistols would be transported (because the only allowable pistols had to be secured in a holster on horseback). *See Nunn v. State*, 1 Ga. 243, 251 (1846) (upholding 1837 ban as to concealed pistols). And as the title of the Georgia law makes clear, its purpose was to protect citizens from unwarranted use of deadly weapons—much like the District's laws. The 1837 Georgia statute is thus relevantly similar to the regulations at issue here.

Lastly, Williams errs in claiming the trial court abused its discretion by issuing an "unclear" opinion. Br. 30. This Court reviews judgments, not opinions, *Jones v. District of Columbia*, 996 A.2d 834, 839 (D.C. 2010), and the trial court's

bottom-line judgment was correct for the reasons already explained. Also, it is not "impossible to discern the basis for the trial court's denial" (Br. 30) when properly read in light of the entire record. In stating that *Rahimi* "addresses and upholds the constitutionality of the regulations for which the *Motion to Dismiss* seeks to challenge," R. 172, the court appears to have echoed the District's uncontested argument that *Rahimi* reaffirmed the validity of "regulations on the manner of carrying, storing, or transporting firearms," R. 144. The trial court, in other words, was not saying that Williams's claim was identical to the one *Rahimi* rejected—it was saying that *Rahimi* recognized the validity of regulations similar to the ones Williams challenges. In any case, Williams cannot show "significant prejudice," *Doe v. United States*, 333 A.3d 893, 904 (D.C. 2025), because he never responded to *any* of the District's arguments about the Second Amendment or *Rahimi* in the trial court, R. 172; 7/25 Tr. 6, 9-12, and he identifies no point on appeal that he cannot make due to the trial court's order, *see* Br. 26-33.

CONCLUSION

The judgment of conviction should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 22, 2025 this brief was served through this Court's electronic filing system to:

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