

APPENDIX A

United States Court of Appeals
For the Eighth Circuit

No. 23-1311

United States of America

Plaintiff - Appellee

v.

John Earl Broomfield, Jr.

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Western

Submitted: December 14, 2023

Filed: June 3, 2024
[Unpublished]

Before SMITH, Chief Judge,¹ GRUENDER, and GRASZ, Circuit Judges.

PER CURIAM.

John E. Broomfield appeals the district court's² denial of his motion to suppress evidence obtained from a police stop and its application of a four-level firearm enhancement during sentencing. We affirm the district court.

¹Judge Smith completed his term as chief judge of the circuit on March 10, 2024. *See* 28 U.S.C. § 45(a)(3)(A).

²The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

I. Background

In December 2021, two 911 callers reported a disturbance involving an injured male down on the sidewalk in Council Bluffs, Iowa. Both callers provided their full names and phone numbers to the 911 operators. Neither caller saw what precipitated the victim's condition. The first caller reported a confrontation, and the second caller reported that an individual near the injured person was yelling at or toward the victim. The second caller described the yelling suspect as a Black male wearing a black coat, a North Face jacket underneath the black coat, ripped jeans, gray shoes, and a black-and-white New Orleans Saints hat. That caller further said that the suspect walked away from the injured male and toward a neighboring bar, the BLK Squirrel. Both callers remained on the phone with 911 operators until officers arrived.

Officer Benson arrived on scene first. He asked bystanders for a description of the persons involved in the disturbance. At least one bystander, who was likely the second 911 caller because an audio recording of that call captured the caller conversing with a police officer,³ said that a Black male wearing blue jeans, a black jacket, and a New Orleans Saints hat was yelling near the victim. The bystander also said that the suspect walked toward the BLK Squirrel and may have gone inside. The bystander's recollection of the suspect's physical description and direction of travel matched the information provided by the 911 callers.

Officer Archibald arrived on scene shortly after Officer Benson, and together they apprehended Broomfield. After discussing the description of the suspect, the officers walked to the BLK Squirrel. When the officers arrived, they spotted—through the bar's front window—an individual who matched the suspect's description. The officers waited by the front entrance, allowing those inside to leave the bar. The officers' body camera footage shows that Broomfield looked toward the door and spotted the officers. As Broomfield noticed the officers, Officer Benson

³Unfortunately, Officer Benson's body camera did not capture his conversation with the bystander.

said, “Come out here boss.” R. Doc. 51-2, at 1:14–15. Officer Archibald said, “Come on,” and gestured with his hand for Broomfield to step outside. *Id.* at 1:15. Broomfield, instead, turned away and walked toward the back door. As the officers pursued, Officer Benson said to Broomfield, “Hey, bud.” *Id.* at 1:19. Broomfield, apparently ignoring the officers, continued walking away. Having gotten closer, Officer Benson grabbed the back of Broomfield’s coat, which caused Broomfield to look at Officer Benson. Broomfield then pulled away from Officer Benson’s grasp and continued toward the exit. As Broomfield pulled away, a gun fell from his person. Broomfield then shed his coat and ran out the exit. Officers caught up to Broomfield and detained him on the bar’s back patio.

Broomfield was charged with one count of being a felon in possession of a firearm under 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Broomfield moved to suppress the gun that officers recovered from the encounter. The district court denied the motion. Thereafter, Broomfield pleaded guilty, reserving his right to appeal the denial of his motion to suppress. During sentencing, the district court applied a four-level enhancement because Broomfield committed a felony while in possession of a firearm. U.S.S.G. § 2K2.1(b)(6)(B). The court then calculated Broomfield’s Guidelines range to be between 100 and 120 months and sentenced Broomfield to 90 months’ imprisonment. On appeal, Broomfield argues that the district court erred because the officers lacked reasonable suspicion to justify his detention under *Terry v. Ohio*, 392 U.S. 1 (1968). He also contends that the district court erred when it applied a four-level firearm enhancement during sentencing.

II. Discussion

A. Motion to Suppress

“On a motion to suppress, we review the district court’s factual findings for clear error and its legal conclusions *de novo*.” *United States v. Martin*, 15 F.4th 878, 881 (8th Cir. 2021) (emphasis omitted). “The district court’s denial of a motion to suppress will be upheld unless it is not supported by substantial evidence, is based on an erroneous interpretation of applicable law, or is clearly mistaken in light of the

entire record.” *United States v. Quinn*, 812 F.3d 694, 697 (8th Cir. 2016). As for *Terry* stops,

[t]o establish that a *Terry* stop was supported by reasonable suspicion, the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion. The concept of reasonable suspicion is not readily, or even usefully, reduced to a neat set of legal rules. Instead, in evaluating the validity of a *Terry* stop, we must consider the totality of the circumstances. Factors that may reasonably lead an experienced officer to investigate include time of day or night, location of the suspect parties, and the parties’ behavior when they become aware of the officer’s presence. In addition, a person’s temporal and geographic proximity to a crime scene, combined with a matching description of the suspect, can support a finding of reasonable suspicion.

Id. at 697–98 (internal quotations and citations omitted).

We conclude that the officers had reasonable suspicion to detain Broomfield. After receiving the suspect’s description, Officers Benson and Archibald went to the BLK Squirrel seeking the suspect. The officers spotted Broomfield—who matched the suspect’s description—through a large glass window next to the main entrance of the bar. When Broomfield saw the officers, he turned around and began walking to the back of the bar while ostensibly defying the officers’ commands. The officers had reasonable suspicion to stop Broomfield based on Broomfield’s match with the suspect’s description, his intentional walk away from the officers once he saw them, and his ignoring their commands. *See id.* Moreover, these facts also support a rational inference that Broomfield was involved in, or knew valuable information about, the reported incident. Thus, the district court did not err when it denied Broomfield’s suppression motion.

Broomfield argues that the officers did not have reasonable suspicion for the stop because the 911 calls were anonymous tips; we disagree. The two 911 calls

were not anonymous. The 911 recordings show that both callers gave the dispatchers their first and last names and their phone numbers. Moreover, both callers were at the scene and remained there until officers arrived. In fact, one 911 recording captured the caller speaking to an officer while on the phone with a 911 dispatcher. Given these facts, the 911 calls were not anonymous.⁴

B. Four-Level Firearm Enhancement

Next, Broomfield disputes the four-level firearm enhancement the district court applied during sentencing. He contends that he did not know that the person grabbing him was a police officer and that he did not interfere with the police officer's duties until after he was disarmed. This court reviews a "district court's application of the Guidelines *de novo* and its factual findings for clear error." *Id.* at 700 (emphasis omitted). The Sentencing Guidelines instruct courts to increase the offense level by four "[i]f the defendant . . . used or possessed any firearm . . . in connection with another felony offense." U.S.S.G. § 2K2.1(b)(6)(B). The PSR also recommended this four-level firearm enhancement.

Under Iowa law, interference with official acts can be a felony. "A person commits interference with official acts when the person knowingly resists or obstructs anyone known by the person to be a peace officer . . ." Iowa Code § 719.1(1)(a) (2021). "If a person commits interference with official acts . . . and in so doing . . . is armed with a firearm, that person commits a class 'D' felony." *Id.* § 719.1(1)(f).

"[T]he standard for establishing a violation of the interference with official acts statute is generally fairly low. . . . '[T]he key question is whether the officer's actions were hindered.'" *State v. Wilson*, 968 N.W.2d 903, 918 (Iowa 2022) (quoting *Lawyer v. City of Council Bluffs*, 361 F.3d 1099, 1107 (8th Cir. 2004)). In *Wilson*,

⁴Broomfield argues that the Supreme Court's decision in *Florida v. J.L.* supports his argument that the officers did not have reasonable suspicion to perform a *Terry* stop. 529 U.S. 266 (2000). But *J.L.* is distinguishable because there the tipster was anonymous. *Id.* at 268. Here, the 911 callers were not anonymous.

the Iowa Supreme Court upheld a conviction under the statute when a defendant was “twisting and jostling around while officers attempted to place handcuffs on her.” *Id.* In *State v. Dewitt*, the Iowa Supreme Court affirmed a conviction under the statute when plain-clothes officers, with visible police badges around their necks, grabbed the defendant by the arm inside a Walmart, and the defendant tried to break from the officers’ grasp. 811 N.W.2d 460, 465–66 (Iowa 2012). In *State v. Legg*, the Iowa Supreme Court explained that the defendant’s actions of speeding away from an officer, running a stop sign, and retreating into the garage at her home after the officer began pursuing her with his lights activated violated the statute. 633 N.W.2d 763, 771–72 (Iowa 2001).

Applying Iowa caselaw, we hold that Broomfield violated Iowa’s interference with official acts statute, a felony. When Officer Benson grabbed the back of Broomfield’s coat, Broomfield looked at Officer Benson—who was readily identifiable as a police officer—and continued toward the exit. After walking several feet while in Officer Benson’s grasp, Broomfield was placed against a wall and then a firearm fell from his person. Broomfield’s continued departure while in Officer Benson’s grasp constituted interference with official acts under Iowa law. *See Dewitt*, 811 N.W.2d at 465–66. Though brief, Broomfield walked away from Officer Benson’s grasp while in possession of a firearm. The possession’s brevity after the grasp is of no moment. A firearm is dischargeable in mere seconds. Broomfield interfered with the official acts of a peace officer and was armed while doing so. The district court did not err by applying the four-level firearm enhancement per U.S.S.G. § 2K2.1(b)(6)(B).

III. Conclusion

We affirm the district court’s denial of Broomfield’s motion to suppress and the application of the four-level firearm enhancement.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN EARL BROOMFIELD, JR.,

Defendant.

1:22-cr-00006-RGE-HCA

REPORT AND RECOMMENDATION ON
MOTION TO SUPPRESS

I. INTRODUCTION

This matter is before the Court on Defendant John Earl Broomfield, Jr.'s Motion to Suppress and Request for Evidentiary Hearing. [Dkt. No. 35]. The Government resisted the Motion to Suppress. [Dkt. No. 42]. Broomfield replied on May 25, 2022. [Dkt. No. 47]. This case was referred to the undersigned for Report and Recommendation pursuant to 28 U.S.C. § 636(b) on May 2, 2022. [Dkt. No. 36].

The Court held an evidentiary hearing on the motion on May 27, 2022. Broomfield personally appeared at the hearing and was represented by Joseph Kuehl. The Government was represented by Assistant United States Attorney Shelly Sudmann. At the hearing, the Government presented the testimony of Officer Trevor Benson, Officer Mark Archibald, and Detective Brian McKeon of the Council Bluffs Police Department. The Government offered and the Court admitted Exhibit 1, a copy of the 911 call; Exhibit 2, the body camera video of Officer Benson; and Exhibit 3, the body camera video of Officer Archibald. Broomfield cross-examined Officers Benson and Archibald and offered no other evidence.

In his Motion to Suppress, Broomfield argues law enforcement officers had no reasonable suspicion to stop and frisk Broomfield on December 19, 2021, in Council Bluffs, Iowa. Broomfield

challenges the stop and frisk as well as any and all evidentiary fruits derived from the search on December 19, 2021, as being in violation of the Fourth and Fourteenth Amendments to the United States Constitution. For the reasons set forth below, the undersigned recommends that the motion to suppress be denied.

II. FACTUAL FINDINGS

The undersigned finds the following facts by a preponderance of the evidence for the purpose of considering Broomfield's motion to suppress. *See United States v. Matlock*, 415 U.S. 164, 177 n.14 (1974); *accord United States v. Sanders*, 341 F.3d 809, 818 (8th Cir. 2003).

On December 19, 2021, Council Bluffs police were dispatched to a disturbance involving an injured male on the sidewalk in the 100 block of Broadway near the BLK Squirrel and Lidgett Music. Officer Trevor Benson arrived on the scene at about the same time as the ambulance and paramedics arrived. He noticed a large crowd standing around an injured male laying on the sidewalk. Officer Benson made brief contact with the injured male, who was bleeding, and then moved on so the medics could render first aid. Officer Benson then spoke to bystanders to see if he could obtain a description of others who might have been involved with the disturbance. At least one person indicated that a black male wearing blue jeans, black jacket, and a New Orleans Saints hat had been seen near the injured man yelling loudly. The bystander then indicated that the black male had walked toward the BLK Squirrel and may have gone inside the bar. The physical description and direction of travel matched the information that Officer Benson had received from dispatch provided through 911 calls about the incident.

Exhibit 1 contains three calls from different individuals received by 911 operators. The third caller provides little information and the Court cannot determine whether that call is about the disturbance in Council Bluffs. Both the first and second caller provided their names and phone

numbers to the 911 operator. Both callers report the disturbance in the 100 block of Broadway, but neither saw the actual injury occur. Both callers report an individual near the injured person yelling at or toward the injured person. Caller 2 provides a description of the yelling person as a black male wearing a black coat with a North Face jacket under the coat, ripped jeans, gray shoes, and a black and white New Orleans Saints hat. Caller 2 also reports that the described individual has walked away from the injured male in the direction of the BLK Squirrel. Both Callers 1 and 2 indicate that police officers have arrived on scene while they are talking with the 911 operators. It is possible that Caller 2 is the same person who provides Officer Benson with a physical description of a person involved in the disturbance, but that is unknown from the hearing record.

Officer Archibald arrived on the scene shortly after Officer Benson. At that time, Officer Benson provided Officer Archibald with the physical description and direction of travel of the black male that had been seen near the injured male. The two officers walked to the BLK Squirrel to see if anyone matching the description was present in the bar. When they walked up to the BLK Squirrel, through the front window, the officers spotted an individual matching the description inside the bar. This individual is Broomfield. As they approached the entrance to the bar, patrons of the bar were exiting through the same door. The officers waited for six people to exit and the next person in line to exit was Broomfield. The footage from the officers' body cameras shows Broomfield look at the door, see the officers waiting to enter, and then turn away from the officers and start walking toward the bar's back exit. [Gov't Ex. 2]. As Broomfield is near the entrance, Officer Benson speaks to him by saying "Come, out here boss." Officer Archibald can also be heard saying "Come on," and gesturing with his hand for Broomfield to step outside. [Gov't Ex. 2]. Officer Archibald testified that he and Broomfield made eye contact and then Broomfield turned and walked toward the back of the bar.

Officers Benson and Broomfield and other uniformed officers then enter the BLK Squirrel and follow Broomfield. As they enter, Officer Benson is closest to Broomfield with no one in between them. Officer Benson again speaks to Broomfield by stating, "hey, bud." Broomfield continues walking away from the officers. Officer Benson then attempts to stop Broomfield by grabbing the back of his coat. Broomfield pulls away from Officer Benson and as he does so a gun falls from Broomfield's person. Officer Benson yells "gun" and officers then subdue Broomfield on the back patio of the BLK Squirrel. While he was being subdued, officers smelled alcohol on Broomfield and believed he had been drinking. Officers handcuffed Broomfield, arrested him, and took him to the police station.

Before the gun fell to the ground in the bar, officers wanted to stop Broomfield to talk with him about the disturbance. Broomfield was a potential suspect in a physical disturbance, but officers were not planning to arrest him. They wanted to see what he might know about the disturbance and the injured man outside the bar.

On January 5, 2022, a federal grand jury indicted Broomfield on a charge of prohibited person in possession of a firearm, namely, a loaded Taurus, Model PT709 Slim, 9mm caliber pistol with serial number TFP3797, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Additional factual findings are set forth below as needed.

III. LEGAL ANALYSIS

The Fourth Amendment to the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. amend. IV. "[S]ubject only to a few specifically established and well delineated exceptions," searches and seizures "without prior approval by judge or magistrate, are per se

unreasonable under the Fourth Amendment.” *Minnesota v. Dickerson*, 508 U.S. 366, 372 (1993) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)).

One of those exceptions, known as a *Terry* stop, allows a police officer to briefly detain a person when there is reasonable suspicion the person is engaging in criminal activity. *United States v. Pelayo-Ruelas*, 345 F.3d 589, 591–92 (8th Cir. 2003) (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). Under *Terry*, “an officer may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000) (citing *Terry*, 392 U.S. at 30); *accord El-Ghazzawy v. Berthiaume*, 636 F.3d 452, 456–57 (8th Cir. 2011). “Reasonable suspicion exists when an ‘officer is aware of particularized, objective facts which, taken together with rational inferences from those facts, reasonably warrant suspicion that a crime is being committed.’” *United States v. Givens*, 763 F.3d 987, 989 (8th Cir. 2014) (internal quotation marks and citation omitted). “A *Terry* stop that is supported by a reasonable suspicion at the outset may nonetheless violate the Fourth Amendment if it is excessively intrusive in its scope or manner of execution.” *El-Ghazzawy*, 636 F.3d at 457 (internal quotation marks and citation omitted); *see also Haynes v. Minnehan*, 14 F.4th 830, 835 (8th Cir. 2021) (“*Terry* analysis examines whether: (1) the stop began lawfully; and (2) the way officers conducted the stop ‘was reasonably related in scope to the circumstances which justified the interference in the first place’” (quoting *El-Ghazzawy*, 636 F.3d at 457, further quoting *Terry*, 329 U.S. at 19–20)).

“In making reasonable-suspicion determinations, reviewing courts must look at the ‘totality of the circumstances’ of each case to see whether the detaining officer has a ‘particularized and objective basis’ for suspecting legal wrongdoing.” *Pollreis v. Marzolf*, 9 F.4th 737, 744 (8th Cir. 2021) (cleaned up) (quoting *United States v. Arvizu*, 534 U.S. 266, 273 (2002)), *cert. denied*,

142 S. Ct. 904 (2022). A *Terry* stop may be based on information from a tipster. *See Navarette v. California*, 572 U.S. 393, 397 (2014). “When evaluating tips, reasonable suspicion ‘is dependent upon both the content of the information possessed by the police and its degree of reliability.’” *United States v. Mosley*, 878 F.3d 246, 252–53 (8th Cir. 2017) (quoting *Navarette*, 572 U.S. at 397). “An anonymous tip *alone* seldom demonstrates the informant’s basis of knowledge or veracity.” *Navarette*, 572 U.S. at 397 (citation omitted). However, “a tip from a known informant whose reputation can be assessed and who can be held responsible if [the] allegations turn out to be fabricated” is more reliable. *Florida v. J. L.*, 529 U.S. 266, 270 (2000) (citations omitted); *accord United States v. Kent*, 531 F.3d 642, 648–49 (8th Cir. 2008).

Broomfield contends that officers did not have reasonable suspicion to stop him as he was leaving the BLK Squirrel bar in Council Bluffs, Iowa, on the evening of December 19, 2021. At the conclusion of the suppression hearing, Broomfield argued that the only information known by the police officers at the time of the stop was that Broomfield may have been yelling at someone outside the BLK Squirrel and that Bloomfield walked away from the officers when they entered the bar. Bloomfield claims that this limited information does not constitute reasonable suspicion for the stop. Bloomfield compares his situation to the factual situation in *Florida v. J. L.* In *J. L.*, the United States Supreme Court held that an anonymous tip stating that a young black male standing at a particular bus stop and wearing a plaid shirt was carrying a gun lacked sufficient indicia of reliability to establish reasonable suspicion for a *Terry* investigatory stop. 529 U.S. at 268, 271.

The Government, on the other hand, argues that Broomfield’s situation is more akin to the situation in *United States v. Juvenile TK*, 134 F. 3d 899 (8th Cir. 1998). In *United States v. Juvenile TK*, the Eighth Circuit Court of Appeals held that the temporal and geographic proximity of the

car to the scene of the crime, the matching description of the car, and the short period of time between the officers' dispatch and the stop of the car constituted reasonable suspicion to support the investigative stop. *Id.* at 903–04.

The Court agrees with the Government that this case is significantly distinguishable from *Florida v. J. L.* for a number of key reasons. First, the officers were not dispatched to the BLK Squirrel area based on an anonymous tip. The 911 operators received at least two 911 calls reporting a disturbance near the BLK Squirrel bar in which an individual had been injured in an altercation. [Gov't Ex. 1]. In the first two calls, the callers identify themselves by name and provide their phone numbers to the 911 staff. Caller 1 indicates that he did not know who actually injured the victim but he reports that a confrontation is ongoing as there is a man still yelling at or near the victim. He also mentions that weapons were threatened. Caller 2 indicates that he did not see who injured the victim, but he states he did see portions of the confrontation. The 911 dispatcher asks Caller 2 if the individual who may have injured the victim is still in the area. In response, Caller 2 states the person is still yelling at him. He then provides the following description: a black male wearing a black coat with a North Face jacket under that coat, ripped jeans, gray shoes, and a black and white New Orleans hat. Caller 2 then advises the 911 dispatcher that the described man walked toward the BLK Squirrel bar. While he is on the phone with the 911 operator, a police officer arrives at the scene within minutes of the commencement of the 911 calls. When dispatched to the scene, Officer Benson is told that a possible assault has occurred near the BLK Squirrel, and he is given the description of the person who may have been involved as provided by Caller 2.

Second, at the scene, Officer Benson also gets the same description of a possible person in the disturbance involved from a member of the crowd (it appears possible that this individual may

have been Caller 2). Officer Benson also was advised that the described male walked toward and may have entered the BLK Squirrel bar.

Third, Officers Benson and Archibald quickly locate an individual in the BLK Squirrel who matches the provided description of the individual who may have been involved in the disturbance. The body camera footage from both Officer Benson and Archibald clearly show that the described male is walking toward the front entrance of the bar to exit until he is next in line to exit the bar. [Gov't Exs. 2 and 3]. At that point, he sees the officers and turns around and walks away from the officers toward the rear exit of the bar. *Id.*

Fourth, the officers verbally attempt to get Broomfield's attention so that they can talk to him on two occasions. The first attempt is as Broomfield is near the front entrance of the bar before he turns away from the officers and walks to the back of the bar. The second attempt is as Officer Benson is following Broomfield back into the bar. After those two verbal attempts fail, Officer Benson puts his hand on Broomfield's back to stop him so that they can talk with him. Broomfield feigns surprise at the officer's presence and tries to pull away from Officer Benson. A gun then falls from Broomfield's person, and Broomfield tries to run through the back door, but officers subdue him and arrest him on the patio.

The Court finds and concludes that based on the totality of the information officers had reasonable suspicion that Broomfield may have been engaging in criminal activity. Officers had received information placing Broomfield near an injured man and information suggesting that Broomfield may have played a role in the disturbance. They also had information that Broomfield was yelling loudly as part of the disturbance. Officers originally planned to stop Broomfield to see what information he might have had about the disturbance. Broomfield did not respond to the officers' verbal comments but rather he turned away from them and attempted to leave the bar

through a back exit. Within seconds of Officer Benson attempting to get Broomfield's attention by grabbing the back of Broomfield's jacket, a gun fell from Broomfield's person, and he attempted to run from officers. Officers then subdued Broomfield and arrested him. Based on the totality of the circumstances known to officers, the undersigned recommends that Broomfield's motion to suppress should be denied.

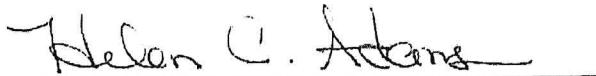
IV. REPORT AND RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that Defendant John Earl Broomfield, Jr.'s Motion to Suppress [35] should be DENIED as more fully set forth above.

IT IS ORDERED that the parties have until **June 28, 2022**, to file written objections to the Report and Recommendation, pursuant to *Thompson v. Nix*, 897 F.2d 356, 357 (8th Cir. 1990); *Wade for Robinson v. Callahan*, 976 F. Supp. 1269, 1276 (E.D. Mo. 1997). Any objections filed must identify the specific portions of the Report and Recommendation and relevant portions of the record to which the objections are made and must set forth the basis for such objections. *See* Fed. R. Civ. P. 72; *Thompson*, 897 F.2d at 357. Failure to timely file objections may constitute a waiver of the party's right to appeal questions of fact. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Griffini v. Mitchell*, 31 F.3d 690, 692 (8th Cir. 1994); *Halpin v. Shalala*, 999 F.2d 342, 345 & n.1, 346 (8th Cir. 1993); *Thompson*, 897 F.2d at 357.

IT IS SO ORDERED.

Dated June 14, 2022.



Helen C. Adams
Chief U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN EARL BROOMFIELD JR.,

Defendant.

No. 1:22-cr-00006-RGE-HCA

**ORDER ACCEPTING
MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION
RE: MOTION TO SUPPRESS**

On January 25, 2022, a grand jury in the Southern District of Iowa indicted Defendant John Earl Broomfield Jr. on one count of being a prohibited person in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Redacted Indictment, ECF No. 2. Broomfield moves to suppress evidence obtained during "stop and frisk." Def.'s Mot. Suppress ¶ 2, ECF No. 35. The Government resists the motion. Gov't's Resp. Def.'s Mot. Suppress, ECF No. 39. The Court referred the suppression motion to Chief United States Magistrate Judge Helen C. Adams for a Report and Recommendation. Text Order Referring Mot., ECF No. 36.

On May 27, 2022, the parties appeared for a suppression hearing before Judge Adams. Suppression Hr'g Mins., ECF No. 49. After considering the evidence presented at the hearing, Judge Adams filed a Report and Recommendation, recommending Broomfield's suppression motion be denied. R&R Re: Def.'s Mot. Suppress, ECF No. 56. Broomfield filed objections to the Report and Recommendation. Def.'s Objs. R&R, ECF No. 57. The Government resists Broomfield's objections. Gov't's Resist. Def.'s Objs. R&R, ECF No. 58.

The standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendation to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1).

After reviewing the record in its entirety, the Court finds there is no ground to reject or modify the Report and Recommendation. Therefore, the Court accepts Judge Adams's Report and Recommendation of June 14, 2022, and denies Broomfield's motion to suppress.

IT IS ORDERED that Defendant John Earl Broomfield Jr.'s Objections to Report and Recommendation, ECF No. 57, are **OVERRULED**.

IT IS FURTHER ORDERED that Chief United States Magistrate Judge Helen C. Adams's Report and Recommendation Regarding Defendant John Earl Broomfield Jr.'s Motion to Suppress, ECF No. 56, is **ACCEPTED**.

IT IS FURTHER ORDERED that Defendant John Earl Broomfield Jr.'s Motion to Suppress, ECF No. 35, is **DENIED**.

IT IS SO ORDERED.

Dated this 3rd day of August, 2022.



REBECCA GOODGAME EBINGER
UNITED STATES DISTRICT JUDGE

APPENDIX C

Selected docket entries for case 23-1311

Generated: 10/11/2024 09:11:18

Filed	Document Description	Page	Docket Text
07/16/2024	 Judge Order	2	JUDGE ORDER: The petition for rehearing en banc [5404585-2] is denied. The petition for panel rehearing is also denied. Hrg Dec 2023 [5413820] [23-1311] (NDG)

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-1311

United States of America

Appellee

v.

John Earl Broomfield, Jr.

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Western
(1:22-cr-00006-RGE-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

July 16, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

APPENDIX D

Selected docket entries for case 23-1311

Generated: 10/11/2024 09:12:15

Filed	Document Description	Page	Docket Text
03/03/2023	[redacted]		CLERK ORDER:Granting in part [5251418-2] motion for
	[redacted] CJA Appointment Letter	2	appointment of counsel filed by Mr. Joseph Kuehl. Mr.
	[redacted] Clerk Order Appt. CJA Counsel	4	Joseph Kuehl is appointed for John Earl Broomfield, Jr. under the Criminal Justice Act. [5251421] [23-1311] (NDG)

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-1311

United States of America

Appellee

v.

John Earl Broomfield, Jr.

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Western
(1:22-cr-00006-RGE-1)

ORDER

The motion for appointment of counsel is granted in part. Attorney Joseph Kuehl is hereby appointed to represent appellant in this appeal under the Criminal Justice Act. Information regarding the CJA appointment and vouchering process in eVoucher will be emailed to counsel shortly.

March 03, 2023

Order Entered under Rule 27A(a):
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans