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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2024

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ISAAC ALVAREZ,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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On Petition for Writ of Certiorari to the  
United States Court of Appeals  
for the Eleventh Circuit

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PETITION FOR WRIT OF CERTIORARI

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## **APPENDIX**

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2025 WL 1672851

Only the Westlaw citation is currently available.  
United States Court of Appeals, Eleventh Circuit.

UNITED STATES of America, Plaintiff-Appellee,

v.

Isaac ALVAREZ, Defendant-Appellant.

No. 23-12286

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Non-Argument Calendar

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Filed: 06/13/2025

Appeal from the United States District Court for the Southern  
District of Florida, D.C. Docket No. 1:22-cr-20221-JEM-1

**Attorneys and Law Firms**

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Before Jordan, [Lagoa](#), and Wilson, Circuit Judges.

**Opinion**

PER CURIAM:

**\*1** Isaac Alvarez appeals his convictions for possessing marijuana with the intent to distribute, possessing a firearm and ammunition as a convicted felon, and possessing a firearm in furtherance of a drug-trafficking crime. First, he argues that the district court erred in denying his motion to suppress a firearm and drugs found in his vehicle, as well as statements made during subsequent recorded jail calls, because police had neither reasonable suspicion of criminal activity justifying a seizure under *Terry v. Ohio*, 392 U.S. 1 (1968), nor probable cause to search his car, thereby tainting that evidence and his statements. Second, he contends that 18 U.S.C. § 922(g)(1) is facially unconstitutional under *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1

(2022). Third, he asserts that the district court abused its discretion in allowing Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") Special Agent Katherine Brady, the government's nexus witness on the § 922(g)(1) felon-inpossession charge, to offer lay opinion testimony, instead of excluding her testimony entirely. He maintains that the government failed to comply with the expert disclosure requirement set out in *Federal Rule of Criminal Procedure 16(a)(1)(G)(iii)* and thus impaired his ability to put on a defense. Fourth, he maintains that Agent Brady's opinion testimony as to the firearm's geographic origins was an expert opinion, not a lay opinion admissible under *Federal Rule of Evidence 701*. Fifth, he argues that the district court abused its discretion in denying his motion for a new trial based on the government's violation of *Brady v. Maryland*, 373 U.S. 83 (1963), by not disclosing until after trial evidence of Agent Brady's prior misconduct and reprimand in a separate case. Sixth, he contends that issues surrounding Agent Brady amount to cumulative error entitling him to a new trial on, or a dismissal of, the § 922(g)(1) charge.

**I**

On December 29, 2021, an anonymous caller reported a suspicious vehicle loitering in her neighborhood. The caller reported that a vehicle with dark window tint had been parked in an area behind her home since the prior night. Officer Guy Julien of the Miami-Dade Police Department, who was familiar with criminal activity in the neighborhood after having responded to multiple calls in the area, went to investigate the reported vehicle by himself.

Officer Julien located a vehicle in the same location as reported by the call. As Officer Julien approached the vehicle on foot, he observed dark window tint that prevented him from being able to discern who or what was inside of the vehicle. Officer Julien drew his firearm as he approached the vehicle but did not raise it at the vehicle. Mr. Alvarez then opened the driver's side door as Officer Julien approached. Officer Julien raised his weapon towards Mr. Alvarez and instructed him to step out of the car with his hands raised and stand by his patrol car. Mr. Alvarez then informed Officer Julien that his wife was still inside the vehicle and Officer Julien ordered her to exit as well.

**\*2** A few minutes later, Officer Giselle Reyes arrived at the scene to support Officer Julien. Officer Julien then approached the vehicle to ensure there were no other

occupants and retrieve Mr. Alvarez's ID (which Mr. Alvarez had told Officer Julien was in the car). When Officer Julien opened the backdoor of the car to investigate further, he was met with "an overwhelming smell or odor of marijuana coming from the vehicle." Officer Reyes also detected "a very strong odor of marijuana" coming from the vehicle. Officer Julien eventually located Mr. Alvarez's and his wife's IDs inside the vehicle.

After reviewing the IDs and searching their police databases, the officers learned that Mr. Alvarez had an active bench warrant for driving without a license. At this point, the officers arrested Mr. Alvarez and placed him in handcuffs.

Officer Reyes returned to the vehicle and began searching the interior. She discovered a loose round of ammunition, a jar of marijuana, and eventually the Glock firearm and remaining ammunition that formed the basis for Mr. Alvarez's felon-in-possession charge. Officer Julien did not believe the jar of marijuana to be the sole source of the smell because of the strength of the odor. Officer Reyes then turned to searching the trunk and located a suitcase and duffel bag that contained a large quantity of marijuana.

While in state custody, Mr. Alvarez was recorded on numerous telephone calls from jail. He discussed being "caught with a lot of marijuana" and acknowledged that he "had a gun and [he] had more than an ounce of coke." The government would eventually charge Mr. Alvarez with one count of possession of a controlled substance with intent to distribute in violation of 21 U.S.C. § 841(a)(1), one count of being a felon in possession of a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1), and one count of possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i). Mr. Alvarez's case proceeded to trial in March of 2023.

At trial, Agent Brady, the government's up-to-then expert—intended exclusively to prove the nexus element of the § 922(g)(1) count, i.e., the gun and ammunition's movement in interstate commerce—was challenged by Mr. Alvarez based on the government's failure to comply with [Federal Rule of Criminal Procedure 16](#) as amended in December of 2022 (which required additional disclosures regarding expert witnesses). Specifically, the amended [Rule 16](#) requires "a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at trial or by deposition." [Fed. R. Crim. Pro. 16\(a\)\(1\)\(G\)\(iii\)](#). In light of the acknowledged [Rule 16](#) violation, the government requested

that Agent Brady be allowed to testify as a lay witness as a lesser sanction than total exclusion of her testimony. The district court allowed Agent Brady to testify as a lay witness as to the nexus element because it concluded that the place of manufacture of a Glock firearm was not a topic that required expertise and because the court believed Agent Brady could testify as a lay witness as to the nexus element based on her experience in the field.

Agent Brady explained that she was familiar with where Glock firearms were manufactured through her training and experience as an ATF special agent. Agent Brady then testified—over Mr. Alvarez's objections—that most Glock firearms are manufactured in Austria and that any models manufactured in the United States are manufactured in Georgia. Agent Brady concluded that the Glock at issue in Mr. Alvarez's case must have been manufactured outside of Florida. Agent Brady testified similarly with respect to the ammunition. She first identified the manufacturer by referring to markings on the rounds. She then concluded that none of the identified ammunition manufacturers had any production facilities in Florida. There was no cross-examination by the defense of Agent Brady.

\*3 During the trial, and independently of Agent Brady's testimony, the firearm was identified as an operable Glock 21 by a Miami-Dade Police Department criminalist who had test fired the weapon. Photos of the firearm and the ammunition were also admitted into evidence without objection. The markings on the firearm("Glock 21," "Austria," "Made in Austria," and "Glock, Inc., Smyrna, Ga.") were clearly visible in the admitted photographs.

## II

We first address Mr. Alvarez's argument regarding the district court's denial of his motion to suppress. Mr. Alvarez asks that we vacate his convictions and direct the district court to suppress much of the evidence presented at trial because the initial stop was not justified by reasonable suspicion and because the stop was a *de facto* arrest the moment Officer Julien drew his weapon and as he conducted the stop with it drawn. Mr. Alvarez then contends that, because the initial stop was illegal, everything gathered afterwards from the car and recorded during the jail phone calls must be excluded as fruits of the poisonous tree. We disagree with Mr. Alvarez.

## A

In reviewing the denial of a motion to suppress, we review factual determinations for clear error and the application of law to the facts *de novo*. See *United States v. Jordan*, 635 F.3d 1181, 1185 (11th Cir. 2011). And we construe all facts in the light most favorable to the prevailing party below. See *id.* We can affirm the denial of a motion to suppress on any ground supported by the record. See *United States v. Caraballo*, 595 F.3d 1214, 1222 (11th Cir. 2010).

The Fourth Amendment protects individuals from unreasonable searches and seizures. See U.S. Const. amend. IV. Courts must examine the totality of the circumstances to determine whether a search or seizure is reasonable. See *United States v. Lewis*, 674 F.3d 1298, 1303 (11th Cir. 2012). Reasonableness under the totality of the circumstances is the “touchstone” of a Fourth Amendment analysis. See *Pennsylvania v. Mimms*, 434 U.S. 106, 108-09 (1977). It “depends on a balance between the public interest and the individual’s right to personal security free from arbitrary interference by law officers.” *Id.* at 109 (quotations omitted).

There are three basic categories of police-citizen encounters: (1) police-citizen communications involving no coercion or detention, (2) brief seizures or investigative detentions, and (3) full-scale arrests. See *United States v. Hastamoir*, 881 F.2d 1551, 1556 (11th Cir. 1989). The second category, also called *Terry* stops, “involves reasonably brief encounters in which a reasonable person would have believed that he or she was not free to leave.” *Id.* (citing *Terry v. Ohio*, 392 U.S. 1 (1968)).

Traffic stops are “more analogous” to *Terry* stops than to formal arrests. See *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). An officer making a traffic stop must have reasonable suspicion, i.e., “a particularized and objective basis for suspecting the person stopped of criminal activity.” *United States v. Campbell*, 26 F.4th 860, 880 (11th Cir. 2022) (en banc).

Florida law prohibits “operating” a car with front windows that are “nontransparent.” Fla. Stat. Ann. § 316.2953. Operating a car with windows tinted beyond the statutorily permissible amount is “a noncriminal traffic offense, punishable as a nonmoving violation.” *Id.* We have held that, when an officer knows from his experience that a car’s windows are too dark under Florida law, probable cause exists

for a traffic stop. See *United States v. Pierre*, 825 F.3d 1183, 1192 (11th Cir. 2016).

\*4 Under *Terry*, law enforcement officers may seize an individual for a brief, investigatory stop if they have a reasonable suspicion that (1) the individual was involved, or is about to be involved in, criminal activity, and (2) the stop was reasonably related in scope to the initial circumstances justifying the interference. See *Lewis*, 674 F.3d at 1303. Though “reasonable suspicion” is a lower standard than probable cause, it still requires an objective justification. See *Id.* An officer does not have to actually observe illegal conduct to have reasonable suspicion, but he needs “more than just a hunch” that criminal activity is afoot. *Id.* (quotations omitted). He must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion. See *Terry*, 392 U.S. at 21. Presence in a high-crime area is one factor that can contribute to the creation of reasonable suspicion, although it is not alone sufficient to support a finding of reasonable suspicion of criminal activity. See *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000).

In the second part of the *Terry* test, “determining whether the stop went too far and matured into arrest before there was probable cause, we consider whether the stop was reasonably related in scope to the circumstances which justified the interference in the first place.” *United States v. Acosta*, 363 F.3d 1141, 1145 (11th Cir. 2004) (quotations omitted and alterations accepted). Officer Julien here had reasonable suspicion and probable cause to perform the initial stop of Mr. Alvarez’s vehicle because of his observation of the car’s dark window tint as well as the call reporting the vehicle for loitering in an area Officer Julien knew to be a frequent spot for dumping stolen cars or engaging in prostitution. See *Pierre*, 825 F.3d at 1192. Officer Julien’s actions during the course of the stop were consistent with what the Supreme Court has determined is “an officer’s mission during a traffic stop,” including “checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.” *Rodriguez*, 575 U.S. at 354.

While conducting a traffic stop, an officer may ask the driver and other passengers to exit the vehicle. See *Mimms*, 434 U.S. at 111; *Maryland v. Wilson*, 519 U.S. 408, 415 (1997). This is because the Supreme Court has “specifically recognized the inordinate risk confronting an officer as he approaches a person seated in an automobile,” and the additional intrusion

is *de minimis*. See *Mimms*, 434 U.S. at 110. Furthermore, the “danger to an officer from a traffic stop is likely to be greater when there are passengers in addition to the driver in the stopped car.” *Wilson*, 519 U.S. at 414.

We have held that officers “draw[ing] their weapons does not, as a matter of course, transform an investigatory stop into an arrest.” *United States v. Blackman*, 66 F.3d 1572, 1576 (11th Cir. 1995). Thus, the fact that Officer Julien approached the vehicle in this case with his service weapon drawn did not immediately transform the investigative stop into an arrest. Even when the weapon was raised toward Mr. Alvarez the stop was not transformed into an arrest. Officer Julien was the only officer on scene dealing with a vehicle he could not see into; he could not know who or what might still be in the vehicle, he could not know what Mr. Alvarez or any other occupants might do when suddenly exiting the vehicle, and he was by himself. In this context, drawing his service weapon “was a reasonable action designed to provide for the safety of the [officer].” *Hastamorir*, 881 F.2d at 1557 (finding that drawing weapons and handcuffing suspects during course of a *Terry* stop reasonably provided for officers’ safety even with multiple officers on the scene). Officer Julien’s inspection of the backseat of the vehicle to ensure the vehicle had no other occupants was also justified to guarantee his safety during the stop.

\*5 Officer Julien’s search of the vehicle was supported by adequate probable cause based on his detection of a strong odor of marijuana. Officers may conduct a warrantless search of a car if it is readily mobile and probable cause exists to believe it contains contraband. See *United States v. Watts*, 329 F.3d 1282, 1285 (11th Cir. 2003). We have held that the “ready mobility” element of the automobile exception “is satisfied by the ‘ready mobility’ inherent in all automobiles that reasonably appear to be capable of functioning.” *United States v. Nixon*, 918 F.2d 895, 903 (11th Cir. 1990) (emphasis in original). The smell of marijuana creates probable cause to search a vehicle. See *United States v. Rivera*, 595 F.2d 1095, 1099 (5th Cir. 1979). Cf. *United States v. Tobin*, 923 F.2d 1506, 1512 (11th Cir. 1991) (holding that probable cause to search a house existed when an officer smelled marijuana coming from an open door). Here, once Officer Julien and Officer Reyes detected the strong odor of marijuana in the vehicle, they had probable cause to search the vehicle because of its apparent mobility.

In sum, the district court did not err in denying the motion to suppress because there was no Fourth Amendment violation

in this case. Officer Julien had reasonable suspicion for the initial stop, and both he and Officer Reyes had probable cause to search the vehicle based on the strong smell of marijuana.

### III

We next address Mr. Alvarez’s challenge to the constitutionality of § 922(g)(1) under *Bruen*. We have recently rejected the same argument in *United States v. Dubois*, — F.4th —, 2025 WL 1553843, at \*1 (11th Cir. 2025). Mr. Alvarez’s equivalent challenge to the constitutionality of § 922(g)(1) is foreclosed by our binding decision in *Dubois*.

### IV

We move to Mr. Alvarez’s argument that the district court abused its discretion when it allowed Agent Brady to testify as a lay witness. Mr. Alvarez contends that Agent Brady’s testimony should have been entirely excluded as the sanction for the government’s failure to file the proper Rule 16 disclosures.

#### A

We review a district court’s decision concerning the imposition of a Federal Rule of Criminal Procedure 16(d) sanction for a discovery violation for abuse of discretion. See *United States v. Fernandez*, 780 F.2d 1573, 1576 (11th Cir. 1986). When the government violates Rule 16’s disclosure requirements, but the district court nevertheless admits the testimony, we will not reverse the conviction unless the defendant establishes that an error affected his substantial rights. See *United States v. Chastain*, 198 F.3d 1338, 1348 (11th Cir. 1999). “The degree to which a defendant’s rights suffer as a result of a discovery violation is determined by considering how the violation affected his ability to present a defense and, to a lesser degree, the weight of all the other evidence introduced.” *United States v. Perez-Garcia*, 904 F.2d 1534, 1546 (11th Cir. 1990).

#### B

Mr. Alvarez has not established that his substantial rights were affected or prejudiced sufficiently to warrant a new trial



due to the admission of Agent Brady's lay testimony. The government's violation had minimal effect on Mr. Alvarez's ability to present a defense at trial because the weight of the other admitted evidence was sufficiently strong to render Agent Brady's testimony superfluous. Further, to the extent Mr. Alvarez now suggests that the Glock firearm could be an airsoft replica, he was free to investigate that possibility during trial or to cross examine Agent Brady on this premise once her testimony was accepted but chose not to.<sup>1</sup>

\*6 We have stated that there was “a clear indication of interstate commerce” when a gun was seized in Florida but “bore an imprint indicating that it had been manufactured in Atlanta.” *United States v. Brantley*, 68 F.3d 1283, 1288 (11th Cir. 1995). In another § 922(g)(1) case, we reviewed the government's failure to introduce evidence that the gun had traveled in interstate commerce to determine whether a reasonable jury “was rationally able to find that every element of the charged crime[<sup>#</sup>] was established by the government beyond a reasonable doubt.” *United States v. Clay*, 355 F.3d 1281, 1285-86 (11th Cir. 2004) (quotations and emphasis omitted). The only evidence of the firearm's origin in that case was the firearm itself, bearing a marking stating “‘Colt Manufacturing Company, Hartford, Ct.,’ ” which had been introduced into evidence without objection. See *id.* at 1286. Here the “Made in Austria” and “Glock, Inc., Smyrna, Ga.” markings on the firearm sufficiently proved the nexus element without any need for additional lay or expert witness testimony.

Mr. Alvarez focuses on what he understands to be the centrality of Agent Brady's testimony to his conviction. But photographs of the firearm with the markings were already admitted into evidence without objection prior to Agent Brady ever taking the stand. Applying the principles set out in *Clay* and *Brantley*, that evidence of the firearm's markings was alone sufficient to prove the nexus element in this case. Mr. Alvarez' ability to defend against the admission of the firearm photos was not substantially affected by the subsequent admission of Agent Brady's testimony. On this record, even assuming error, Mr. Alvarez' substantial rights have not been sufficiently affected or prejudiced to require reversal of his conviction.

## V

We turn next to Mr. Alvarez's additional argument that Agent Brady's lay testimony actually constituted an expert opinion subject to the rigors of [Federal Rule of Evidence 702](#).

We review a district court's evidentiary rulings for an abuse of discretion, such as when the district court bases its ruling on an erroneous view of the law or a clearly erroneous assessment of the evidence. See *United States v. Graham*, 123 F.4th 1197, 1248 (11th Cir. 2024). “However, errors in admitting opinion testimony as lay testimony are subject to harmless error review.” *United States v. Stahlman*, 934 F.3d 1199, 1222 (11th Cir. 2019). We will not reverse a conviction based on an erroneous evidentiary ruling unless that ruling “had a substantial influence on the outcome of the case or leaves us in grave doubt as to whether the error affected the outcome.” *Id.*

As already discussed above, the firearm in the instant case—stamped with the markings “Made in Austria” and “Glock, Inc., Smyrna, Ga.”—was sufficient evidence to prove the nexus element of the § 922(g)(1) charge under our precedent. Images of the firearm and its markings were admitted into evidence independent of Agent Brady's testimony and without objection. On this record, any error in allowing Agent Brady to offer expert opinion testimony on the nexus element as a lay witness was necessarily harmless because proof that sufficiently established that the gun had traveled in interstate or foreign commerce had already been admitted.

## VI

Mr. Alvarez also contends that the district court erred in denying his motion for a new trial premised on the post-trial discovery of *Brady* material related to Agent Brady. Mr. Alvarez asserts that earlier revelation of Agent Brady's reprimand for misconduct with respect to a different nexus report would be likely to change the outcome of the trial with respect to the § 922(g)(1) charge because such information could have undermined her credibility before the jury.

We review a district court's denial of a motion for a new trial based on *Brady* material disclosed post-trial for abuse of discretion. See *Clark*, 32 F.4th at 1086. To make out a *Brady* claim based on impeaching evidence, a defendant must demonstrate that, if he had had the evidence, there is a reasonable probability that the outcome of the trial would have been different. See *United States v. Fernandez*, 136 F.3d 1434, 1438 (11th Cir. 1998). The question is whether

the defendant received a fair trial with a “verdict worthy of confidence,” even without the disclosure of the *Brady* material. See *Kyles v. Whitley*, 514 U.S. 419, 434 (1995).

\*7 In *Clark*, we considered a *Brady* claim when the government failed to disclose that its nexus expert in a § 922(g)(1) case had been internally disciplined for prematurely destroying evidence. See 32 F.4th at 1086. We concluded that the defendant's verdict was worthy of confidence because, even if evidence of the expert's misconduct undermined his credibility, there was not a reasonable probability that it would have affected the jury's conclusion that the gun was manufactured in another state, as the gun said “Prescott, AZ.” *Id.* Accordingly, the district court did not abuse its discretion in denying the motion for a new trial based on *Brady* material. See *id.* at 1087. The same result is warranted here. The firearm at issue was stamped with the markings “Made in Austria” and “Glock, Inc., Smyrna, Ga.” and this evidence was admitted without objection separately from Agent Brady's testimony.

## VII

An appellant abandons any argument not briefed on appeal, made in passing, or raised briefly without supporting arguments or authority, even if he properly preserves the issue at trial. See *United States v. Jernigan*, 341 F.3d 1273, 1283 n.8 (11th Cir. 2003). Here, Mr. Alvarez has abandoned any argument for cumulative error because he raised the issue briefly and without any supporting arguments or authority.

## VIII

Mr. Alvarez's convictions are affirmed.

**AFFIRMED.**

**All Citations**

Not Reported in Fed. Rptr., 2025 WL 1672851

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## Footnotes

- 1 A Miami-Dade Police Department criminalist testified that the firearm was a Glock 21, that it was tested, and that it could fire the ammunition the markings indicated it could and which it was loaded with when found. Mr. Alvarez now produces only a single online retailer listing for an airsoft replica of a Glock 19, not a Glock 21, with a bright orange tip and which cannot load or fire real bullets to bolster this position. Even assuming that Mr. Alvarez could present new evidence to us, we find any argument as to the firearm's authenticity in this case unpersuasive.



**May 26, 2022**

ANGELA E. NOBLE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**22-20221-CR-MARTINEZ/BECERRA**  
CASE NO. \_\_\_\_\_

21 U.S.C. § 841(a)(1)  
18 U.S.C. § 922(g)(1)  
18 U.S.C. § 924(c)(1)(A)(i)  
21 U.S.C. § 853  
18 U.S.C. § 924(d)(1)

UNITED STATES OF AMERICA

vs.

ISAAC ALVAREZ,

**Defendant.**

**INDICTMENT**

The Grand Jury charges that:

**Count 1**  
**Possession with Intent to Distribute a Controlled Substance**  
**(21 U.S.C. § 841(a)(1))**

On or about December 29, 2021, in Miami-Dade County, in the Southern District of Florida, the defendant,

**ISAAC ALVAREZ,**

did knowingly and intentionally possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

This violation involved a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(b)(1)(C).

This violation involved a mixture or substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Section

841(b)(1)(C).

**Count 2**  
**Possession of a Firearm and Ammunition by a Convicted Felon**  
**(18 U.S.C. § 922(g)(1))**

On or about December 29, 2021, in Miami-Dade County, in the Southern District of Florida, the defendant,

**ISAAC ALVAREZ**

did knowingly possess a firearm and ammunition in and affecting interstate commerce, knowing that he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

Said firearm and ammunition are:

- a. One (1) Glock, model 21, .45 caliber handgun, bearing serial number MLY872; and
- b. Approximately fourteen (14) rounds of .45 caliber ammunition.

**Count 3**  
**Possession of a Firearm in Furtherance of a Drug Trafficking Crime**  
**(18 U.S.C. § 924(c)(1)(A)(i))**

On or about December 29, 2021, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**ISAAC ALVAREZ,**

did knowingly use and carry a firearm during and in relation to a drug trafficking crime, and did knowingly possess a firearm in furtherance of a drug trafficking crime, a felony offense for which he may be prosecuted in a court of the United States, that is, a violation of Title 21 United States Code, Section 841(a)(1), as charged in Count 1 of this Indictment, in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).

**FORFEITURE ALLEGATIONS**

1. The allegations of this Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **ISAAC ALVAREZ**, has an interest.

2. Upon conviction of a violation of Title 21, United States Code, Section 841(a)(1), as alleged in this Indictment, the defendant shall forfeit to the United States of America, pursuant to Title 21, United States Code, Section 853(a)(1) and (a)(2), any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violation, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.


3. Upon conviction of a violation of Title 18, United States Code, Sections 922(g)(1) and/or 924(c), as alleged in this Indictment, the defendant shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 924(d)(1), any firearm and ammunition involved in or used in the commission of such violation.

All pursuant to Title 18, United States Code, Section 924(d)(1) and Title 21, United States Code, Section 853.

A TRUE BILL

                      
FOREPERSON'

  
\_\_\_\_\_  
JUAN ANTONIO GONZALEZ  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
MICHAEL BRENNER  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO.:

v.

**CERTIFICATE OF TRIAL ATTORNEY\***

ISAAC ALVAREZ

\_\_\_\_\_  
Defendant.

**Court Division** (select one)

- ☒ Miami    ☐ Key West    ☐ FTP  
☐ FTL    ☐ WPB

**Superseding Case Information:**

New Defendant(s) (Yes or No)  
Number of New Defendants  
Total number of New Counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. §3161.
3. Interpreter: (Yes or No) No  
List language and/or dialect:
4. This case will take 2 days for the parties to try.
5. Please check appropriate category and type of offense listed below:  
(Check only one) (Check only one)  
I ☒ 0 to 5 days    ☐ Petty  
II ☐ 6 to 10 days    ☐ Minor  
III ☐ 11 to 20 days    ☐ Misdemeanor  
IV ☐ 21 to 60 days    ☐ Felony  
V ☐ 61 days and over
6. Has this case been previously filed in this District Court? (Yes or No) No  
If yes, Judge Case No.
7. Has a complaint been filed in this matter? (Yes or No) No  
If yes, Magistrate Case No.
8. Does this case relate to a previously filed matter in this District Court? (Yes or No) No  
If yes, Judge Case No.
9. Defendant(s) in federal custody as of
10. Defendant(s) in state custody as of March 4, 2022
11. Rule 20 from the District of
12. Is this a potential death penalty case? (Yes or No) No
13. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard? (Yes or No) No
14. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss? (Yes or No) No

By:



MICHAEL BRENNER  
Assistant United States Attorney  
FLA Bar No. 1011238

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: ISAAC ALVAREZ

Case No: \_\_\_\_\_

Count #: 1

Possession with Intent to Distribute a Controlled Substance

Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C)

\*Max. Penalty: 20 Years' Imprisonment

Count #: 2

Possession of a Firearm and Ammunition by a Convicted Felon

Title 18, United States Code, Sections 922(g)(1) and 924(b)(2)(B)

\*Max. Penalty: 10 Year's Imprisonment

Count #: 3

Carrying a Firearm During a Drug-Trafficking Crime

Title 18, United States Code, Section 924(c)

\*Max. Penalty: Life Imprisonment

\_\_\_\_\_  
\* Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.





UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 22-CR-20221-MARTINEZ

UNITED STATES OF AMERICA,

Plaintiff,

v.

ISAAC ALVAREZ,

Defendant.

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**DEFENDANT'S MOTION TO SUPPRESS**  
**PHYSICAL EVIDENCE AND STATEMENTS**

Isaac Alvarez, through undersigned counsel, respectfully moves this Honorable Court, pursuant to Fed. R. Crim. P. 12(b)(3)(C) and the Fourth Amendment of the United States Constitution to find that police lacked reasonable suspicion to seize him, unlawfully prolonged the seizure, and lacked probable cause to search the vehicle. Thus, the firearm, ammunition, and alleged controlled substances recovered from the vehicle must be suppressed. Additionally, the contents of any and all jail call recordings, which flow from the Fourth Amendment violation, must also be suppressed. Mr. Alvarez requests an evidentiary hearing on this motion.

**Facts**

According to the discovery provided in this case, on December 29, 2021, officers responded to a call about a "suspicious" vehicle. The call was made by an anonymous individual. Notably, the call made no allegation regarding any specific criminal activity and reported no observations of criminal conduct.

Upon arrival, Officer Guy, the initial responding officer, observed a black Nissan Pathfinder parked in a grassy area. Officer Guy pulled his vehicle directly behind the Pathfinder—blocking its path. The officer exited his patrol vehicle, and, with his gun in hand, approached the Pathfinder. Officer Guy then directed both occupants—Isaac Alvarez and Brittany Caffrey—out of the vehicle at gunpoint. The officer directed the pair towards his patrol vehicle, and they complied.

Shortly after, a second officer, Officer Reyes, arrived on scene. Mr. Alvarez remained detained for approximately 20 minutes. Ultimately, Mr. Alvarez was placed in the back of a patrol vehicle. Officers proceeded to conduct a warrantless search of the Pathfinder. During the search, officers recovered a firearm, ammunition, and alleged controlled substances. Mr. Alvarez was transported to jail.

Subsequent to this date, while in custody, it is alleged that Mr. Alvarez made certain statements as captured on jail recordings.

### **Legal Analysis**

Officers had no grounds to conduct a seizure pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968).

To be valid, *Terry* stops must be reasonable and based on some objective justification, not on a mere hunch of criminality. *See United States v. Sokolow*, 490 U.S. 1, 7 (1989); *see also United States v. Cortez*, 449 U.S. 411, 417 (1981) (“An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity.”). The suspicion must also be particularized—the totality of the circumstances “must raise a suspicion that *the*

*particular individual being stopped* is engaged in wrongdoing.” *Id.* at 418 (emphasis added). Thus, to justify the detention of Mr. Alvarez, the information received from the anonymous caller needed to provide probable cause or reasonable articulable suspicion that Mr. Alvarez had committed a crime. *See United States v. Harris*, 526 F.3d 1334, 1337 (11th Cir. 2008).

The Supreme Court confirmed that the “reliability of the tip—tested by the reliability of the tipster—is the key to whether an anonymous tip can provide an officer with reasonable suspicion ....” *United States v. Heard*, 367 F.3d 1275, 1279 (11<sup>th</sup> Cir. 2004) (citing *Florida v. J.L.*, 529 U.S. 266 (2000)). Here, nothing at all is known about the anonymous caller. The caller here is the equivalent of the anonymous tipster in *Florida v. J.L.* where the Supreme Court held that the anonymous tip lacked sufficient indicia of reliability to establish reasonable suspicion for a Terry investigatory stop: “Unlike a tip from a known informant whose reputation can be assessed and who can be held responsible if her allegations turn out to be fabricated ... an anonymous tip alone seldom demonstrates the informant’s basis of knowledge or veracity.” *Id.* at 269 (quoting *Alabama v. White*, 496 U.S. 325, 329 (1990)).

Moreover, the anonymous caller reported merely that he or she had observed a “suspicious” vehicle. There was no report of any criminal activity and nothing apart from the vehicle’s mere presence indicated as a basis for the caller’s suspicion. Thus, even if the caller’s tip was sufficiently reliable, it did not give rise to reasonable suspicion.

Nor were there any observations of Mr. Alvarez that justified his detention when he was ordered to exit the vehicle. He was calm and complied with officers' requests. In sum, Mr. Alvarez's seizure was unsupported by individualized reasonable suspicion and was, therefore, unlawful.

Additionally, the officers unlawfully prolonged the stop and seizure. *See Rodriguez v. United States*, 575 U.S. 348 (2015) (holding that, absent reasonable suspicion, police may not extend otherwise completed traffic stop for purpose of conducting unrelated investigation); *See United States v. Byron*, 817 Fed. Appx. 753 (11th Cir. 2020).

And in any event, the warrantless search of the vehicle was not supported by probable cause. *See United States v. Forker*, 928 F.2d 365, 368 (11th Cir. 1991) (noting that an automobile search requires the existence of both probable cause and exigent circumstances).

Under the exclusionary rule, evidence obtained in an encounter that is in violation of the Fourth Amendment cannot be used in a criminal proceeding against the victim of the illegal search and seizure. *See Weeks v. United States*, 232 U.S. 383 (1914); *Mapp v. Ohio*, 367 U.S. 643 (1961). This includes the direct products of the constitutional violation as well as derivative evidence acquired as an indirect result of the violation. *See Wong Sun*, 371 U.S. 471, 484–85, 487–88 (1963). Not only were the items recovered from the vehicle obtained in violation of the Fourth Amendment, but the alleged statements captured on the jail recordings are also tainted by this same violation.

WHEREFORE, Mr. Alvarez prays that this Honorable Court grants his motion to suppress and excludes the firearm, ammunition, controlled substances, and all statements made. He further requests an evidentiary hearing.

Respectfully submitted,

MICHAEL CARUSO  
FEDERAL PUBLIC DEFENDER

BY: /s/ Eboni Blenman  
Eboni Blenman  
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**CERTIFICATE OF SERVICE**

I HEREBY certify that on **March 1, 2023**, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Eboni Blenman  
Eboni Blenman





1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA  
3 MIAMI DIVISION  
4 CASE NO. 22-CR-20221-JEM

5 UNITED STATES OF AMERICA,  
6 Plaintiff,  
7 vs.  
8 ISAAC ALVAREZ, March 10, 2023  
9 Defendant. Miami, Florida  
10 Pages 1-59

11 -----

12 TRANSCRIPT OF EVIDENTIARY HEARING  
13 BEFORE THE HONORABLE JOSE E. MARTINEZ  
14 UNITED STATES DISTRICT JUDGE

15 APPEARANCES:

16 FOR THE PLAINTIFF: Michael Brenner, A.U.S.A.  
17 Vanessa Bonhomme, A.U.S.A.  
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20 Miami, FL 33132

21 FOR THE DEFENDANT: Kathleen Elena Handlin Taylor, A.F.P.D.  
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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:35 PM 1 (Court called to order)

1:35 PM 2 COURTROOM DEPUTY: Calling case 22-criminal-20221,

1:35 PM 3 United States of America versus Isaac Alvarez.

1:35 PM 4 Counsel, announce your names for the record, starting

1:35 PM 5 with the Government.

1:35 PM 6 MR. BRENNER: Good afternoon, Your Honor. Michael

1:35 PM 7 Brenner on behalf of the United States.

1:35 PM 8 THE COURT: Mr. Brenner.

1:35 PM 9 MS. BONHOMME: Good afternoon, Your Honor. AUSA Vanessa

1:35 PM 10 Bonhomme on behalf of the United States.

1:35 PM 11 THE COURT: Good afternoon.

1:35 PM 12 MS. TAYLOR: Good afternoon, Your Honor. Kate Taylor

1:35 PM 13 and Eboni Blenman, Assistant Federal Public Defenders, on behalf

1:35 PM 14 of Mr. Alvarez, who is present.

1:36 PM 15 THE COURT: Good afternoon. You all maybe seated.

1:36 PM 16 Okay. We're here on evidentiary hearing on Defendant's

1:36 PM 17 motion to suppress.

1:36 PM 18 Before turning to the motion to suppress, I'm going to

1:36 PM 19 address Defendant's motion to dismiss Count 2 of the indictment.

1:36 PM 20 I again deny the motion to dismiss. As noted yesterday, I still

1:36 PM 21 believe the Eleventh Circuit opinion in United States versus

1:36 PM 22 Rozier forecloses Defendant's constitutional challenge to Section

1:36 PM 23 922(g)(1), and Bruen did not abrogate or directly conflict with

1:36 PM 24 Rozier. So because Rozier remains binding, I deny the motion to

1:36 PM 25 dismiss.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:36 PM 1 Moving on to Defendant's motion to suppress. Who wants

1:36 PM 2 to go first? It's your motion. Do you have the burden now? Who

1:36 PM 3 has the burden?

1:36 PM 4 MS. TAYLOR: Your Honor, since it was a warrantless

1:36 PM 5 search, our position is that the government bears the burden.

1:36 PM 6 THE COURT: Government, are you prepared to go forward?

1:36 PM 7 MS. BONHOMME: Yes, we are, Your Honor.

1:37 PM 8 THE COURT: Go.

1:37 PM 9 MS. BONHOMME: The United States calls Officer Guy

1:37 PM 10 Julien.

1:37 PM 11 THE COURT: Please remain standing and raise your right

1:37 PM 12 hand.

1:37 PM 13 GUY JULIEN, GOVERNMENT WITNESS, SWORN.

1:38 PM 14 THE COURT: All right. Please pull your chair up close

1:38 PM 15 to the microphone, speak loudly, tell us your name and spell it

1:38 PM 16 please.

1:38 PM 17 THE WITNESS: My first name is Guy, spelled G U Y. My

1:38 PM 18 last name is Julien. It's spelled J U L I E N.

1:38 PM 19 THE COURT: You may proceed.

1:38 PM 20 DIRECT EXAMINATION

1:38 PM 21 BY MS. BONHOMME:

1:38 PM 22 Q. Where are you employed, Officer Julien?

1:38 PM 23 A. I'm currently employed with the Miami-Dade Police Department,

1:38 PM 24 I patrol the Northside District.

1:38 PM 25 Q. And where is the Northside District?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:38 PM 1 A. The boundaries for the Northside District is approximately as

1:38 PM 2 far south as 36th Street to 32nd Avenue.

1:38 PM 3 Q. Northwest?

1:38 PM 4 A. Northwest. And as far as north to 125th Street and Northwest

1:38 PM 5 27th Avenue.

1:38 PM 6 Q. Okay. Are there any neighborhoods with like names that are

1:38 PM 7 in that area as well?

1:39 PM 8 A. Yes, of course. You have Liberty City, you got Allapattah,

1:39 PM 9 you got neighborhoods like Lincoln Fields, just to name a few.

1:39 PM 10 Q. How long have you been an officer?

1:39 PM 11 A. Approximately four years.

1:39 PM 12 Q. How long have you worked in the Northside District?

1:39 PM 13 A. Approximately two years.

1:39 PM 14 Q. Can you tell the Court what your duties are right now in the

1:39 PM 15 Northside District?

1:39 PM 16 A. Right now I'm currently in the FTO program, which stands for

1:39 PM 17 the Field Training Program. So basically when recruits come out

1:39 PM 18 of the academy, they do come to me and I teach them the

1:39 PM 19 day-to-day functions of how to be a police officer on the

1:39 PM 20 streets. On the road.

1:39 PM 21 Q. What were you doing in December of 2021?

1:39 PM 22 A. In December, I was just a road officer. I was not in the

1:39 PM 23 field training program.

1:39 PM 24 Q. Okay. And what did you do as a road officer around December

1:39 PM 25 2021?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:40 PM 1 A. Just patrol the Northside District, handle calls, regular  
 1:40 PM 2 road duties.  
 1:40 PM 3 Q. What types of calls were you handling?  
 1:40 PM 4 A. All types of call. Sometime it's civil, sometimes it's a  
 1:40 PM 5 crime that was committed.  
 1:40 PM 6 Q. Can you explain to the Court what types of crimes you were  
 1:40 PM 7 often called to in Northside?  
 1:40 PM 8 A. Sure. I was called to robberies, batteries, stolen vehicles,  
 1:40 PM 9 sometimes loitering and prowling.  
 1:40 PM 10 Q. Okay. And would you -- based on your experience working in  
 1:40 PM 11 Northside, would you say that it would be a low-crime area or a  
 1:40 PM 12 high-crime area?  
 1:40 PM 13 A. Most the parts in Northside are high-crime areas. So you  
 1:40 PM 14 would get crimes like the ones I just named, like robbery, stolen  
 1:40 PM 15 vehicle, batteries, burglaries.  
 1:40 PM 16 Q. Okay. And I want to direct your attention to December 29,  
 1:41 PM 17 2021. Were you working on that day?  
 1:41 PM 18 A. Yes.  
 1:41 PM 19 Q. And what was your task on that date?  
 1:41 PM 20 A. Just regular road patrol.  
 1:41 PM 21 Q. Were you called out at any point to look into a suspicious  
 1:41 PM 22 vehicle?  
 1:41 PM 23 A. Yes, I was.  
 1:41 PM 24 Q. And where were you called to?  
 1:41 PM 25 A. The address that was given was 8415 Northwest 29th Court.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

1:42 PM 1 A. I just call her by her last name, Reyes.  
 1:42 PM 2 MS. BONHOMME: Okay. Now, I'm showing you -- and Your  
 1:42 PM 3 Honor, we've provided the defense with a copy of the Government's  
 1:42 PM 4 IDs. May I approach the witness?  
 1:42 PM 5 THE COURT: You may.  
 1:42 PM 6 BY MS. BONHOMME:  
 1:43 PM 7 Q. Showing you Government's ID 1. Do you recognize what I've  
 1:43 PM 8 handed you?  
 1:43 PM 9 A. Yes.  
 1:43 PM 10 Q. Okay. What is it?  
 1:43 PM 11 A. It's a picture of a map of the area I was dispatched to on  
 1:43 PM 12 that day.  
 1:43 PM 13 Q. On December 29th.  
 1:43 PM 14 A. On December 29th.  
 1:43 PM 15 Q. Is it a fair and accurate depiction of what the area looked  
 1:43 PM 16 like on December 29th on or around December 2021?  
 1:43 PM 17 A. Yes.  
 1:43 PM 18 MS. BONHOMME: Your Honor, the United States moves  
 1:43 PM 19 Government's ID 1 into evidence.  
 1:43 PM 20 MS. BLENMAN: No objection.  
 1:43 PM 21 THE COURT: Without objection, it's admitted in evidence  
 1:43 PM 22 as Government's Exhibit's 1.  
 1:43 PM 23 (Government's Exhibit 1 in evidence)  
 1:44 PM 24 MS. BONHOMME: Permission to publish?  
 1:44 PM 25 THE COURT: You may.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

1:41 PM 1 Q. What information were you provided specifically?  
 1:41 PM 2 A. At that time the dispatch stated that it was a black vehicle,  
 1:41 PM 3 unknown if anybody was inside, and she provided the address and  
 1:41 PM 4 that it was located in the rear in the alleyway by the fence.  
 1:41 PM 5 Q. In the rear of what, sir?  
 1:41 PM 6 A. In the rear of the address that was given.  
 1:41 PM 7 Q. Okay. And you were looking into this as a suspicious  
 1:41 PM 8 vehicle?  
 1:41 PM 9 A. Correct.  
 1:42 PM 10 Q. What kind of unit or vehicle were you driving that day?  
 1:42 PM 11 A. I was driving a Miami-Dade police green and white Ford  
 1:42 PM 12 Taurus.  
 1:42 PM 13 Q. Was it a marked unit?  
 1:42 PM 14 A. Yes, it was a marked police vehicle.  
 1:42 PM 15 Q. And did you have someone riding with you in the vehicle?  
 1:42 PM 16 A. No.  
 1:42 PM 17 Q. So you were sent to investigate this suspicious vehicle on  
 1:42 PM 18 your own.  
 1:42 PM 19 A. Me and my partner, backup officer. But not -- she was not  
 1:42 PM 20 inside the vehicle with me.  
 1:42 PM 21 Q. Okay. And where was she?  
 1:42 PM 22 A. En route to the same address that was dispatched.  
 1:42 PM 23 Q. And what is her name?  
 1:42 PM 24 A. Officer Reyes.  
 1:42 PM 25 Q. Do you know her full name or do you just call her Reyes?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

1:44 PM 1 BY MS. BONHOMME:  
 1:44 PM 2 Q. Okay. We have on the screen Exhibit 1 A that's before the  
 1:44 PM 3 Court. Can you please explain to the Court this area. What do  
 1:44 PM 4 you know of this area based on your experience patrolling the  
 1:44 PM 5 area?  
 1:44 PM 6 A. In this area on -- I said it was a high-crime area on 27th  
 1:44 PM 7 Avenue which is just a block ahead. We do have a lot of  
 1:44 PM 8 prostitution that goes on.  
 1:44 PM 9 Q. Now you say 27th Avenue. Can you just circle the area?  
 1:44 PM 10 A. Yes. I'm circling to the right side of the screen where the  
 1:44 PM 11 main avenue is right here.  
 1:44 PM 12 Q. Okay. And you say that there's a lot of prostitution that  
 1:44 PM 13 occurs on 27th Avenue.  
 1:45 PM 14 A. Correct. Anywhere from between 81st Street to 87th Street on  
 1:45 PM 15 27th Avenue.  
 1:45 PM 16 Q. And can you please identify the area that you were called to.  
 1:45 PM 17 A. Yes. I'm pointing towards the middle of the screen.  
 1:45 PM 18 Q. You've placed a circle at the middle of the screen?  
 1:45 PM 19 A. Correct.  
 1:45 PM 20 Q. And can you describe to the Court exactly what that area is?  
 1:45 PM 21 A. That area that I circled is just a cut that on one side  
 1:45 PM 22 there's houses that is bordered by a fence, and on the other side  
 1:45 PM 23 also has a fence but is an empty lot.  
 1:45 PM 24 Q. Okay. And can you drive all the way through this little cut?  
 1:45 PM 25 A. No, you cannot drive all the way through due to the bushes

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

1:45 PM 1 that's blocking it.

1:45 PM 2 Q. Okay.

1:45 PM 3 MS. BONHOMME: If we can go to 1 B, please? If we can

1:46 PM 4 clear the screen? Thank you. Thank you.

1:46 PM 5 BY MS. BONHOMME:

1:46 PM 6 Q. And Exhibit 1 B is closer-up view of the area you responded

1:46 PM 7 to, right?

1:46 PM 8 A. Yes, that's correct.

1:46 PM 9 Q. Okay. And can you tell the Court what happened as you

1:46 PM 10 approached this area.

1:46 PM 11 A. As I approached this area, due to the comments saying it was

1:46 PM 12 an alleyway, I did have a little trouble locating it because I

1:46 PM 13 went to 29th Court, but as I looked around I did notice the

1:46 PM 14 vehicle parked inside of this cut behind the fence.

1:46 PM 15 Q. Okay. And why did you notice it?

1:46 PM 16 A. Because in that area is a very high-crime area, so sometimes

1:46 PM 17 there would be stolen vehicles that would be dumped -- that can

1:46 PM 18 be dumped there. Because it's a high-prostitution area, it could

1:46 PM 19 have been possibly a crime that was going on in that car, so it

1:47 PM 20 didn't look like it was supposed to be there.

1:47 PM 21 Q. Okay. And is that cut paved or was that cut paved on

1:47 PM 22 December of 2021?

1:47 PM 23 A. No, that cut was not paved. It's just a patch filled with

1:47 PM 24 grass.

1:47 PM 25 Q. And based on your experience in the area, was it normal for a

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:47 PM 1 car to just be parked there?

1:47 PM 2 A. No, not at all.

1:47 PM 3 Q. Can you mark with an X the approximate area of where the

1:47 PM 4 vehicle was located.

1:47 PM 5 A. Yes. In the middle of the street. In the middle of the

1:47 PM 6 screen right here.

1:47 PM 7 Q. And where is that in relation to the address that you were

1:47 PM 8 given by the dispatcher?

1:47 PM 9 A. That's right behind the address. The house is right to the

1:47 PM 10 left of it.

1:47 PM 11 Q. Okay. Can you circle that house please?

1:47 PM 12 A. Yes. The address I was sent to, I was given, was this house.

1:48 PM 13 Q. Now, when you were approaching the vehicle, can you tell the

1:48 PM 14 Court was the vehicle parked in or was it parked with the

1:48 PM 15 driver's side towards you or the hood of the car towards you?

1:48 PM 16 THE COURT: Which way was the vehicle headed.

1:48 PM 17 THE WITNESS: The vehicle was facing northbound, so it

1:48 PM 18 was parked in.

1:48 PM 19 BY MS. BONHOMME:

1:48 PM 20 Q. And could you see anything in the vehicle?

1:48 PM 21 A. Not at all.

1:48 PM 22 Q. Why is that?

1:48 PM 23 A. Because as I parked behind the vehicle, there were very dark

1:48 PM 24 illegal tints, so I was not able to see through it at all.

1:48 PM 25 Q. Did the vehicle appear to you like it had been there for an

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:48 PM 1 extended period of time?

1:48 PM 2 A. No.

1:48 PM 3 Q. Why is that?

1:48 PM 4 A. Because like there was no grass that was growing underneath

1:48 PM 5 it. And if it was there for a long amount of time, it would have

1:48 PM 6 been suspicious to the neighbor because the neighbor could

1:49 PM 7 probably recognize that that car has been there.

1:49 PM 8 MS. BLENMAN: Objection, speculation.

1:49 PM 9 THE COURT: I'll sustain the objection.

1:49 PM 10 BY MS. BONHOMME:

1:49 PM 11 Q. What was your understanding in relation to the call that was

1:49 PM 12 received or the dispatch that was received in relation to this

1:49 PM 13 car, and how much time it had been there?

1:49 PM 14 A. My understanding based on the call was that this vehicle is

1:49 PM 15 suspicious.

1:49 PM 16 Q. And did it look -- the car look like it could operate?

1:49 PM 17 A. Yes.

1:49 PM 18 MS. BONHOMME: Your Honor, may I approach with

1:49 PM 19 Government's ID 3?

1:49 PM 20 THE COURT: Okay.

1:49 PM 21 MS. BONHOMME: Your Honor, if the defense has no

1:49 PM 22 objection, if I could just leave a copy of the IDs to the witness

1:49 PM 23 and have him call it.

1:49 PM 24 THE COURT: Sure.

1:49 PM 25 MS. BONHOMME: Thank you.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:49 PM 1 MS. BLENMAN: No objection.

1:50 PM 2 BY MS. BONHOMME:

1:50 PM 3 Q. Do you recognize Government's ID 3?

1:50 PM 4 A. Yes.

1:50 PM 5 Q. What is it?

1:50 PM 6 A. It's a picture of the license plate of the vehicle that was

1:50 PM 7 on-scene that day.

1:50 PM 8 Q. Okay. How many images are contained within Government's ID

1:50 PM 9 3?

1:50 PM 10 A. Four images.

1:50 PM 11 Q. Okay. And have you reviewed all of the images?

1:51 PM 12 A. Yes.

1:51 PM 13 Q. Okay. What do they depict?

1:51 PM 14 A. They depict a picture. The first picture is the license

1:51 PM 15 plate of the vehicle. The second picture depicts the passenger's

1:51 PM 16 side front and rear doors of the vehicle. The third picture is

1:51 PM 17 the front of the vehicle with the doors open, and the fourth

1:51 PM 18 picture is the closer-up picture of the front of the vehicle with

1:51 PM 19 the doors open.

1:51 PM 20 Q. And this is the vehicle that you saw in that cut, correct?

1:51 PM 21 A. Correct.

1:51 PM 22 Q. And do all the images fairly and accurately depict how the

1:51 PM 23 vehicle appeared on December 29, 2021?

1:51 PM 24 A. Yes.

1:51 PM 25 MS. BONHOMME: Your Honor, the United States moves

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

1:51 PM 1 Government's ID 3 into evidence.

1:51 PM 2 MS. BLENMAN: No objection.

1:51 PM 3 THE COURT: Without objection, Government Exhibit ID is

1:51 PM 4 admitted in evidence as Government's Exhibit 3.

1:51 PM 5 (Government's Exhibit 3 in evidence)

1:52 PM 6 MS. BONHOMME: Your Honor, permission to publish?

1:52 PM 7 THE COURT: You may. It's in evidence. You can do what

1:52 PM 8 you want with it.

1:52 PM 9 MS. BONHOMME: Thank you, Your Honor.

1:52 PM 10 BY MS. BONHOMME:

1:52 PM 11 Q. We're looking at Page 1, Page 1 of Government's Exhibit

1:52 PM 12 Number 3. What are we looking at?

1:52 PM 13 A. We are looking at the license plate of the vehicle.

1:52 PM 14 Q. Okay. Can we go to Page 2? Okay. What are we looking at?

1:52 PM 15 A. The passenger view of the vehicle with both doors open.

1:52 PM 16 Q. Okay. Page 3.

1:52 PM 17 A. A picture of the front of the vehicle with all four doors

1:52 PM 18 open.

1:53 PM 19 Q. Okay. And if we can go to Page 4, please. What is this?

1:53 PM 20 A. It's a close-up picture of the front of the vehicle with all

1:53 PM 21 four doors open.

1:53 PM 22 Q. Now, Officer Julien, looking at Page 4 of Government's

1:53 PM 23 Exhibit 3, you can kind of see through this vehicle.

1:53 PM 24 A. Through the front, yeah, through the front the windshield.

1:53 PM 25 Q. Okay. Did the vehicle look like this when you first

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1:53 PM 1 approached it?

1:53 PM 2 A. No, not at all.

1:53 PM 3 Q. Okay. What, if anything, happened to change that?

1:53 PM 4 A. I'm sorry. Say the question again?

1:53 PM 5 Q. Were the doors to the vehicle opened when you first

1:53 PM 6 approached it?

1:53 PM 7 A. No, all the doors were closed.

1:53 PM 8 Q. Okay. And how, if you know, did that affect how the tints

1:53 PM 9 appeared on the vehicle?

1:53 PM 10 MS. BLENMAN: Objection, speculation.

1:53 PM 11 THE COURT: No, I think he can answer that question from

1:53 PM 12 his own personal knowledge.

1:54 PM 13 THE WITNESS: Due to the doors being closed, the tints

1:54 PM 14 appeared very, very, very dark, to the point where I could not

1:54 PM 15 see anything while I was approaching it.

1:54 PM 16 BY MS. BONHOMME:

1:54 PM 17 Q. So when you approached, you approached the vehicle in your

1:54 PM 18 patrol unit, what happens next?

1:54 PM 19 A. So as I'm approaching the vehicle, due to me not being able

1:54 PM 20 to see anything, I'm very nervous because I don't know what's

1:54 PM 21 going on. It could be a stolen vehicle, it could be probably

1:54 PM 22 somebody's in there, prostitution, since it's very close to the

1:54 PM 23 area. It could have been somebody just parked there casing a

1:54 PM 24 house for a burglary. It could be anything.

1:54 PM 25 So as I approached the vehicle, I had my firearm in hand

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1:54 PM 1 as I'm approaching it.

1:54 PM 2 Q. And you had your firearm in hand for what purpose?

1:55 PM 3 A. Well, once again, my heart was racing so I do not know what

1:55 PM 4 I'm going to. So for my safety and for the safety of people

1:55 PM 5 around, because I don't know who's in the car, what's in that car

1:55 PM 6 or what's going on, and I was called to a suspicious vehicle, so

1:55 PM 7 for my safety and the safety of others I approached the vehicle

1:55 PM 8 with my firearm.

1:55 PM 9 Q. And where was your firearm located as you were walking

1:55 PM 10 towards the vehicle?

1:55 PM 11 A. My firearm was pointed down near my -- it was pointed down.

1:55 PM 12 I was walking with it pointed down to my leg area.

1:55 PM 13 Q. Okay. So you had it to your side?

1:55 PM 14 A. To my side, yes.

1:55 PM 15 Q. What, if anything, happened next?

1:55 PM 16 A. As I approached the vehicle, the Defendant suddenly opened

1:55 PM 17 the door and surprised me. It startled me.

1:55 PM 18 Q. Okay. And you say the Defendant opened the door. Who are

1:55 PM 19 you referring to? Who's the Defendant?

1:56 PM 20 A. The person that was in the vehicle.

1:56 PM 21 Q. Okay. Do you see that person here today? Do you need to

1:56 PM 22 stand up?

1:56 PM 23 A. Yes.

1:56 PM 24 Q. Okay. Can you please state where that person is seated and

1:56 PM 25 what the person is wearing or describe the person.

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1:56 PM 1 A. He's seated behind you to the right of you. I can't really

1:56 PM 2 see because the monitor.

1:56 PM 3 MS. BONHOMME: Your Honor, may the witness come around?

1:56 PM 4 THE COURT: Sure.

1:56 PM 5 MS. BONHOMME: Step down?

1:56 PM 6 THE COURT: Within reason.

1:56 PM 7 MS. BONHOMME: He said he couldn't see because of the

1:56 PM 8 monitors.

1:56 PM 9 THE COURT: I know. The monitor is down there. That's

1:56 PM 10 the monitor he's talking about.

1:56 PM 11 MS. BONHOMME: No, I think it's the other one.

1:56 PM 12 THE WITNESS: He has a tattoo under his right eye. He's

1:57 PM 13 wearing a beige jumpsuit with brown clothes underneath it, and he

1:57 PM 14 has twists in his hair.

1:57 PM 15 MS. BONHOMME: Okay. You can be seated.

1:57 PM 16 Your Honor, let the record reflect that the witness has

1:57 PM 17 identified the Defendant Isaac Alvarez.

1:57 PM 18 THE COURT: The record may so reflect.

1:57 PM 19 BY MS. BONHOMME:

1:57 PM 20 Q. Now, which door did the Defendant open?

1:57 PM 21 A. The Defendant opened the driver's side door.

1:57 PM 22 Q. And the front driver's side door or the driver's door?

1:57 PM 23 A. Yeah, the driver's -- the front driver's door.

1:57 PM 24 Q. Okay. And what, if anything, did you do once he opened the

1:57 PM 25 door?

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1:57 PM 1 A. As soon as he opened the door, like I said, it surprised me  
 1:57 PM 2 and I got startled and I pointed my firearm at him and tell him  
 1:57 PM 3 to keep his hands up, let me see his hands, and for him to exit  
 1:57 PM 4 the vehicle.  
 1:57 PM 5 Q. And why did you point your firearm at him?  
 1:58 PM 6 A. Because at that time I'm not sure who he is, I'm not sure  
 1:58 PM 7 what is in inside of the vehicle. I'm not even sure if a crime  
 1:58 PM 8 is in process or in progress at that time. So for my safety, I  
 1:58 PM 9 pointed my firearm on him and gave him loud verbal commands that  
 1:58 PM 10 he understands to keep his hands up and to exit the vehicle.  
 1:58 PM 11 Q. Now, you were there to investigate if there was a crime that  
 1:58 PM 12 was happening, right?  
 1:58 PM 13 A. Correct.  
 1:58 PM 14 MS. BLENMAN: Objection, leading.  
 1:58 PM 15 THE COURT: That is leading.  
 1:58 PM 16 BY MS. BONHOMME:  
 1:58 PM 17 Q. What were you there to do, sir?  
 1:58 PM 18 A. I was there to investigate a caller calling about a  
 1:58 PM 19 suspicious vehicle.  
 1:58 PM 20 Q. Okay. And in investigating someone calling regarding a  
 1:58 PM 21 suspicious vehicle, what did you believe could potentially be  
 1:58 PM 22 happening once you got to this area?  
 1:59 PM 23 A. Once I got to this area, it could be a possible of many  
 1:59 PM 24 crimes like -- so the way that this area is, because of the cut,  
 1:59 PM 25 based on my experience and based on patrolling the area, there's

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1:59 PM 1 a place that's consistent with people dropping off stolen  
 1:59 PM 2 vehicles. It's a high-crime area so it could be, you know, a  
 1:59 PM 3 burglary in progress. So I'm there to suspect any type of crime  
 1:59 PM 4 that I know that happens around the area.  
 1:59 PM 5 Q. Now, you told us earlier that you had Officer Reyes as  
 1:59 PM 6 backup. Did she arrive to the scene at any point?  
 1:59 PM 7 A. Yes.  
 1:59 PM 8 Q. Okay. Was she at the scene at that moment?  
 1:59 PM 9 A. At the moment that I approached the vehicle?  
 1:59 PM 10 Q. At the moment the Defendant opened the door and you asked him  
 1:59 PM 11 to step out of the vehicle.  
 1:59 PM 12 A. No, she was not.  
 1:59 PM 13 Q. Okay. So what did you do next?  
 1:59 PM 14 A. So I had him step out the vehicle. I patted him down to make  
 2:00 PM 15 sure that he doesn't have any weapons on him, and I told him to  
 2:00 PM 16 stand in front of my car and I asked him was there anybody else  
 2:00 PM 17 inside the vehicle and he stated his wife. And once he stated  
 2:00 PM 18 his wife, and he told me that his wife was in the back seat, I  
 2:00 PM 19 ordered his wife to get out of the vehicle.  
 2:00 PM 20 Q. And did she get out of the vehicle?  
 2:00 PM 21 A. Yes.  
 2:00 PM 22 Q. What area of the vehicle did she get out of?  
 2:00 PM 23 A. She got out of the vehicle from the rear passenger's side  
 2:00 PM 24 area, seat.  
 2:00 PM 25 Q. Now, can you tell the court about how both the Defendant and

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2:00 PM 1 the woman that was in the vehicle were dressed.  
 2:00 PM 2 A. Yes. The Defendant had boxer briefs on with a tank top, and  
 2:00 PM 3 the female in the vehicle had a top and she had a blanket wrapped  
 2:00 PM 4 around her. And I did ask her did she have any garments or  
 2:01 PM 5 underwear underneath, and she stated no.  
 2:01 PM 6 Q. What happened next?  
 2:01 PM 7 A. After I asked them to exit the vehicle, while waiting for my  
 2:01 PM 8 partner to arrive I started a conversation. I asked them about  
 2:01 PM 9 why were they here, I asked them about the reason that his  
 2:01 PM 10 vehicle is parked here.  
 2:01 PM 11 Q. Okay. And what reason did they give you?  
 2:01 PM 12 A. Well, his reasoning was very inconsistent. He said that he  
 2:01 PM 13 ran out of gas and he's waiting for one of his friends to come  
 2:01 PM 14 and put gas. And then I asked him did you contact your friend,  
 2:01 PM 15 he said no. I asked him where's your friend, he said I just woke  
 2:01 PM 16 up now. So basically he was just waiting for his friend to bring  
 2:01 PM 17 gas, but it was very inconsistent.  
 2:02 PM 18 Q. Okay. And what, if any, information did you obtain regarding  
 2:02 PM 19 who owned the vehicle?  
 2:02 PM 20 A. At one point I did ask him is this his vehicle, he said no  
 2:02 PM 21 it's his mother's.  
 2:02 PM 22 Q. Okay. So we're at the point where you have both the  
 2:02 PM 23 Defendant and the woman outside of the vehicle. Has your back-up  
 2:02 PM 24 -- has Reyes arrived yet?  
 2:02 PM 25 A. From the moment that I removed the female from the back of

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2:02 PM 1 the vehicle, it took approximately a minute and a half or two  
 2:02 PM 2 minutes for Reyes to arrive on-scene.  
 2:02 PM 3 Q. Okay. And while you were waiting for Reyes to arrive on  
 2:02 PM 4 scene, were the doors to the vehicle open or closed?  
 2:02 PM 5 A. The back passenger's side where the female exited was open.  
 2:02 PM 6 Q. And what about the driver's door that the Defendant came out  
 2:02 PM 7 of?  
 2:02 PM 8 A. I don't remember.  
 2:03 PM 9 Q. Now, Reyes arrives about a minute and a half later. What  
 2:03 PM 10 happens next?  
 2:03 PM 11 A. As I see her arriving, I then took out my firearm because I'm  
 2:03 PM 12 not sure who else was inside of the vehicle.  
 2:03 PM 13 Q. Well, at that point you couldn't see through the vehicle?  
 2:03 PM 14 Through the tints of the vehicle to see if anyone else was in the  
 2:03 PM 15 car?  
 2:03 PM 16 A. No, not through the back of the vehicle because like it was  
 2:03 PM 17 very illegally dark tints, so I purposely stood in between the  
 2:03 PM 18 vehicle and the Defendant just to make sure that -- you know,  
 2:03 PM 19 because I was there by myself, just to make sure that I could  
 2:03 PM 20 kind of keep an eye on both. And then once my partner arrived  
 2:03 PM 21 and she was able to keep -- to watch them, then I went to clear  
 2:03 PM 22 the backside of the vehicle to make sure nobody else was in  
 2:03 PM 23 there.  
 2:03 PM 24 Q. Okay. And what, if anything, did you notice?  
 2:04 PM 25 A. As I cleared the back of the vehicle, I did notice groceries,

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2:04 PM 1 belongings, like clothing and groceries. And I also smelled like  
 2:04 PM 2 an overwhelming smell of marijuana, like a large amount  
 2:04 PM 3 overwhelming smell.  
 2:04 PM 4 Q. Now, in your time working as a police officer have you dealt  
 2:04 PM 5 with cases where you've had occasion to be around marijuana?  
 2:04 PM 6 A. Yes.  
 2:04 PM 7 Q. And based on that experience, did this appear to you to be a  
 2:04 PM 8 small amount of marijuana, like a couple of baggies? Or did it  
 2:04 PM 9 smell like a larger amount, based on your experience?  
 2:04 PM 10 A. Based on my experience it wasn't just two or three or four  
 2:04 PM 11 baggies, it had to be a lot based on the smell that I smelled  
 2:04 PM 12 that day.  
 2:04 PM 13 Q. What happened next?  
 2:04 PM 14 A. Next, after I cleared the back seat to make sure nobody else  
 2:05 PM 15 was in the vehicle, I then asked the Defendant and the woman for  
 2:05 PM 16 their IDs.  
 2:05 PM 17 Q. Okay. Did they have their IDs on them?  
 2:05 PM 18 A. No, they did not have their IDs on them. He stated that his  
 2:05 PM 19 ID is inside the vehicle.  
 2:05 PM 20 Q. And did he tell you where the ID was inside the vehicle?  
 2:05 PM 21 A. Yes, he said the ID is in the front driver's side of the  
 2:05 PM 22 vehicle.  
 2:05 PM 23 Q. Now, at this point why are you asking for IDs?  
 2:05 PM 24 A. Well, at this point I had -- after I make sure that nobody  
 2:05 PM 25 else was in the car, and because I don't know who he is and who

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2:05 PM 1 the woman is and I need to identify who they are, so I need to  
 2:05 PM 2 ask them for their IDs.  
 2:05 PM 3 Q. And so did you go get the IDs?  
 2:05 PM 4 A. Yes.  
 2:05 PM 5 Q. And where were they?  
 2:06 PM 6 A. The Defendant stated to me that it was -- his ID was on the  
 2:06 PM 7 driver's side door but at the bottom pocket. There's a pocket on  
 2:06 PM 8 the door, and it was inside of a red stocking and he stated it  
 2:06 PM 9 was there. And the woman stated to me that her identification  
 2:06 PM 10 was inside of a black purse that's also located in the front  
 2:06 PM 11 driver's side of the car.  
 2:06 PM 12 Q. Now, what was your focus on when you were in that area, the  
 2:06 PM 13 driver's side door?  
 2:06 PM 14 A. At that time, my focus was what I was there to do, to look  
 2:06 PM 15 for the ID's.  
 2:06 PM 16 Q. So you didn't pay attention or look at anything else?  
 2:06 PM 17 A. No, I was just looking for the IDs.  
 2:06 PM 18 Q. And did you find the Defendant's ID?  
 2:06 PM 19 A. Yes.  
 2:06 PM 20 Q. Okay. Did the Defendant have a driver license?  
 2:06 PM 21 A. No, his ID was an ID card.  
 2:07 PM 22 Q. Okay. And did you find the woman's ID?  
 2:07 PM 23 A. Yes, I did.  
 2:07 PM 24 Q. Okay. Was that a Florida license? Can you describe it?  
 2:07 PM 25 A. Her ID, I believe, was from Pennsylvania and it was from --

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2:07 PM 1 it's a Pennsylvania license, not Florida.  
 2:07 PM 2 Q. Okay. And what, if anything, did you do with those two IDs?  
 2:07 PM 3 A. I gave those IDs to my partner, Reyes.  
 2:07 PM 4 Q. And what, if anything, did Reyes do with the IDs?  
 2:07 PM 5 A. She retrieved them and she went back to her vehicle.  
 2:07 PM 6 Q. Okay. Did Reyes eventually come back from her vehicle?  
 2:07 PM 7 A. Yes.  
 2:07 PM 8 Q. And what, if anything, did she tell you?  
 2:07 PM 9 A. When she came back -- when she exited her vehicle, she called  
 2:07 PM 10 me over and I went towards her and she stated that the Defendant  
 2:07 PM 11 had a traffic warrant that was verified, and that also he was a  
 2:07 PM 12 gang member.  
 2:08 PM 13 Q. Okay. Now, knowing that the Defendant is a gang member or  
 2:08 PM 14 was identified as a gang member and had an active warrant, what's  
 2:08 PM 15 going on in your mind at that point?  
 2:08 PM 16 A. Well, because I knew of the active warrant and that it was  
 2:08 PM 17 verified, I knew that he would have been taken into custody.  
 2:08 PM 18 With the gang member, it definitely heightened my level of  
 2:08 PM 19 concern because, you know, he did state that his friend was  
 2:08 PM 20 coming to help him. And based on my experience -- so what was  
 2:08 PM 21 going on in my head, based on my experience at that time, was his  
 2:08 PM 22 friend might have been in the gang also. So it did heighten my  
 2:08 PM 23 level of concern when she told me about him being a gang member.  
 2:08 PM 24 But with the warrant, I knew that we would take him into  
 2:08 PM 25 custody because it was active and verified.

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2:08 PM 1 Q. So what did you do next?  
 2:09 PM 2 A. And then I went over to the Defendant and I took him into  
 2:09 PM 3 custody.  
 2:09 PM 4 Q. Okay. What happened after that?  
 2:09 PM 5 A. After I took him into custody, we allowed him to put pants  
 2:09 PM 6 on.  
 2:09 PM 7 Q. Did you let him go to the car and put the pants on himself?  
 2:09 PM 8 A. No, we did not. We asked him where his pants was, and my  
 2:09 PM 9 partner went to the car to retrieve the pants.  
 2:09 PM 10 Q. Okay. And did the Defendant -- where did the Defendant go  
 2:09 PM 11 after he got his pants?  
 2:09 PM 12 A. After his pants was on, I placed him in Reyes' marked police  
 2:09 PM 13 vehicle. In the back of Reyes' marked police vehicle.  
 2:09 PM 14 Q. What happened after that?  
 2:09 PM 15 A. After that, after I placed him in the vehicle, Reyes called  
 2:09 PM 16 me over to the Defendant's vehicle that he was in and she showed  
 2:10 PM 17 me a bullet that was found near the door handle, and she also  
 2:10 PM 18 told me to look underneath the seat. And when I looked, I  
 2:10 PM 19 observed a handgun. And also on the driver's seat there was also  
 2:10 PM 20 a jar that had marijuana inside of it.  
 2:10 PM 21 Q. Okay.  
 2:10 PM 22 A. And then she stated to me -- after I looked at those things,  
 2:10 PM 23 she stated to me that he was a convicted felon.  
 2:10 PM 24 MS. BONHOMME: Your Honor, may I have a moment to confer  
 2:10 PM 25 with counsel?

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2:10 PM 1 THE COURT: You may.

2:10 PM 2 BY MS. BONHOMME:

2:11 PM 3 Q. Officer Julien, can you please look at Government's ID 4 and

2:11 PM 4 ID 5.

2:12 PM 5 A. I did.

2:12 PM 6 Q. Starting with Government's ID 4, do you recognize

2:12 PM 7 Government's ID 4?

2:12 PM 8 A. Yes.

2:12 PM 9 Q. And what is it?

2:12 PM 10 A. It's a picture of the door handle where I looked to see where

2:12 PM 11 the ammunition is.

2:12 PM 12 Q. Okay. And there are two pages to the exhibit?

2:12 PM 13 A. Correct.

2:12 PM 14 Q. Or to the ID?

2:12 PM 15 A. Yes.

2:12 PM 16 Q. Does it fairly and accurately depict what you saw on December

2:12 PM 17 29, 2021?

2:12 PM 18 A. Yes.

2:12 PM 19 MS. BONHOMME: Your Honor, we move Government's ID 4

2:12 PM 20 into evidence.

2:12 PM 21 MS. BLENMAN: No objection.

2:13 PM 22 THE COURT: Without objection, Government's Exhibit 4 is

2:13 PM 23 admitted in evidence.

2:13 PM 24 (Government's Exhibit 4 in evidence)

2:13 PM 25 BY MS. BONHOMME:

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2:13 PM 1 Q. Going to Government's ID 5. Can you tell the Court what that

2:13 PM 2 is?

2:13 PM 3 A. This is a picture of the firearm.

2:13 PM 4 Q. The firearm that was seized from where?

2:13 PM 5 A. That was seized from the Defendant.

2:13 PM 6 Q. I'm sorry. I didn't hear you.

2:13 PM 7 A. It's the picture of the firearm that was seized from the

2:13 PM 8 vehicle, from the Defendant's vehicle.

2:13 PM 9 Q. Okay. And there are eight pictures in this exhibit or this

2:13 PM 10 ID?

2:13 PM 11 A. Yes. Correct.

2:13 PM 12 Q. And do they fairly and accurately depict the firearm that was

2:13 PM 13 seized on December 29, 2021?

2:13 PM 14 A. Yes.

2:14 PM 15 MS. BONHOMME: Your Honor, the United States moves

2:14 PM 16 Government's Exhibit 5 into evidence.

2:14 PM 17 MS. BLENMAN: No objection.

2:14 PM 18 THE COURT: Without objection, 5 is admitted in

2:14 PM 19 evidence.

2:14 PM 20 (Government's Exhibit 5 in evidence)

2:14 PM 21 BY MS. BONHOMME:

2:14 PM 22 Q. If we can go to Government's Exhibit 4. First page? Can you

2:14 PM 23 tell the Court what we're looking at?

2:14 PM 24 A. We're looking at a picture of the door handle where the

2:14 PM 25 ammunition was found.

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2:14 PM 1 Q. Okay. And can you see the ammunition in this picture?

2:14 PM 2 A. Yes.

2:14 PM 3 Q. Can you circle it please?

2:14 PM 4 A. Right here.

2:15 PM 5 Q. Okay. And can we go to Page 2? And you can see the

2:15 PM 6 ammunition closer up?

2:15 PM 7 A. Yes. This is a close-up picture of the door handle where the

2:15 PM 8 ammunition was found.

2:15 PM 9 Q. Okay. Now, going back to Page 1 of Government's Exhibit 4,

2:15 PM 10 can you show the Court the area where you took the red clothes

2:15 PM 11 that had the Defendant's ID in it? Where did you take it?

2:15 PM 12 A. Yes. I'm circling the pocket of the vehicle, with the door.

2:15 PM 13 Q. So the question, Officer Julien, is you're very close to

2:15 PM 14 where the bullet is.

2:15 PM 15 A. Yes.

2:15 PM 16 Q. Why didn't you see the bullet?

2:15 PM 17 A. Because at that time I wasn't looking for it. My focus was

2:15 PM 18 on getting on the Defendant's ID.

2:16 PM 19 Q. And then going to Government's Exhibit 5. If we could just

2:16 PM 20 go to Page 2. Thank you.

2:16 PM 21 What are we looking at?

2:16 PM 22 A. We're looking at a picture of the firearm that was seized

2:16 PM 23 from the vehicle. The Defendant's vehicle.

2:17 PM 24 MS. BONHOMME: Your Honor, Government's ID 2, we just

2:17 PM 25 received a stipulation from the defense that it can come in as an

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2:17 PM 1 exhibit.

2:17 PM 2 THE COURT: Sorry. Say that again please?

2:17 PM 3 MS. BONHOMME: We received a stipulation from the

2:17 PM 4 defense that they have no objection to Government's ID 2.

2:17 PM 5 THE COURT: Okay. So it's admitted in evidence.

2:17 PM 6 (Government's Exhibit 2 in evidence)

2:17 PM 7 THE COURT: Without objection. Government's Exhibit 2.

2:18 PM 8 MS. BONHOMME: Your Honor, if I may conduct my direct

2:18 PM 9 examination from here because I have --

2:18 PM 10 THE COURT: As long as you use the microphone.

2:18 PM 11 MS. BONHOMME: Thank you, Your Honor.

2:18 PM 12 BY MS. BONHOMME:

2:18 PM 13 Q. Officer Julien, looking at Government's Exhibit 2, can you

2:18 PM 14 tell the Court what this is?

2:18 PM 15 A. Right now it's a picture of my body-worn camera showing me

2:18 PM 16 driving.

2:18 PM 17 Q. Okay. Do you see what's on the bottom of the screen?

2:18 PM 18 A. Yes. It's a video. It's the play button.

2:18 PM 19 Q. Okay. So this is the video of the body-worn camera?

2:18 PM 20 A. It's the video of the body-worn camera, yeah.

2:19 PM 21 Q. Okay. So we're going to fast forward to a minute and 18

2:19 PM 22 seconds.

2:19 PM 23 Now, can you tell the Court what's happening at this

2:19 PM 24 moment?

2:19 PM 25 A. So what's happening at this moment is I'm exiting my vehicle

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2:19 PM 1 and I'm looking to see if I can see anything inside the car and  
 2:19 PM 2 I'm unable to. I know that the car is not running, but I'm  
 2:19 PM 3 exiting my vehicle at this moment.  
 2:19 PM 4 Q. Okay. And looking at where we're paused, at minute one and  
 2:19 PM 5 18 seconds, can you actually see inside the vehicle looking at  
 2:19 PM 6 this image?  
 2:19 PM 7 A. No. Due to the tints being illegal, like dark, I'm not able  
 2:19 PM 8 to see anything inside the car.  
 2:19 PM 9 MS. BONHOMME: Okay. We're going to play it from one  
 2:19 PM 10 minute and 18.  
 2:20 PM 11 (Government's Exhibit 2 video playing)  
 2:20 PM 12 FEMALE VOICE: Hello?  
 2:20 PM 13 MALE VOICE: Yeah, come back on 84th Street. It's in  
 2:20 PM 14 the alleyway. I'm behind it.  
 2:20 PM 15 FEMALE VOICE: 8-4? All right. Hold on. I was on the  
 2:20 PM 16 court. Is it occupied?  
 2:20 PM 17 MALE VOICE: No. I'm ain't walking through there.  
 2:20 PM 18 FEMALE VOICE: You said 8-4 -- it's on 8-4 Street?  
 2:20 PM 19 VOICE: Yeah. On 8-4 Street. In the back, there's an  
 2:20 PM 20 alleyway. Like behind those houses.  
 2:20 PM 21 (Video paused)  
 2:20 PM 22 BY MS. BONHOMME:  
 2:20 PM 23 Q. Now, I've paused at two minutes and 7 seconds. Approximately  
 2:20 PM 24 how far away from the vehicle are you right there?  
 2:20 PM 25 A. Just a couple feet.

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 TRANSCRIPT PRODUCED BY COMPUTER

2:20 PM 1 Q. And could you see inside the car when you were that close to  
 2:20 PM 2 the vehicle?  
 2:20 PM 3 A. No. At this moment I'm not able to see inside the car at  
 2:20 PM 4 all.  
 2:20 PM 5 Q. Okay.  
 2:21 PM 6 MS. BONHOMME: Okay. Continuing from 2:07.  
 2:21 PM 7 (Video playing)  
 2:21 PM 8 MALE VOICE: Hey, what's up bro? Get out the car.  
 2:21 PM 9 (Video paused)  
 2:21 PM 10 BY MS. BONHOMME:  
 2:21 PM 11 Q. Okay. I've paused the video at two minutes and 10 seconds.  
 2:21 PM 12 Tell the Court what happened there.  
 2:21 PM 13 A. Well there, as I'm walking up towards the vehicle, the  
 2:21 PM 14 Defendant suddenly just opened the door and he throws something  
 2:21 PM 15 out. But because I don't know who he is, I don't know what's in  
 2:21 PM 16 the vehicle, I don't know what's going on, I'm pointing my  
 2:21 PM 17 firearm at him and told him to exit the vehicle.  
 2:21 PM 18 Q. Can you see inside the rest of the vehicle at this point?  
 2:21 PM 19 A. At this moment, no, I cannot see inside the vehicle. All I  
 2:21 PM 20 see is him with his door open.  
 2:21 PM 21 (Video playing)  
 2:21 PM 22 MALE VOICE: Get out the car. Get out the car. Let me  
 2:22 PM 23 see your hands. Both hands. Let me see your hands. Who is in  
 2:22 PM 24 there with you?  
 2:22 PM 25 MALE 2 VOICE: My wife.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

2:22 PM 1 MALE VOICE: Come here. Step out. Have your wife step  
 2:22 PM 2 out. Keep your door open. Open the door. Have your wife step  
 2:22 PM 3 out.  
 2:22 PM 4 MALE 2 VOICE: Step out.  
 2:22 PM 5 (Video paused)  
 2:22 PM 6 BY MS. BONHOMME:  
 2:22 PM 7 Q. Now, can you tell the Court why you asked the Defendant to  
 2:22 PM 8 keep his door open?  
 2:22 PM 9 A. Because I don't know what's inside the car. I don't know who  
 2:22 PM 10 else is inside the car. He told me his wife was inside the car,  
 2:22 PM 11 but there's a possibility that another person could be inside the  
 2:22 PM 12 car. So in order for me to be able to see more and to be able to  
 2:22 PM 13 see everything, for my safety I told him to keep the door open.  
 2:22 PM 14 (Video playing)  
 2:22 PM 15 MALE VOICE: Walk to my car, bro. Walk to my car. You  
 2:22 PM 16 don't got nothing on you, right? You sleeping? Walk to my car.  
 2:22 PM 17 Go, go, go, go. Ma'am, come out. Okay. Come on.  
 2:23 PM 18 You don't got no weapons on you, right?  
 2:23 PM 19 FEMALE VOICE: No.  
 2:23 PM 20 MALE VOICE: Do you have underwear on?  
 2:23 PM 21 FEMALE VOICE: No, I'm changing.  
 2:23 PM 22 MALE VOICE: But do you have underwear on right now?  
 2:23 PM 23 FEMALE VOICE: No.  
 2:23 PM 24 MALE VOICE: All right. Stand by my car.  
 2:23 PM 25 Who else is in the car?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

2:23 PM 1 FEMALE VOICE: No one.  
 2:23 PM 2 MALE VOICE: What you all doing?  
 2:23 PM 3 (Video stopped)  
 2:23 PM 4 BY MS. BONHOMME:  
 2:23 PM 5 Q. Okay. I paused at 3:02. Now, based on your experience  
 2:23 PM 6 patrolling the Northside area and looking at these two persons  
 2:23 PM 7 who came out of that black SUV what, if anything, are you  
 2:23 PM 8 thinking?  
 2:23 PM 9 A. Well, based on the area like -- so like a block down, you  
 2:23 PM 10 know, there's a lot of prostitution going on and sometimes  
 2:23 PM 11 vehicle will park either on the side of the road or look for a  
 2:23 PM 12 cut that's similar to this to have that going on. So based on  
 2:23 PM 13 how they're dressed, it could have been possible prostitution.  
 2:23 PM 14 (Video playing)  
 2:24 PM 15 MALE 2 VOICE: Yeah, we're waiting.  
 2:24 PM 16 MALE VOICE: Stay right here. Stay right here. Huh?  
 2:24 PM 17 MALE 2 VOICE: We're waiting now to call somebody  
 2:24 PM 18 because I ain't got no money, man.  
 2:24 PM 19 MALE VOICE: How long you-all been here?  
 2:24 PM 20 MALE VOICE: How long you been here?  
 2:24 PM 21 MALE 2 VOICE: Since last night.  
 2:24 PM 22 MALE VOICE: Since last night?  
 2:24 PM 23 MALE 2 VOICE: Like, probably, like -- what time like.  
 2:24 PM 24 We came from my mom's house like around 3, came to see my  
 2:24 PM 25 homeboy, and for like around 5, 6.

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 TRANSCRIPT PRODUCED BY COMPUTER



2:24 PM 1 MALE VOICE: 5, 6? Do you have any ID on you-all?  
 2:24 PM 2 Ya'll you not in trouble. It's just that let me tell you why I'm  
 2:24 PM 3 here, let me tell you why I'm here, so that way you don't get  
 2:24 PM 4 shaken up. Somebody that live here just saw this car park here  
 2:24 PM 5 for a long amount of time, and they called to just find out  
 2:24 PM 6 what's going on.  
 2:24 PM 7 MALE 2 VOICE: Yeah.  
 2:24 PM 8 MALE VOICE: So it's not like you guys in trouble, but  
 2:24 PM 9 because we got called here I have to come here and do my  
 2:24 PM 10 investigation. All right?  
 2:24 PM 11 So you said you ran out of gas.  
 2:24 PM 12 MALE 2 VOICE: Right.  
 2:24 PM 13 MALE VOICE: And you just parked here.  
 2:24 PM 14 MALE 2 VOICE: Yeah.  
 2:24 PM 15 MALE VOICE: So you ran out of gas in here.  
 2:24 PM 16 MALE 2 VOICE: Right now. Like, I crank it on and it  
 2:24 PM 17 cut off right now.  
 2:24 PM 18 MALE VOICE: Okay.  
 2:25 PM 19 MALE 2 VOICE: I just woke up right now, crank it on and  
 2:25 PM 20 it's gone.  
 2:25 PM 21 MALE VOICE: Okay.  
 2:25 PM 22 MALE 2 VOICE: And my floater's messed up, so I don't  
 2:25 PM 23 know how much gas I got.  
 2:25 PM 24 MALE VOICE: Okay.  
 2:25 PM 25 MALE 2 VOICE: So I be having to balance it out.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

2:25 PM 1 MALE VOICE: All right. Your ID --  
 2:25 PM 2 MALE 2 VOICE: That's it right there.  
 2:25 PM 3 MALE VOICE: It's in the car? All right. Stay right  
 2:25 PM 4 here I'm --  
 2:25 PM 5 (Video stopped)  
 2:25 PM 6 BY MS. BONHOMME:  
 2:25 PM 7 Q. Okay. Now, based on your training and experience, was there  
 2:25 PM 8 any reason for you to be concerned based on what the Defendant  
 2:25 PM 9 told you at that moment?  
 2:25 PM 10 A. About the person coming for the --  
 2:25 PM 11 Q. Well, the Defendant -- we just heard the recording. The  
 2:25 PM 12 Defendant said that he ran out of gas, that he tried to turn the  
 2:25 PM 13 car on, he called someone to get gas for him, but then he slept  
 2:25 PM 14 there the night before. So all those statements that he made to  
 2:25 PM 15 you.  
 2:25 PM 16 A. Yeah, all those statements was very inconsistent. That's why  
 2:25 PM 17 I asked him did you run out of gas here, and he said yeah right  
 2:25 PM 18 now. But then he said that, you know, he got there around 5, 6.  
 2:26 PM 19 Like, so all his stories was inconsistent with what he was  
 2:26 PM 20 saying.  
 2:26 PM 21 MS. BONHOMME: Your Honor, one moment.  
 2:26 PM 22 Your Honor, the United States has no further questions  
 2:26 PM 23 for this witness.  
 2:26 PM 24 THE COURT: Your witness.  
 2:26 PM 25 MS. BLENMAN: Thank you, Your Honor.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

2:26 PM 1 CROSS-EXAMINATION  
 2:26 PM 2 BY MS. BLENMEN:  
 2:27 PM 3 Q. Good afternoon, Officer.  
 2:27 PM 4 A. Good afternoon. How you doing.  
 2:27 PM 5 Q. You yourself, you never spoke to the caller in this case,  
 2:27 PM 6 right?  
 2:27 PM 7 A. No.  
 2:27 PM 8 Q. Okay. And the information that you had from dispatch was  
 2:27 PM 9 that this was an unanimous caller, right?  
 2:27 PM 10 A. Correct.  
 2:27 PM 11 Q. When you arrived, you did in fact see a black truck parked on  
 2:27 PM 12 a grassy patch.  
 2:27 PM 13 A. Yes.  
 2:27 PM 14 Q. And just this area, there are fences on either side so on the  
 2:27 PM 15 left and right side and there's a grass, there's a bushy tree  
 2:27 PM 16 area in the front, right?  
 2:27 PM 17 A. Yes.  
 2:27 PM 18 Q. Okay. It's the kind of area where there's one way in and one  
 2:27 PM 19 way out, right?  
 2:27 PM 20 A. Correct.  
 2:27 PM 21 Q. Based on how the black truck was parked when you first  
 2:27 PM 22 observed it, the exit would have been behind that truck, right?  
 2:27 PM 23 A. Correct, to reverse.  
 2:27 PM 24 Q. I'm sorry?  
 2:27 PM 25 A. Correct.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

2:27 PM 1 Q. When you entered the alleyway, when you entered the alleyway  
 2:28 PM 2 and you parked your vehicle, you parked behind the black truck,  
 2:28 PM 3 correct?  
 2:28 PM 4 A. Correct.  
 2:28 PM 5 Q. Just moving forward, you approached the vehicle, your gun is  
 2:28 PM 6 drawn in your hand, right?  
 2:28 PM 7 A. As I approached the vehicle, correct.  
 2:28 PM 8 Q. And when Mr. Alvarez opens his door, that's when you point  
 2:28 PM 9 your gun at him, right?  
 2:28 PM 10 A. Correct.  
 2:28 PM 11 Q. With your gun pointed at Mr. Alvarez, you told him to get out  
 2:28 PM 12 of the car?  
 2:28 PM 13 A. Correct.  
 2:28 PM 14 Q. Told him to show his hands?  
 2:28 PM 15 A. Correct.  
 2:28 PM 16 Q. Both hands?  
 2:28 PM 17 A. Correct.  
 2:28 PM 18 Q. Told him to have his wife step out?  
 2:28 PM 19 A. I did, correct.  
 2:28 PM 20 Q. You issued a number of commands to Mr. Alvarez, right?  
 2:28 PM 21 A. Correct.  
 2:28 PM 22 Q. Mr. Alvarez, he complied with your directions that day,  
 2:28 PM 23 right?  
 2:28 PM 24 A. Correct.  
 2:28 PM 25 Q. Meaning he got out the car?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
 TRANSCRIPT PRODUCED BY COMPUTER

2:28 PM 1 A. Yes.

2:28 PM 2 Q. And he showed you his hands?

2:28 PM 3 A. Correct.

2:28 PM 4 Q. And he walked over to your vehicle as you directed him to.

2:28 PM 5 A. Correct.

2:28 PM 6 Q. When Mr. Alvarez first got out of the vehicle, he closed the

2:28 PM 7 door behind him, right?

2:29 PM 8 A. Yeah, the door closed.

2:29 PM 9 Q. He got out the driver's side door and then he closed it,

2:29 PM 10 right?

2:29 PM 11 A. I'm not sure if he closed it or the door just closed by

2:29 PM 12 itself.

2:29 PM 13 Q. Well, you told Mr. Alvarez to open the door?

2:29 PM 14 A. Yes.

2:29 PM 15 Q. After he told him to -- well first, you told him to open the

2:29 PM 16 door because the door has closed?

2:29 PM 17 A. Yeah, the door closed so I told him to open it.

2:29 PM 18 Q. After you told him to open the door he did, right?

2:29 PM 19 A. Correct.

2:29 PM 20 Q. Once Mr. Alvarez and Ms. Caffrey, the female inside of the

2:29 PM 21 car are out, you direct them over to your patrol vehicle?

2:29 PM 22 A. Correct. In front of my patrol vehicle.

2:29 PM 23 Q. You asked them for ID?

2:29 PM 24 A. I did.

2:29 PM 25 Q. Mr. Alvarez, he told you that he did have ID, right?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:29 PM 1 A. Correct.

2:29 PM 2 Q. Told you that his ID was inside the car?

2:29 PM 3 A. Correct.

2:29 PM 4 Q. You didn't allow Mr. Alvarez to retrieve his own ID, did you?

2:29 PM 5 A. No.

2:30 PM 6 Q. You didn't let him go to the car and get it?

2:30 PM 7 A. No.

2:30 PM 8 Q. You told him stay right there as you walked back over to the

2:30 PM 9 black truck, right?

2:30 PM 10 A. Correct.

2:30 PM 11 Q. When you did that, you pulled the driver's side door open?

2:30 PM 12 A. First I went to the back passenger's side.

2:30 PM 13 Q. You went to the back passenger's side and looked inside,

2:30 PM 14 right?

2:30 PM 15 A. Uh-huh.

2:30 PM 16 Q. Is that a yes?

2:30 PM 17 A. Yes.

2:30 PM 18 Q. And then you walked around to the driver's side?

2:30 PM 19 A. Correct.

2:30 PM 20 Q. And you pulled that door open?

2:30 PM 21 A. I opened the door.

2:30 PM 22 Q. To look for IDs.

2:30 PM 23 A. Correct.

2:30 PM 24 Q. It was at that point, as you were looking for Mr. Alvarez's

2:30 PM 25 ID after you opened the driver's side door that you smelled what

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
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2:30 PM 1 you say is a strong odor of marijuana, right?

2:30 PM 2 A. No. No.

2:30 PM 3 Q. Let me break it up so it's clear.

2:30 PM 4 A. Okay.

2:30 PM 5 Q. You go to the black truck to find Mr. Alvarez's ID?

2:30 PM 6 A. Okay.

2:30 PM 7 Q. Is that right?

2:31 PM 8 A. Yes.

2:31 PM 9 Q. And to find the ID for Ms. Caffrey?

2:31 PM 10 A. Correct.

2:31 PM 11 Q. And at that point when you go to the black truck to find the

2:31 PM 12 IDs, that is when you first smell what you describe as a strong

2:31 PM 13 odor of marijuana.

2:31 PM 14 A. When I went to the black -- the first time I approached the

2:31 PM 15 black truck, I looked in the rear passenger's side to look inside

2:31 PM 16 of it. At that point is when I first smelled the smell of

2:31 PM 17 marijuana.

2:31 PM 18 Q. Let me ask it this way. When you first smell the odor of

2:31 PM 19 marijuana, the strong odor of marijuana, that is when you have

2:31 PM 20 gone to the vehicle to find the IDs, right?

2:31 PM 21 MS. BONHOMME: Objection. Asked and answered, Your

2:31 PM 22 Honor.

2:31 PM 23 THE COURT: I'll permit him to answer it again.

2:31 PM 24 THE WITNESS: The first time I smelled the marijuana is

2:31 PM 25 when I went to the rear, the rear side of the vehicle to look

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:32 PM 1 inside to make sure nobody was in there is the first time I

2:32 PM 2 smelled the weed.

2:32 PM 3 BY MS. BLENMEN:

2:32 PM 4 Q. You yourself, you did not author the arrest affidavit in this

2:32 PM 5 case, right?

2:32 PM 6 A. I'm sorry. Say that again?

2:32 PM 7 Q. You did not author the arrest affidavit in this case, did

2:32 PM 8 you?

2:32 PM 9 A. No.

2:32 PM 10 Q. That was authored by Officer Reyes?

2:32 PM 11 A. Correct.

2:32 PM 12 Q. At this incident you spoke with Officer Reyes of course,

2:32 PM 13 right?

2:32 PM 14 A. Correct.

2:32 PM 15 Q. You were the first officer on scene?

2:32 PM 16 A. Correct.

2:32 PM 17 Q. You spoke with her about your observations?

2:32 PM 18 A. Correct.

2:32 PM 19 Q. What you'd seen, what you heard, what you smelled, right?

2:32 PM 20 A. Correct.

2:32 PM 21 Q. When you spoke to Officer Reyes, what you told her was that

2:32 PM 22 it was -- as you were retrieving the IDs, that you smelled the

2:32 PM 23 strong odor of marijuana; isn't that right?

2:32 PM 24 A. I don't remember.

2:33 PM 25 Q. Okay. As you're looking inside the vehicle, you saw clothing

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:33 PM 1 items, right?

2:33 PM 2 A. In the back, as I was looking in the back seat.

2:33 PM 3 Q. You saw clothing items?

2:33 PM 4 A. Yeah, and groceries.

2:33 PM 5 Q. This looked to you, seeing clothing items, seeing groceries,

2:33 PM 6 this looked like a vehicle that somebody was living out of,

2:33 PM 7 right?

2:33 PM 8 A. Could be, yes.

2:33 PM 9 Q. Well, you, in fact, asked Mr. Alvarez if he was living out of

2:33 PM 10 the vehicle, didn't you?

2:33 PM 11 A. Yes.

2:33 PM 12 Q. And that was because it looked to you like a vehicle somebody

2:33 PM 13 could be living out of.

2:33 PM 14 A. Correct.

2:33 PM 15 Q. I want to talk to you about this strong door of marijuana

2:33 PM 16 that you say you smelled that day. First, Mr. Alvarez is out of

2:33 PM 17 the vehicle, and the female passenger, and you've directed them

2:33 PM 18 to your patrol car, right?

2:33 PM 19 A. Yeah. When they both got outside the vehicle, I told them to

2:33 PM 20 stand in front of my patrol car.

2:34 PM 21 Q. And at that point at your patrol vehicle, you spoke to

2:34 PM 22 Mr. Alvarez and you spoke to the female occupant as well, right?

2:34 PM 23 A. Correct.

2:34 PM 24 Q. You asked Mr. Alvarez when his friend was going to arrive?

2:34 PM 25 A. Correct.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:34 PM 1 Q. You asked him where he was from?

2:34 PM 2 A. I don't remember.

2:34 PM 3 Q. Okay. Do you remember sharing with Mr. Alvarez that you

2:34 PM 4 yourself are Haitian?

2:34 PM 5 MS. BONHOMME: Objection, Your Honor. Relevance and

2:34 PM 6 outside the scope.

2:34 PM 7 THE COURT: I'll permit it.

2:34 PM 8 BY MS. BLENMEN:

2:34 PM 9 Q. Do you recall sharing with Mr. Alvarez that you yourself are

2:34 PM 10 Haitian?

2:34 PM 11 A. I don't remember.

2:34 PM 12 Q. You and Mr. Alvarez talked about many topics.

2:34 PM 13 A. We did.

2:34 PM 14 Q. And if the body camera reflects that you shared with him that

2:34 PM 15 you're Haitian or asked him where he's from, that would be

2:34 PM 16 correct, right?

2:34 PM 17 A. If the body camera depicted.

2:34 PM 18 Q. Then it would be correct, right?

2:34 PM 19 A. Yeah.

2:34 PM 20 Q. It's over 15 minutes that you and Mr. Alvarez are talking

2:35 PM 21 about all these different topics, right?

2:35 PM 22 A. I don't remember the totality of our conversation or the

2:35 PM 23 minutes of our conversation, but we did talk about many different

2:35 PM 24 topics.

2:35 PM 25 Q. Okay. And if the body camera reflects that he's over at your

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
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2:35 PM 1 vehicle and you two are talking for over 15 minutes, that would

2:35 PM 2 be correct, right?

2:35 PM 3 A. Correct.

2:35 PM 4 Q. Okay. Not once did you say to Mr. Alvarez, as you two are

2:35 PM 5 talking for this time, that you had smelled marijuana?

2:35 PM 6 A. Correct.

2:35 PM 7 Q. Not once did you ask him if he had been smoking?

2:35 PM 8 A. Correct. Well, the reason was because when I first smelled

2:35 PM 9 it, I was by myself. So I'm not going to tell a person that when

2:35 PM 10 I'm by myself and there's two of them, that were you smoking, I

2:35 PM 11 smell marijuana in your car. Like, I'm not going to bring that

2:35 PM 12 to them. For my safety, to me, that's a safety issue. So

2:36 PM 13 there's two of them and I'm by myself, so I'm not going to

2:36 PM 14 mention it to them.

2:36 PM 15 Q. Because you were by yourself, and it was Mr. Alvarez and this

2:36 PM 16 female you did not want to have that conversation at that time,

2:36 PM 17 right?

2:36 PM 18 A. Correct.

2:36 PM 19 Q. At a certain point your partner though, Officer Reyes, she

2:36 PM 20 arrived?

2:36 PM 21 A. She did arrive.

2:36 PM 22 Q. And you gave her IDs from Mr. Alvarez and for the female

2:36 PM 23 occupant?

2:36 PM 24 A. I provided him with the IDs.

2:36 PM 25 Q. Your partner, Officer Reyes, is right on scene, right?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:36 PM 1 A. Correct.

2:36 PM 2 Q. And during the time when Officer Reyes is on scene and you

2:36 PM 3 were speaking to Mr. Alvarez, you never say to him were you

2:36 PM 4 smoking?

2:36 PM 5 A. Say to who? To Mr. Alvarez was he smoking?

2:36 PM 6 Q. At the point that your partner was on scene and you continued

2:36 PM 7 talking to Mr. Alvarez, at that point you don't say to

2:36 PM 8 Mr. Alvarez have you been smoking?

2:36 PM 9 A. No.

2:36 PM 10 Q. You don't say anything to Mr. Alvarez at that point with your

2:36 PM 11 partner there, anything that you had smelled the odor of

2:36 PM 12 marijuana?

2:37 PM 13 A. No, I didn't say nothing to him. I didn't feel the need to

2:37 PM 14 say it.

2:37 PM 15 Q. You never said anything at all about any odor of marijuana to

2:37 PM 16 Mr. Alvarez, right?

2:37 PM 17 A. At that point, no.

2:37 PM 18 Q. At no point, as you have Mr. Alvarez by your patrol car, do

2:37 PM 19 you say anything about marijuana, right?

2:37 PM 20 A. No.

2:37 PM 21 Q. At a certain point your partner, Officer Reyes, she calls you

2:37 PM 22 over to her vehicle to tell you that she has learned of a pending

2:37 PM 23 bench warrant, right?

2:37 PM 24 A. An active bench warrant.

2:37 PM 25 Q. Excuse me. An active bench warrant. Officer Reyes calls you

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
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2:37 PM 1 over to her vehicle to tell you about that warrant?

2:37 PM 2 A. Correct.

2:37 PM 3 Q. She tells you that she's seen some information in the system

2:37 PM 4 that Mr. Alvarez may be a gang member?

2:37 PM 5 A. Yeah. She stated that the warrant is active and he's a gang

2:37 PM 6 member.

2:37 PM 7 Q. That conversation, that was a conversation between just

2:37 PM 8 yourself and Officer Reyes, right?

2:37 PM 9 A. Correct.

2:37 PM 10 Q. I'm sorry?

2:37 PM 11 A. Correct.

2:37 PM 12 Q. Like, you weren't having that conversation with Mr. Alvarez?

2:38 PM 13 A. No. At that point it was just me and Officer Reyes.

2:38 PM 14 Q. And even as it's just you and Officer Reyes, you never say to

2:38 PM 15 your partner that you had smelled marijuana at any point?

2:38 PM 16 A. Correct.

2:38 PM 17 Q. I want to talk to you about inconsistent statements that you

2:38 PM 18 say Mr. Alvarez made. Mr. Alvarez, he explained to you that the

2:38 PM 19 vehicle had run out of gas, right?

2:38 PM 20 A. Correct.

2:38 PM 21 Q. And that he couldn't travel because it had run out of gas?

2:38 PM 22 A. Correct.

2:38 PM 23 Q. He doesn't later say, actually I was lying or no, no, I was

2:38 PM 24 mistaken, the vehicle does have gas?

2:38 PM 25 A. No.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:40 PM 1 A. Correct.

2:40 PM 2 Q. Around 10 a.m.?

2:40 PM 3 A. Approximately, yeah. 10:30.

2:40 PM 4 Q. Let me ask you, because you talked about your experience and

2:40 PM 5 prostitution in this area, could you tell us in the last year how

2:40 PM 6 many arrests your department has made for prostitution in this

2:40 PM 7 area?

2:40 PM 8 A. I'm not sure. My department, I'm not sure how many arrests

2:40 PM 9 they made.

2:40 PM 10 Q. Could you tell us what percentage of total arrests your

2:40 PM 11 department has made have been for prostitution offenses?

2:40 PM 12 A. Not sure.

2:41 PM 13 Q. Let me ask you about stolen cars. You mentioned that is

2:41 PM 14 another prevalent crime. Could you tell us how many arrests in

2:41 PM 15 the last year your department has made for stolen cars in this

2:41 PM 16 area?

2:41 PM 17 A. I can't tell you the exact amount, but I do know me

2:41 PM 18 personally, in the Northside District where I work, in our auto

2:41 PM 19 theft unit have made many arrests for subjects with stolen

2:41 PM 20 vehicle in our Northside District.

2:41 PM 21 Q. Okay. Many arrests. But you can't put a number on that for

2:41 PM 22 us today, can you?

2:41 PM 23 A. No.

2:41 PM 24 Q. Could you tell us what percentage of total arrests your

2:41 PM 25 department has made in the past year have been for stolen cars?

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED BY COMPUTER

2:38 PM 1 Q. I want to talk to you about these tints. You mentioned that

2:39 PM 2 you believe the tints to be very dark on this vehicle?

2:39 PM 3 A. Yes. Correct. As I'm approaching the vehicle, I couldn't

2:39 PM 4 see anything inside of it.

2:39 PM 5 Q. There's no citation that you wrote for having too dark tints

2:39 PM 6 in this case, did you?

2:39 PM 7 A. No, I did not write any citation for the dark tints.

2:39 PM 8 Q. You never took out a tint meter to try to read how dark these

2:39 PM 9 tints were either, did you?

2:39 PM 10 A. No, I did not. But based on my experience dealing --

2:39 PM 11 especially where I work, from the rear window as I'm approaching,

2:39 PM 12 I'm not able to like -- I could say that they were very dark

2:39 PM 13 illegally based on my experience of dealing with these type of

2:39 PM 14 tints before.

2:39 PM 15 Q. You never made any effort to measure the darkness of the

2:39 PM 16 tints in this case, right?

2:39 PM 17 A. No.

2:39 PM 18 Q. And you didn't ask Mr. Alvarez any questions about the

2:39 PM 19 tinting on the vehicle either, did you?

2:40 PM 20 A. No.

2:40 PM 21 Q. You talked a lot on direct about this being a high-crime

2:40 PM 22 area, and one of the offenses that you mentioned was

2:40 PM 23 prostitution. Do you remember that of course, right?

2:40 PM 24 A. Yes.

2:40 PM 25 Q. When you encountered Mr. Alvarez, this is broad daylight?

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2:41 PM 1 A. The department in whole, no. But I do know in my district

2:41 PM 2 where I work, we do make a lot of arrests. But the number of

2:41 PM 3 percentages, I don't know the exact number of percentages.

2:41 PM 4 MS. BLENMAN: Court's brief indulgence?

2:41 PM 5 BY MS. BLENMEN:

2:42 PM 6 Q. Just briefly, Officer. The first time that you and your

2:42 PM 7 partner, Officer Reyes, have any conversation about the smell or

2:42 PM 8 odor of marijuana, that is after Officer Reyes has unzipped a bag

2:42 PM 9 revealing some large amount of a green leafy substance, right?

2:43 PM 10 A. I don't remember the exact moment that we talked about the

2:43 PM 11 smell or marijuana.

2:43 PM 12 Q. You were wearing, we know all, right, body camera on the date

2:43 PM 13 of this incident?

2:43 PM 14 A. Correct.

2:43 PM 15 Q. And it was activated, your body camera?

2:43 PM 16 A. You say was it activated? Yes.

2:43 PM 17 Q. And the body camera has video and audio recording

2:43 PM 18 capabilities?

2:43 PM 19 A. Correct.

2:43 PM 20 MS. BLENMAN: If we could have it switched over to our

2:43 PM 21 side, please? Thank you so much.

2:44 PM 22 I am going to play from Government's Exhibit's 2

2:44 PM 23 beginning at point 32:36.

2:44 PM 24 (Video playing)

2:44 PM 25 MS. BLENMAN: I'm actually going to start at 32:25.

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2:44 PM 1 I'll pause it here.

2:44 PM 2 BY MS. BLENMEN:

2:44 PM 3 Q. First Officer, you recognize the scene that we're seeing

2:44 PM 4 here?

2:44 PM 5 A. Yes.

2:44 PM 6 Q. This is the rear of the black truck, and we see a bag here

2:44 PM 7 that has been unzipped. Do you see that on your screen?

2:44 PM 8 A. Yeah, this is the back of the truck and there's a duffle bag

2:44 PM 9 that is unzipped.

2:44 PM 10 Q. And you see inside of the bag there's a green leafy

2:44 PM 11 substance?

2:44 PM 12 A. Correct.

2:44 PM 13 Q. I'm going to continue to play from here.

2:44 PM 14 (Government's Exhibit 2 playing)

2:44 PM 15 FEMALE VOICE: Shit hit me in the face.

2:44 PM 16 (Video paused)

2:44 PM 17 BY MS. BLENMEN:

2:45 PM 18 Q. I'll pause that. We're now at 32:41. That voice you heard,

2:45 PM 19 that was your partner, right?

2:45 PM 20 A. Play it back, please?

2:45 PM 21 (Video playing)

2:45 PM 22 FEMALE VOICE: Shit hit me in the face.

2:45 PM 23 (Video paused)

2:45 PM 24 BY MS. BLENMEN:

2:46 PM 25 Q. That voice we just heard, that was of your partner Officer

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2:46 PM 1 Reyes, right?

2:46 PM 2 A. Yes.

2:46 PM 3 Q. And you were able to glimpse her as well on the body camera?

2:46 PM 4 A. Yes.

2:46 PM 5 Q. And what Officer Reyes has just said -- what she's just said

2:46 PM 6 there is that shit hit me in the face, right?

2:46 PM 7 A. I didn't hear it clearly.

2:46 PM 8 MS. BLENMAN: Okay. Let's play it back once more.

2:46 PM 9 (Video playing)

2:46 PM 10 FEMALE VOICE: Shit hit me in the face.

2:46 PM 11 (Video paused)

2:46 PM 12 BY MS. BLENMEN:

2:46 PM 13 Q. Officer, what Officer Reyes just said is that shit hit me in

2:46 PM 14 the face, right?

2:46 PM 15 A. Yeah, that's what she said. She was referring to as soon as

2:46 PM 16 she opened the duffle bag, that it just slapped her in the face.

2:46 PM 17 Q. And that was the first conversation that you and Officer

2:47 PM 18 Reyes had about the smell of marijuana in this case, right?

2:47 PM 19 A. I don't remember if we spoke about it before that, but I

2:47 PM 20 don't remember if this was the first time we ever talked about

2:47 PM 21 it. I don't remember.

2:47 PM 22 Q. Well, if you did it would be reflected on the body camera.

2:47 PM 23 A. Uh-huh.

2:47 PM 24 Q. Is that a yes?

2:47 PM 25 A. I'm sorry. Say that again.

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2:47 PM 1 Q. If you did, if you and Officer Reyes had any conversation

2:47 PM 2 prior to this point about the smell of marijuana, that would be

2:47 PM 3 reflected on the body camera, right?

2:47 PM 4 A. Prior to this, yes.

2:47 PM 5 Q. And if it's not, that means that you two didn't, right?

2:47 PM 6 A. Correct.

2:47 PM 7 MS. BLENMAN: Thank you, no further questions.

2:47 PM 8 THE COURT: Redirect.

2:47 PM 9 MS. BONHOMME: Your Honor, one moment.

2:47 PM 10 REDIRECT EXAMINATION

2:47 PM 11 BY MS. BONHOMME:

2:48 PM 12 Q. Officer Julien, defense counsel asked you questions about

2:48 PM 13 where you parked your vehicle when you first arrived on the scene

2:48 PM 14 that day. Can you explain to the Court why you parked your car

2:48 PM 15 behind the Defendant's truck?

2:48 PM 16 A. The reason I parked there is because so when I looked at the

2:48 PM 17 car and looked at the area, I don't know -- once again, I don't

2:48 PM 18 know what's going on. Like I said, this could be -- there could

2:48 PM 19 be people in there, there could be subjects in there or people

2:48 PM 20 that are in the process of committing a crime like burglary or

2:48 PM 21 even prostitution or anything. So for my safety I did not want

2:48 PM 22 to park my car on the street and having to walk a long way in

2:48 PM 23 case a person came out and started shooting at me, because

2:48 PM 24 there's no cover. So I parked my car directly behind it just in

2:48 PM 25 case a person came out with a gun or a weapon and tried to attack

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2:49 PM 1 me, I would have some type of cover.

2:49 PM 2 Q. When you say cover, you're referring to what?

2:49 PM 3 A. Something that I can hide behind that would stop me from

2:49 PM 4 getting hurt or stop bullets from coming.

2:49 PM 5 Q. Now, defense counsel also asked you about the time where you

2:49 PM 6 were pointing your gun at the Defendant and you were giving

2:49 PM 7 commands.

2:49 PM 8 A. Yes.

2:49 PM 9 Q. Were you pointing your gun at the Defendant and the woman the

2:49 PM 10 entire time that you were talking to them and giving them

2:49 PM 11 commands?

2:49 PM 12 A. No, I did not. Initially I pointed my gun at the Defendant

2:49 PM 13 when he first opened the door, and the reason why is because,

2:49 PM 14 once again, I don't know what's in the car, I don't know who he

2:49 PM 15 is and I don't know what he has on him. So once I saw that his

2:49 PM 16 hands had nothing in it and once I touched his waistband, my

2:49 PM 17 firearm was no longer pointed at him.

2:49 PM 18 Q. Why is it that you didn't let the Defendant go into the car

2:50 PM 19 to get his own ID?

2:50 PM 20 A. Based on my experience, that's my normal practice. If you

2:50 PM 21 step out the car and I don't know what's in that car, I haven't

2:50 PM 22 cleared that car, he may have a weapon, he may have anything in

2:50 PM 23 there that could hurt me. So for my safety, to step away and,

2:50 PM 24 you know, we'll get to it.

2:50 PM 25 Q. Counsel also asked you if you asked the Defendant whether he

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2:50 PM 1 had smoked marijuana. Based on your experience, is there a  
2:50 PM 2 difference between the odor of smoked marijuana and just  
2:50 PM 3 marijuana in baggies?  
2:50 PM 4 A. Yes.  
2:50 PM 5 Q. And when you approached that vehicle, or when you noticed the  
2:50 PM 6 smell of marijuana, what type of odor was it?  
2:51 PM 7 A. It's the type of odor -- it's the type of odor that like if  
2:51 PM 8 you ever been around marijuana, or as police officers we --  
2:51 PM 9 especially in the Northside District, we work those cases all the  
2:51 PM 10 time. You already know that it has a large, a large, a large  
2:51 PM 11 amount somewhere. And say even if he recently smoked, when you  
2:51 PM 12 opened the door -- because all the doors and windows were closed.  
2:51 PM 13 So if he was smoking at that time, when he opened the door or  
2:51 PM 14 even when the female opened the passenger's side door, the back  
2:51 PM 15 rear door, smoke would have came out.  
2:51 PM 16 Q. And did smoke come out?  
2:51 PM 17 A. Smoke did not come out, so it wasn't smoked at that time.  
2:51 PM 18 The type of smell.  
2:51 PM 19 Q. Can you clarify with the Court the first point in time that  
2:51 PM 20 you remember smelling the marijuana.  
2:52 PM 21 A. The first time I remember smelling it is when my partner  
2:52 PM 22 came, and I went to go clear the back seat of the vehicle and I  
2:52 PM 23 went close to the vehicle so I could look inside to make sure  
2:52 PM 24 nobody was in there, that's when I first remember smelling that  
2:52 PM 25 odor.

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2:52 PM 1 Q. And counsel also asked you about the trunk area of the  
2:52 PM 2 vehicle when you and Officer Reyes are opening the duffle bag and  
2:52 PM 3 the suitcase.  
2:52 PM 4 A. Yes.  
2:52 PM 5 Q. Can you tell the Court what, if any, difference there was in  
2:52 PM 6 the odor of marijuana that you smelled in the trunk of the car  
2:52 PM 7 and what you noticed at the rear passenger's side of the vehicle  
2:52 PM 8 when you were clearing it.  
2:52 PM 9 A. Well, when I first smelled it, it wasn't like a -- like I  
2:52 PM 10 say, it wasn't like a slap in the face. But once you really open  
2:53 PM 11 the duffle bag, it's just like it's a slap in the face, it's like  
2:53 PM 12 a type of wind just bring it to you. I'm sorry.  
2:53 PM 13 Q. Was it more intense?  
2:53 PM 14 A. More intense. There you go. Yeah.  
2:53 PM 15 Q. Okay. And did you smell the odor of marijuana also when you  
2:53 PM 16 went to get the Defendant's ID?  
2:53 PM 17 A. I already smelled it before. So when I was -- when I went to  
2:53 PM 18 the driver's side to get his ID, like the smell is there.  
2:53 PM 19 Q. So you also smelled it there?  
2:53 PM 20 A. I also smelled it. Yeah.  
2:53 PM 21 Q. And counsel also asked you if whether the first time you and  
2:53 PM 22 your partner talked about or saw marijuana, I can't recall what  
2:53 PM 23 the question exactly was, at the point you're at the trunk of the  
2:53 PM 24 vehicle. Is that the first time you saw marijuana in the  
2:54 PM 25 vehicle?

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2:54 PM 1 A. Was that the first time I saw it?  
2:54 PM 2 Q. At the trunk?  
2:54 PM 3 A. No, that wasn't the first time I saw it. The first time I  
2:54 PM 4 saw it was when Officer Reyes came and asked me to look at the  
2:54 PM 5 gun, to show me where the gun was, and the bullet and there was a  
2:54 PM 6 jar of marijuana on top of the driver's side seats.  
2:54 PM 7 MS. BONHOMME: Can we connect, please?  
2:54 PM 8 Your Honor, we're publishing Government's Exhibit 2,  
2:54 PM 9 we're at 28 minutes and 49 seconds.  
2:54 PM 10 THE COURT: What part of this hearing shall not exceed  
2:54 PM 11 an hour did we have a problem with?  
2:54 PM 12 MS. BONHOMME: I'm sorry, Your Honor?  
2:54 PM 13 THE COURT: What part of the notice that said the  
2:54 PM 14 hearing shall not exceed an hour are we having a problem with?  
2:54 PM 15 MS. BONHOMME: Your Honor, this is the last question I  
2:54 PM 16 was going to ask.  
2:54 PM 17 THE COURT: It's been an hour and a half. All right.  
2:54 PM 18 Okay. Go ahead.  
2:54 PM 19 MS. BONHOMME: Thank you. We can pause right here  
2:54 PM 20 28:51.  
2:55 PM 21 THE WITNESS: Yes.  
2:55 PM 22 BY MS. BONHOMME:  
2:55 PM 23 Q. Counsel -- I mean, Officer Julien, can you tell the Court  
2:55 PM 24 what we're looking at?  
2:55 PM 25 A. It's my body cam, the video. And right now we're looking at

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2:55 PM 1 the driver's side door open with a jar or a glass container of --  
2:55 PM 2 that's on the driver's seat with cannabis inside of it.  
2:55 PM 3 Q. I'm sorry with what?  
2:55 PM 4 A. With marijuana inside it.  
2:55 PM 5 MS. BONHOMME: Thank you, Your Honor. No further  
2:55 PM 6 questions.  
2:55 PM 7 THE COURT: Thank you. You're excused, sir.  
2:56 PM 8 What are we doing?  
2:56 PM 9 MS. TAYLOR: We appreciate the Court's indulgence.  
2:57 PM 10 Did the Government already say they rest?  
2:57 PM 11 MR. BRENNER: Yes, Your Honor. The Government rests.  
2:57 PM 12 There will be a stipulation between the parties I believe as to  
2:57 PM 13 one more piece.  
2:57 PM 14 MS. TAYLOR: Your Honor, to avoid having to call a  
2:57 PM 15 witness, I had asked the Government to permit me to introduce a  
2:57 PM 16 report, but there's only one paragraph that we think is  
2:57 PM 17 important. So our agreement is I'll just read that into the  
2:57 PM 18 record as a stipulation. I'm happy to submit it in writing as  
2:57 PM 19 well. I just have the report prepared, but it's not --  
2:57 PM 20 THE COURT: Go ahead.  
2:57 PM 21 MS. TAYLOR: It has more.  
2:57 PM 22 THE COURT: Whatever it is, do it.  
2:57 PM 23 MS. TAYLOR: All right.  
2:57 PM 24 MR. BRENNER: Just to be clear, that's not the  
2:57 PM 25 stipulation.

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2:57 PM 1 THE COURT: Okay.

2:59 PM 2 MS. TAYLOR: We appreciate the Court's indulgence.

2:59 PM 3 So the stipulation is that on the date of the arrest,

2:59 PM 4 Mr. Alvarez's mother, the registered owner of the vehicle, stated

2:59 PM 5 that she had not seen her son for several months. She went on to

2:59 PM 6 explain that the vehicle was given to Mr. Alvarez several months

2:59 PM 7 ago, and that she had not heard -- the last she had heard he was

2:59 PM 8 living out of the vehicle.

2:59 PM 9 THE COURT: Okay. I'll ask you to give me hard copies

2:59 PM 10 of all of the exhibits that have been offered into evidence at

3:00 PM 11 this time, and that you need to give me the body tapes also, I

3:00 PM 12 guess.

3:00 PM 13 MS. BONHOMME: We have everything here, Your Honor.

3:00 PM 14 THE COURT: And also if you have any final arguments,

3:00 PM 15 that you submit them in writing by the close of business because

3:00 PM 16 I've got to look at them before Monday.

3:00 PM 17 MR. BRENNER: Yes, Your Honor. We will do so.

3:00 PM 18 MS. TAYLOR: Would Your Honor wish to hear oral

3:00 PM 19 argument?

3:00 PM 20 THE COURT: I have another hearing.

3:00 PM 21 MS. TAYLOR: Understood.

3:00 PM 22 THE COURT: I've got a witness sitting in my office

3:00 PM 23 waiting to talk to me, and has been for half an hour. I have a

3:00 PM 24 final revocation.

3:00 PM 25 MR. BRENNER: Yes, Your Honor. We will submit further

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3:00 PM 1 argument by the end of the day.

3:00 PM 2 Does Your Honor have a page limit?

3:00 PM 3 THE COURT: Five.

3:00 PM 4 MR. BRENNER: Understood.

3:00 PM 5 THE COURT: Five page limit. All right?

3:00 PM 6 MS. TAYLOR: And end of day means, just so we don't push

3:00 PM 7 it, 5 p.m.?

3:00 PM 8 THE COURT: 5 p.m.

3:00 PM 9 MR. BRENNER: Thank you, Your Honor.

3:00 PM 10 THE COURT: Be in recess.

3:01 PM 11 When does the defense intend to respond to the 404(b)?

3:01 PM 12 MS. TAYLOR: Your Honor, given the setting of this

3:01 PM 13 hearing, we have not had the chance to review everything

3:01 PM 14 necessary to respond, so it will -- it won't be possible by close

3:01 PM 15 of business today given the requirements for the suppression

3:01 PM 16 motion.

3:01 PM 17 THE COURT: Well, by tomorrow afternoon then, Saturday.

3:01 PM 18 5:00, Saturday. All right?

3:01 PM 19 MS. TAYLOR: Yes, Your Honor.

3:01 PM 20 (PROCEEDINGS CONCLUDED)

3:01 PM 21 C E R T I F I C A T E

3:01 PM 22 I certify that the foregoing is a correct transcript from the

3:01 PM 23 record of proceedings in the above-entitled matter.

3:01 PM 24 8/7/2023 /s/ Dawn M. Savino, R.P.R., C.R.R.

Date DAWN M. SAVINO, R.P.R., C.R.R.

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3:01 PM 1 I N D E X

3:01 PM 2 W I T N E S S E S

3:01 PM 3 ALL WITNESSES: PAGE:

3:01 PM 4 For Government:

3:01 PM 5 Guy Julien:

3:01 PM 6 Direct Examination by Ms. Bonhomme 3:20

3:01 PM 7 Cross-Examination by Ms. Blenman 35:1

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UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 22-20221-CR-MARTINEZ**

UNITED STATES OF AMERICA,

v.

ISAAC ALVAREZ,

Defendant.

\_\_\_\_\_ /

**ORDER ON MOTION TO SUPPRESS**

**THIS CAUSE** came before the Court on Defendant Isaac Alvarez’s Motion to Suppress. (ECF No. 33). The Government has filed a response to the Motion to Suppress, (ECF No. 39), to which Defendant has replied, (ECF No. 48). In addition, after holding an evidentiary hearing on the Motion to Suppress, the parties submitted written oral arguments. (ECF No. 54 & 55). Having carefully considered the briefing, evidence, record, applicable law, and being otherwise advised in the premises, the Court denies the Motion to Suppress.

**I. BACKGROUND**

Around 10:00 a.m. on December 29, 2021, an anonymous caller reported that a black “truck” had been parked behind her home since the night before. The caller explained that the car was parked in an alleyway next to her backyard. The caller provided her address, which was in a high crime area.

Miami-Dade Police Officers Guy Julien and Giselle Reyes responded to the call. Officer Julien arrived at the scene first and found a black Nissan Pathfinder parked in a grassy alleyway. Officer Julien positioned his patrol vehicle directly behind the Pathfinder. The Pathfinder was

parked head in the alley. Officer Julien parked behind the Pathfinder. He then approached the Pathfinder with his gun drawn. He could not see into the vehicle because the windows were heavily tinted. As he approached the Pathfinder, Officer Julien observed Defendant opening the driver-side door and throwing something on the ground. Officer Julien pointed his gun at Defendant and ordered Defendant to get out of the car and show his hands. Defendant exited the Pathfinder in his underwear. Defendant closed the driver-side door when he exited the vehicle. Officer Julien asked Defendant to open the door. Defendant complied. Officer Julien asked if anyone else was in the car. Defendant informed Officer Julien that his “wife” was also in the car. Officer Julien told the woman, later identified as Brittany Caffree, to exit the vehicle and join the Defendant next to Officer Julien’s patrol vehicle. Caffree exited the Pathfinder from the rear-passenger-side door covered in a blanket because she was not wearing underwear.

Officer Julien then checked the rear-passenger-side area of the Pathfinder to see if there were other occupants in the vehicle. In doing so, he smelled a strong odor of marijuana. He also noticed groceries, clothing, and other belongings in the backseat area of the vehicle. Officer Julien asked Defendant why he was parked in the grass behind the neighborhood. Defendant explained that he had been sleeping in the car since the night before because he had run out of gas and that a friend was going to bring him gas. Officer Julien proceeded to ask Defendant several questions, such as when Defendant’s friend was going to arrive with gas. Officer Julien asked for Defendant’s ID, and Defendant and Caffree said that their IDs were in the Pathfinder.

About a couple minutes after Caffree exited the Pathfinder, Officer Reyes arrived at the scene. Officer Reyes stood by the Defendant and Caffree while Officer Julien searched the Pathfinder for the IDs. Officer Julien located the IDs in the Pathfinder. Defendant had a Florida ID card and Caffree had a Pennsylvania driver’s license. While Officer Reyes ran the IDs, Officer

Julien told Defendant that he should not be driving without a license. Defendant responded that Caffree was driving the Pathfinder and that the car belonged to his mother. After running the IDs, Officer Reyes learned that Defendant had a bench warrant and was a gang member. The Officers then arrested Defendant on the bench warrant. Because Defendant was still in his underwear, Caffree showed Officer Reyes where Defendant's pants were in the Pathfinder. Officer Reyes retrieved Defendant's pants from the rear-passenger-side of the vehicle.

Officer Julien placed Defendant in the back of a patrol vehicle and Officer Reyes began to search the driver's side of the vehicle. Officer Reyes discovered a loose bullet in the door handle. She also found a Glock handgun and a jar of marijuana. Officer Reyes showed Officer Julien what she found. The Officers proceeded to search the rest of the Pathfinder. They found a duffle bag filled with marijuana. At this point, Officer Reyes formally detained Caffree. The Officers continued their search of the Pathfinder and found a suitcase filled with marijuana and a bag of cocaine. In total, the Officers recovered 4.8 kilograms of marijuana and 36 grams of cocaine from the Pathfinder. While Defendant was in state custody, he made numerous allegedly incriminating statements during jail calls.

## **II. DISCUSSION**

The Fourth Amendment prohibits "unreasonable searches and seizures." U.S. CONST. amend. IV. This prohibition extends to vehicles. *See Byrd v. United States*, 138 S. Ct. 1518, 1526 (2018). Below, the Court evaluates whether the initial seizure and later search of the vehicle was constitutional, as well as whether Defendant has standing to challenge the search.

### **A. Reasonable Suspicion to Stop Defendant**

Defendant contends that Officer Julien lacked reasonable suspicion to seize him. (Mot. at 2–4; Def. Arg. at 1, ECF No. 55). "[L]aw enforcement may seize a suspect for a brief,

investigatory *Terry* stop where (1) the officers have a reasonable suspicion that the suspect was involved in, or is about to be involved in, criminal activity, and (2) the stop ‘was reasonably related in scope to the circumstances which justified the interference in the first place.’” *United States v. Jordan*, 635 F.3d 1181, 1186 (11th Cir. 2011) (quoting *Terry v. Ohio*, 392 U.S. 1, 22 (1968)); *see also Miller v. Harget*, 458 F.3d 1251, 1258–59 (11th Cir. 2006) (“A detention is reasonable under the Fourth Amendment if ‘the officer’s action is supported by reasonable suspicion to believe criminal activity ‘may be afoot.’”). A *Terry* stop must be “reasonably related in scope to the circumstances which justified the interference in the first place.” *Terry*, 392 U.S. at 20.

“While reasonable suspicion is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence, the Fourth Amendment requires at least a minimal level of objective justification for making the stop.” *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000) (quotations omitted). An “inchoate and unparticularized suspicion or hunch” is not enough. *United States v. Powell*, 222 F.3d 913, 917 (11th Cir. 2000) (quoting *Terry*, 392 U.S. at 917)). The Court looks to the totality of the circumstances to determine whether reasonable suspicion existed to seize Defendant. *See id.* “Officers may ‘draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person.’” *Harget*, 458 F.3d at 1259 (citations omitted). But an “individual’s presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime.” *Wardlow*, 528 U.S. at 124.

As a starting point, the Court finds that Officer Julien stopped Defendant when he pointed his gun at Defendant when Defendant opened the vehicle door. A reasonable person would not feel free to leave. Based on the totality of the circumstances, the Court finds that Officer Julien

had reasonable suspicion for the seizure. Namely, law enforcement had received a call from an anonymous tipster that a truck had been parked behind her home in a grassy alleyway since the previous night. The information provided in the tip was corroborated by presently observable facts and the prediction of future conduct, in this case, loitering in an area unusual for law-abiding citizens. Moreover, the vehicle was parked in a high-crime area. In Officer Julien's experience, prostitution, burglary, and vehicle theft frequently occurred there. Further, when Officer Julien arrived at the scene, he could not see into the vehicle because the windows were heavily tinted. Viewing these facts in their totality, the Court finds that Officer Julien had reasonable suspicion that Defendant was involved in criminal activity, such a loitering and prowling, which warranted further investigation. *See* § 856.021, Fla. Stat. Even if the corroborated anonymous tip was not enough in it of itself to establish reasonable suspicion, when Officer Julien arrived at the scene, he had reasonable suspicion that Defendant was "about to be involved in" the criminal activity of operating a vehicle with too-darkly-tinted windows. *See* § 316.2953, Fla. Stat.; *see also United States v. Sims*, No. 20-12774, 2022 U.S. App. LEXIS 25494, at \*15 (11th Cir. Sept. 12, 2022) ("[T]he initial traffic stop was lawful because Mr. Sims was stopped based on probable cause that his vehicle's windows were tinted beyond the legally acceptable parameters.").<sup>1</sup>

#### **B. Probable Cause to Search the Vehicle**

Even if the investigatory stop was lawful, Defendant argues that the search of his vehicle violated his Fourth Amendment rights because it was not supported by probable cause. (Mot. at 4). Specifically, Defendant argues that a warrantless search occurred when Officer Julien told Defendant, after he exited the vehicle, to open his vehicle door after he had closed it. (Def. Arg.

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<sup>1</sup> "While there are obvious differences between a traffic stop and a *Terry* stop, the United States Supreme Court recognizes that the two are analogous both in their duration and atmosphere." *United States v. Gibbs*, 917 F.3d 1289, 1291 (11th Cir. 2019).

at 3, ECF No. 55). The Court does not agree. Because the Pathfinder’s windows were heavily tinted, Officer Julien reasonably ordered Defendant to open his driver-side door when he exited the vehicle and reasonably searched the rear of the vehicle to ensure the Pathfinder had no additional occupants. *See United States v. Hensley*, 469 U.S. 221, 235 (1985) (holding that officers “were authorized to take such steps as were reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop”); *United States v. Williams*, 845 F. App’x 864, 867 (11th Cir. 2021) (“We have held that, under *Terry*, an officer during a traffic stop may conduct a protective search of the driver, the passengers, or the vehicle as necessary to ensure officer safety.”). Officer Julien’s reasonable efforts to secure his safety did not violate Defendant’s constitutional rights.

To the extent Defendant argues that an additional warrantless search occurred before Officer Reyes discovered the bench warrant for Defendant, it was justified by the automobile exception. Under the automobile exception, law enforcement may search a car without a warrant if it “is readily mobile and probable cause exists to believe it contains contraband[.]” *Pennsylvania v. Labron*, 518 U.S. 938, 940 (1996); *see also United States v. Nixon*, 918 F.2d 895, 903 (11th Cir. 1990) (“[T]he requirement of exigent circumstances is satisfied by the ‘ready mobility’ inherent in all automobiles that reasonably appear to be capable of functioning.”); *United States v. Garcia*, 433 F. App’x 741, 744–45 (11th Cir. 2011) (“The mobility requirement focuses on whether the vehicle is capable of functioning, not whether it is likely to move in the near future.”). “Even in cases where an automobile was not immediately mobile, the lesser expectation of privacy resulting from its use as a readily mobile vehicle justifie[s] application of the vehicular exception.” *California v. Carney*, 471 U.S. 386, 391 (1985).

With these principles in mind, the Court finds that the Pathfinder was readily mobile because it was capable of functioning. Next, the Court assesses whether there was probable cause to believe the vehicle contained contraband. Here, probable cause developed from Officer Julien's reasonable steps to secure his safety. During this safety sweep of the rear-passenger side of the Pathfinder, Officer Julien smelled marijuana. The smell of marijuana established probable cause for Officer Julien to search the car for contraband. *See United States v. Williams*, 731 F. App'x 863, 867 (11th Cir. 2018) ("In a long line of cases, we have held that the smell of marijuana coming from a person's house or vehicle establishes probable cause for a search."); *United States v. Ward*, 722 F. App'x 953, 963 (11th Cir. 2018) (collecting cases) ("It is also well established that if a police officer detects the odor of marijuana, this gives rise to probable cause."); *United States v. Tobin*, 923 F.2d 1506, 1512 (11th Cir. 1991) ("There is no doubt that the agent's suspicions rose to the level of probable cause when, as the door stood open, he detected what he knew from his law enforcement experience to be the odor of marijuana.").

### **C. Standing**

The Government argues that Defendant does not have standing to challenge the search of the vehicle because it was his mother's vehicle and Caffree drove it because Defendant did not have a license. (Resp. at 7–8; Gov. Arg. at 4, ECF No. 54). At the evidentiary hearing, the parties stipulated to the fact that Defendant's mother is the registered owner of the Pathfinder, that she gave the vehicle to her son several months before the arrest, and that the last she had heard of her son, he was living out of the vehicle. The parties also stipulated that Defendant's mother had not seen Defendant for several months. In addition, the body camera footage worn by Officer Julien recorded an exchange where Defendant informed Officer Julien that Defendant had been living out of the Pathfinder since August; in sum, for approximately four months by the time of the arrest.

An occupant of a vehicle has standing to challenge a flawed search only if the occupant has a “‘legitimate expectation of privacy’ in the property when it was searched.” *United States v. Dixon*, 901 F.3d 1322, 1338 (11th Cir. 2018) (quoting *United States v. Gibson*, 708 F.3d 1256, 1276 (11th Cir. 2013)). Although the Government holds the burden to prove that a search was reasonable under the Fourth Amendment, the burden is on the Defendant to establish he has a legitimate expectation of privacy. *United States v. Cooper*, 133 F.3d 1394, 1398 (11th Cir. 1998). Defendant must show “both a subjective and an objective expectation of privacy” in the vehicle. *United States v. King*, 509 F.3d 1338, 1341 (11th Cir. 2007). “The subjective component requires that a person exhibit an actual expectation of privacy, while the objective component requires that the privacy expectation be one that society is prepared to recognize as reasonable.” *Id.* at 1341.

“[A] passenger in a private car, . . . who has no possessory interest in the automobile, does not have a legitimate expectation of privacy in the interior of the automobile because he does not have the right to exclude others from the car.” *United States v. Lee*, 586 F.3d 859, 864 (11th Cir. 2009) (alteration adopted). Inversely, “[a] passenger who has a possessory interest in the vehicle has a legitimate expectation of privacy in the interior of the vehicle.” *United States v. Arrendondo*, No. 11-cr-63, 2012 U.S. Dist. LEXIS 66919, at \*16 (M.D. Fla. May 14, 2012); *United States v. Herrera*, No. 10-cr-37, 2011 U.S. Dist. LEXIS 18416, at \*13 (M.D. Ala. Jan. 5, 2011). “The term ‘possessory interest’ means ‘the present right to control property, including the right to exclude others, by a person who is not necessarily the owner’; or ‘a present or future right to the exclusive use and possession of property.’” *Dixon*, 901 F.3d at 1338 (alterations adopted; quoting *Possessory interest*, Black’s Law Dictionary (10th ed. 2014)).

Here, Defendant had been living out of the searched vehicle, which was given to him by his mother whom he had not seen in several months. On this record, the Court finds that Defendant

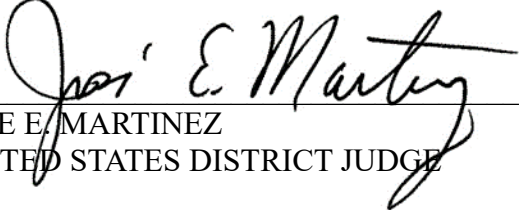


had a possessory interest in the vehicle because he had a present right to the exclusive use and possession of the property. Even if Defendant was driving the car unlicensed, he would still have a legitimate expectation of privacy in the vehicle. *See United States v. Cohen*, 38 F.4th 1364, 1370 (11th Cir. 2022) (“[U]nlicensed driving did not interfere with the authorized renter’s valid possessory interest because he had the renter’s permission to use the vehicle.”). In sum, Defendant has standing to challenge the search.

### III. CONCLUSION

For the foregoing reasons, it is hereby **ORDERED AND ADJUDGED** that Defendant’s Motion to Suppress, (ECF No. 33), is **DENIED**.

**DONE AND ORDERED** in Chambers at Miami, Florida, 12th day of March, 2023.

  
\_\_\_\_\_  
JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies furnished to:  
Magistrate Judge Becerra  
All counsel of record



**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF FLORIDA**  
**MIAMI DIVISION**

UNITED STATES OF AMERICA

v.

ISAAC ALVAREZ

§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **1:22-CR-20221-MARTINEZ**§ USM Number: **20956-510**

§

§ Counsel for Defendant: **Kathleen Elena Handlin Taylor**§ Counsel for United States: **Michael Brenner****THE DEFENDANT:**

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on the counts after a plea of not guilty.	<b>Counts 1, 2, and 3 of the Indictment</b>

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1) / Possession With Intent To Distribute A Controlled Substance	12/29/2021	1
18 U.S.C. § 922(g)(1) / Possession Of A Firearm and Ammunition By A Convicted Felon	12/29/2021	2
18 U.S.C. § 924(c)(1)(A)(i) / Possession Of A Firearm In Furtherance Of A Drug Trafficking Crime	12/29/2021	3

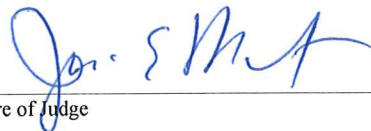
The defendant is sentenced as provided in pages 2 through 7 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
- ☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

**July 7, 2023**

Date of Imposition of Judgment



Signature of Judge

**JOSE E. MARTINEZ**  
**UNITED STATES DISTRICT JUDGE**

Name and Title of Judge



Date

DEFENDANT: ISAAC ALVAREZ  
CASE NUMBER: 1:22-CR-20221-MARTINEZ

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

**111 Months, consisting of 51 Months as to each of Counts 1 and 2 to run concurrently with each other, and a term of 60 Months as to Count 3 to run consecutively to Counts 1 and 2.**

☒ The court makes the following recommendations to the Bureau of Prisons:

**Defendant be designated at either FCI Estill in Hampton, South Carolina, or FCI Jesup in Jesup, Georgia, if commensurate with his background and the offenses of which he stands convicted.**

**Defendant be screened for substance abuse problems and placed in an appropriate drug treatment program, which may include the Residential Drug Abuse Program (RDAP).**

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to

at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ISAAC ALVAREZ  
CASE NUMBER: 1:22-CR-20221-MARTINEZ

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Five Years, consisting of Three Years as to each of Counts 1 and 2, and Five Years as to Count 3. All such terms to run concurrently.**

### MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.  
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: ISAAC ALVAREZ  
CASE NUMBER: 1:22-CR-20221-MARTINEZ

## STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

## U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at [www.flsp.uscourts.gov](http://www.flsp.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: ISAAC ALVAREZ  
CASE NUMBER: 1:22-CR-20221-MARTINEZ

### **SPECIAL CONDITIONS OF SUPERVISION**

**Anger Control / Domestic Violence:** The defendant shall participate in an approved treatment program for anger control/domestic violence. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

**Financial Disclosure Requirement:** The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

**Mental Health Treatment:** The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

**Permissible Search:** The defendant shall submit to a search of his person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

**Substance Abuse Treatment:** The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

**Unpaid Restitution, Fines, or Special Assessments:** If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.



DEFENDANT: ISAAC ALVAREZ  
CASE NUMBER: 1:22-CR-20221-MARTINEZ

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
<b>TOTALS</b>	\$300.00	\$0.00	\$0.00		

- ☐ The determination of restitution is deferred.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- |   |                               |  |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution                         |
| <input type="checkbox"/> the interest requirement for the           | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

**Restitution with Imprisonment** - It is further ordered that the defendant shall pay restitution in the amount of **\$0.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

\* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.

\*\* Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.

\*\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.



DEFENDANT: ISAAC ALVAREZ  
CASE NUMBER: 1:22-CR-20221-MARTINEZ

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payment of \$300.00 due immediately.

**It is ordered that the Defendant shall pay to the United States a special assessment of \$300.00 for Counts 1, 2 and 3, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:**

**U.S. CLERK'S OFFICE  
ATTN: FINANCIAL SECTION  
400 NORTH MIAMI AVENUE, ROOM 8N09  
MIAMI, FLORIDA 33128-7716**

Unless the court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

See above for Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

**FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.**

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTa assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.