

IN THE
**SUPREME COURT
OF THE UNITED STATES**

RONNARD WILLIAMS,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

**On Petition for a Writ of Certiorari to the
District of Columbia Circuit Court of Appeals**

APPENDIX TO PETITION

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June 4, 2026

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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-3044**September Term, 2025****1:20-cr-00088-JMC-2****Filed On:** January 5, 2026

United States of America,

Appellee

v.

Ronnard Williams,

Appellant

BEFORE: Srinivasan, Chief Judge; Henderson, Millett, Pillard, Wilkins,
Katsas, Rao, Walker, Childs, Pan, and Garcia, Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing en banc, the supplements thereto, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:

Clifton B. Cislak, Clerk

BY:

/s/

Lillian R. Wright

Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued December 13, 2024

Decided August 26, 2025

No. 23-3044

UNITED STATES OF AMERICA,
APPELLEE

v.

RONNARD WILLIAMS,
APPELLANT

Appeal from the United States District Court
for the District of Columbia
(No. 1:20-cr-00088-2)

Mary H. Schnoor argued the cause for appellant. With her on the briefs were *A.J. Kramer*, Federal Public Defender, and *Rosanna Taormina*, Assistant Federal Public Defender. *Tony Axam Jr.*, Assistant Federal Public Defender, entered an appearance.

Peter F. Andrews, Assistant U.S. Attorney, argued the cause for appellee. With him on the brief were *Matthew M. Graves*, U.S. Attorney, and *Chrisellen R. Kolb* and *Nicholas P. Coleman*, Assistant U.S. Attorneys.

Before: WALKER, CHILDS and PAN, *Circuit Judges*.

Opinion for the Court filed by *Circuit Judge* WALKER.

Opinion concurring in the judgment filed by *Circuit Judge* CHILDS.

WALKER, *Circuit Judge*: Police officers approached an illegally parked car with illegally tinted windows. After the driver partially lowered his window to speak with them, the police ordered him to lower the windows more. Because he complied, the police were able to see a gun, which led to his arrest, prosecution, and conviction.

Appealing his conviction, the driver says that the order to lower his windows violated the Fourth Amendment. But *Pennsylvania v. Mimms* held that “once a motor vehicle has been lawfully detained for a traffic violation, the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment’s proscription of unreasonable searches and seizures.” 434 U.S. 106, 111 n.6 (1977). That’s because the “mere inconvenience” of exiting a car “cannot prevail when balanced against legitimate concerns for the officer’s safety.” *Id.* at 111.

For the same reason, at a lawful traffic stop, the police may order a driver to lower his windows when something like the window’s tint makes it hard to see inside the car. The government’s “legitimate concerns for the officer’s safety” outweigh the “mere inconvenience” to the driver of lowering his windows. *Id.*

I. Background

Around 11:00 p.m., Metropolitan Police Department officers approached a car that was illegally parked, with illegally tinted windows. After an officer tapped on his

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window, the driver, Ronnard Williams, lowered his window — but only slightly. As the bodycam footage shows, the window tint made it hard for the police to see inside the car:



After some discussion with Williams, the police ordered him to roll his windows lower. Williams complied. That allowed the police to see a gun at the foot of a passenger in the backseat.

An officer opened the door and grabbed the gun. The police ordered Williams and the passenger out of the car and placed them under arrest. A search of the car revealed another gun, marijuana, and \$2,000 in cash.

A federal grand jury indicted Williams for violating a federal statute that prohibits felons from possessing a firearm. *See* 18 U.S.C. § 922(g)(1). Williams then moved to suppress the evidence found in his car. He argued that the order to lower his windows was an unreasonable search in violation of the Fourth Amendment.

The district court denied the motion. A jury convicted Williams of unlawful possession of a firearm by a felon. The

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court sentenced him to three years and five months in prison, with credit for time served.

Williams appealed, and we affirm.

II. Analysis

Before us, Williams does not argue that the police lacked probable cause for a lawful traffic stop.¹ Nor does he dispute that the police could grab the gun in plain view after he obeyed their order to lower his tinted windows.² Rather, Williams says that their order, which put the gun in plain view, violated the Fourth Amendment.³

A. The Fourth Amendment and *Mimms*

The Fourth Amendment guarantees the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV. Whether a search is lawful under the Fourth Amendment depends on “the reasonableness in all the circumstances of the particular governmental invasion of a citizen’s personal security.” *Terry v. Ohio*, 392 U.S. 1, 19 (1968). In determining reasonableness, we “balance . . . the

¹ See *Arizona v. Johnson*, 555 U.S. 323, 327 (2009) (a traffic stop is lawful when it is legally permissible “for police to detain an automobile and its occupants pending inquiry into a vehicular violation”).

² See *Kentucky v. King*, 563 U.S. 452, 463 (2011) (under certain circumstances the police “may seize evidence in plain view” without a warrant).

³ We review questions of law de novo and factual findings for clear error. *United States v. Hutchings*, 99 F.4th 604, 607 (D.C. Cir. 2024).

public interest and the individual's right to personal security free from arbitrary interference by law officers." *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975).⁴

Applying that standard, the Supreme Court held in *Pennsylvania v. Mimms* that "once a motor vehicle has been lawfully detained for a traffic violation, the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment's proscription of unreasonable searches and seizures." 434 U.S. 106, 111 n.6 (1977). There, the government interest in officer safety was "both legitimate and weighty" because of "the inordinate risk confronting an officer as he approaches a person seated in an automobile." *Id.* at 110.⁵ By contrast, "the order to get out of the car" was a "*de minimis*" intrusion into the driver's privacy. *Id.* at 111. Since *Mimms*, the Court has repeatedly reaffirmed its "bright-line rule" that "a police officer may as a matter of course order the driver of a lawfully stopped car to exit his vehicle." *United States v. Bullock*, 510 F.3d 342, 345 (D.C. Cir. 2007) (cleaned up).⁶

⁴ Cf. Luke M. Milligan, *The Forgotten Right to Be Secure*, 65 HASTINGS L.J. 713, 717 (2014) (the Fourth Amendment protects "the right of the people *to be secure*," not just the "right to be 'spared' an unreasonable search or seizure" (cleaned up)).

⁵ Cf. *Terry*, 392 U.S. at 23 ("Certainly it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties.").

⁶ See, e.g., *Maryland v. Wilson*, 519 U.S. 408, 415 (1997) ("an officer making a traffic stop may order passengers to get out of the car pending completion of the stop"); *Michigan v. Long*, 463 U.S. 1032, 1047-48 (1983) (same); *Rakas v. Illinois*, 439 U.S. 128, 155 n.4 (1978) (Powell, J., concurring) (similar).

B. Applying *Mimms*

This case is like *Mimms*. The Government’s “legitimate and weighty” interest in officer safety easily outweighs the “mere inconvenience” of rolling down tinted windows. *Mimms*, 434 U.S. at 110-11.

Consider first the interest in officer safety. “Approaching a stopped car . . . is one of the more perilous duties imposed on law enforcement officers.” *United States v. Holmes*, 385 F.3d 786, 791 (D.C. Cir. 2004) (Roberts, J.). Is the driver drunk? High? Armed? Are there any passengers? Has anyone in the car committed a violent crime? Do they intend to? What, if anything, are they hiding? And what will they do to keep it hidden? See *Barnes v. Felix*, 145 S. Ct. 1353, 1361 (2025) (Kavanaugh, J., concurring).

Because of these known unknowns — plus the unknown unknowns — traffic stops are “inherently risky for police officers.” *Id.*; cf. DONALD RUMSFELD, KNOWN AND UNKNOWN: A MEMOIR xiii (2011). “People detained for minor offenses such as ordinary traffic violations can turn out to be the most devious and dangerous criminals.” *Barnes*, 145 S. Ct. at 1361 (Kavanaugh, J., concurring) (cleaned up). That’s one reason “that a significant percentage of murders of police officers occurs when the officers are making traffic stops.” *Mimms*, 434 U.S. at 110 (cleaned up); see also *Long*, 463 U.S. at 1049 (“roadside encounters between police and suspects are especially hazardous”); Statistics on Law Enforcement Officer Deaths in the Line of Duty from January through August 2024, FBI, <https://perma.cc/XS86-6DH2>.

“When, during already dangerous traffic stops, officers must approach vehicles whose occupants and interiors are blocked from view by tinted windows, the potential harm to

which the officers are exposed increases exponentially, to the point, we believe, of unconscionability. Indeed, we can conceive of almost nothing more dangerous to a law enforcement officer in the context of a traffic stop than approaching an automobile whose passenger compartment is entirely hidden from the officer's view by darkly tinted windows." *United States v. Stanfield*, 109 F.3d 976, 981 (4th Cir. 1997) (emphasis omitted).

Consider next the driver's minimal interest in not lowering his window. If an order to exit the vehicle is a "*de minimis*" intrusion and "at most a mere inconvenience," then so too is an order to lower the windows. *Mimms*, 434 U.S. at 111. If anything, the intrusion here is even smaller. The driver exposes less by opening a window than by opening a door.⁷ And the driver is inconvenienced less than by exiting the car — for the same reason it's easier for drive-thru workers to hand fast food through open windows rather than open doors.

Because a "mere inconvenience cannot prevail when balanced against legitimate concerns for the officer's safety," we hold that the police did not violate the Fourth Amendment when they ordered Williams to lower his windows. *Id.*⁸

⁷ Though not necessary for our analysis, we note that opening a car door will often turn on the car's interior lights.

⁸ *Cf. Stanfield*, 109 F.3d at 981 (during a lawful traffic stop, an officer may lawfully open a car door to view the interior when the windows are heavily tinted and may conceal threats); *United States v. Brown*, 334 F.3d 1161, 1168-69 (D.C. Cir. 2003) (similar, citing *Stanfield* approvingly); *United States v. Matthews*, 422 F. Supp. 3d 1235, 1251 (W.D. Ky. 2019) (an officer's "quick decision to open the car door" when "he could not see inside the vehicle because of the tint on the windows" was "prudent" and constitutional).

III. Conclusion

When something like the tint of a car's windows makes it hard to see inside, the police can order the driver to lower the windows during a lawful traffic stop—including a stop justified by suspicion of the windows' illegal tint.⁹

We therefore affirm.

So ordered.

⁹ To the extent other courts in similar situations have applied a standard more demanding or fact-specific than this bright-line rule, we disagree with them for the reasons already explained. *See, e.g., United States v. Holley*, 709 F. App'x 602, 605 (11th Cir. 2017) (“the search stemmed from some probable cause focusing suspicion on the individual affected by the search”); *United States v. Jones*, No. 1:19-cr-20693, 2021 WL 2156195, *3-4 (E.D. Mich. May 27, 2021) (“unconstitutional search” where the officer opened the door of a car with tinted windows after the driver “had his windows rolled down” because there was “no reason to believe that opening the driver-side door was necessary for officer safety”); *United States v. Green*, 437 F. Supp. 2d 38, 41-42 (D.D.C. 2006) (“a tinted window violation . . . does not justify the search of a person or his or her vehicle without more”); *Jackson v. United States*, 56 A.3d 1206, 1213 (D.C. 2012) (“the facts of this case do not establish that the tinting was a meaningful factor justifying [the officer’s] decision not only to open the door, but to cross the plane of the van and conduct a *Terry* search of the vehicle’s interior” (cleaned up)).

CHILDS, *Circuit Judge*, concurring in the judgment: I concur insofar as the majority affirms the district court's denial of Ronnard Williams' motion to suppress. The record establishes specific, articulable facts showing that the traffic stop was lawful, that it was difficult for the officers to see inside Williams' vehicle, and that instructing him to roll down his windows to unblock their view was a minimal intrusion under the balancing test in *Pennsylvania v. Mimms*, 434 U.S. 106 (1977). Williams' unlawful window tint, combined with additional officer safety concerns, diminished his privacy interest and heightened officer safety interests.

I do not, however, agree with the majority's reasoning or its adoption of a categorical rule. The majority holds that whenever "something like the tint of a car's windows makes it hard to see inside, the police can order the driver to lower the windows during a lawful traffic stop — including a stop justified by suspicion of the windows' illegal tint." Majority Op. at 8. This broad rule is inconsistent with *Mimms* and its progeny, invites unnecessary intrusions, and is unmoored from the fact-specific balancing the Fourth Amendment requires. It may fit the facts of this case, but it offers no limiting principle and risks misuse in circumstances that do not justify the intrusion.

Under the majority's approach, even tint that proves lawful yet still obstructs visibility could justify a full, compelled exposure of the interior. If legally obstructed visibility alone sufficed, then any officer could transform a stop for a minor parking or traffic infraction into a warrantless inspection of a vehicle's interior, authorizing full exposure of deliberately concealed areas without an articulable safety threat. That reading collapses the line between precaution and pretext and erodes the very privacy interests the Fourth Amendment protects. Because I cannot endorse an approach that risks the quiet, gradual erosion of personal liberty under the banner of bright-line clarity, I concur in the judgment.

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I.

A.

One late night, four officers from the District's Metropolitan Police Department's (MPD) specialized Gun Recovery Unit (GRU) were on duty in two unmarked cars. GRU officers are authorized to make "proactive" patrol stops, which are searches of persons and vehicles for firearms.¹ While the GRU's objective is to conduct firearm interdiction, there is an expectation that they address and enforce the rules and regulations of the District.

While patrolling, the GRU officers observed Williams' vehicle parked within five feet of a parking lot entrance, idling with its headlights on, and displaying what appeared to be illegally tinted windows. Two officers approached on foot from opposite sides. One initiated the stop, during which Williams partially lowered his driver's-side window to speak with the officer, who cited him for a tint violation. The second supervising officer walked from the driver's-side window around the rear of the car toward the front, where he observed a second passenger in the backseat through the windshield.

After a second patrol car arrived, the officers ordered Williams to roll all windows "all the way down." When Williams partially lowered them, the officers shined flashlights into the interior cabin without breaking the window plane. The supervising officer at the rear passenger side window observed

¹ D.C. Council Police Reform Comm'n, *Decentering Police to Improve Public Safety: A Report of the D.C. Police Reform Commission* 21 (Apr. 1, 2021), [<https://perma.cc/M56W-TULG>]. GRU practices have been criticized for "aggressive stop, pursuit, and search tactics that bump up against—and sometimes cross—constitutional boundaries." *Id.* at 94.

a male, awkwardly positioned and reclined in his seat. The officer at the driver's-side window gestured by snapping her fingers to the supervising officer, prompting him to direct his flashlight toward the rear passenger side floorboard, where he saw a firearm in plain view. Both occupants were arrested, and a subsequent search of the trunk yielded a second firearm.

B.

After evidentiary hearings in February, April, and May 2022, the district court denied Williams' motion to suppress. It credited the supervising officer's testimony as corroborated by body-worn camera footage. The court rejected Williams' reliance on MPD internal-affairs findings—resulting in the officer's suspension and administrative reprimand for unrelated Fourth Amendment violations during GRU patrols—as grounds to discount his credibility. The court found that officers reasonably determined Williams' car was parked within five feet of a parking lot entrance and that its window tint appeared illegal, later testing at 9% light transmittance—below the legal limit. It also credited the officer's explanations rebutting Williams' claims that oncoming headlights prevented him from seeing the tint, that his testimony was inconsistent across proceedings, and that tint enforcement fell outside the GRU's firearm-interdiction mission.

On the law, the court held that the stop was justified by both tint and parking violations. Ordering Williams to roll down his windows did not violate the Fourth Amendment under *Mimms*, 434 U.S. at 110, because, in the district court's view, the dark tint impeded visibility and officer safety is a weighty governmental interest. The court found the privacy intrusion to be “de minimis” and concluded that the firearm in the backseat was lawfully seized under the plain-view doctrine. The court further held that the officers had probable cause to

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search the trunk after recovering the firearm, given the possibility of additional weapons or contraband, the backseat's access opening to the trunk area, recent reports of shootings nearby, and the presence of two occupants.

C.

Williams was indicted under 18 U.S.C. § 922(g)(1) for possessing a firearm. After evidentiary hearings, the district court denied his motion to suppress. A jury convicted him in December 2022, and he was sentenced to 41 months imprisonment, three years of supervised release, and a \$100 special assessment. Williams timely appealed.

II.

The Fourth Amendment protects against “unreasonable searches and seizures.” U.S. Const. amend. IV. The lawfulness of a search depends on the “reasonableness in all the circumstances” of the intrusion. *Terry v. Ohio*, 392 U.S. 1, 19 (1968). To assess reasonableness, courts must “balance . . . the public interest and the individual’s right to personal security free from arbitrary interference by law officers.” *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975).

My colleagues liken this case to *Mimms*, reasoning that ordering a driver out of a car is akin to directing a driver to roll down his windows, and that both are “at most a mere inconvenience.” Majority Op. at 7. That analogy holds true in this case, where the window tint was so dark that even artificial light could not illuminate the driver’s immediate reach. But it does not fit neatly when lawful tint limits visibility.

For vehicles with no window tint, lowering windows is a minimal intrusion because it adds little to what already lies in

plain view. Where tint is illegal, the privacy interest is diminished, and the safety interest is substantial.² Lawful tint, however, presents a different case. Rolling down those windows may expose areas deliberately and lawfully concealed from public view. That the exercise of rolling down a window may involve less physical effort than exiting a car does not make the two intrusions equivalent.³ An exit order may reveal no more of the cabin than already visible, while lowering legally tinted windows may expose it entirely. Unlike *Mimms*, where the intrusion reduced risks of concealed movement and established face-to-face engagement, an order to roll down lawfully tinted windows is an intrusion that shifts the officer's attention from the person to the cabin's contents, revealing more than *Mimms* contemplated. 434 U.S. at 110.

In my view, the mere belief that visibility may be limited is not categorically sufficient to justify compelled cabin exposure. Officer safety is undoubtedly weighty, *Arizona v. Johnson*, 555 U.S. 323, 331–32 (2009), but *Mimms* should not be expanded to deem safety concerns automatically justified in

² A driver might claim greater privacy in areas lawfully concealed by legal tint, but Williams' use of illegal tint defeats that claim. "There is no legitimate expectation of privacy shielding that portion of the interior of an automobile which may be viewed from outside . . . by either inquisitive passersby or diligent police officers." *Texas v. Brown*, 460 U.S. 730, 739–40 (1983) (citation omitted).

³ The majority analogizes a compelled lowering of the window to the ease of handing fast food through a drive-thru window, reasoning that it is less revealing than opening a door or exiting the vehicle. Majority Op. at 7. That trivializes the Fourth Amendment and diverts attention from the proper inquiry: whether, on the facts at hand, the instruction was reasonable. The Constitution does not measure the legitimacy of a search by its ease of execution. Voluntarily opening a window to accept food at a drive-thru differs in kind from being compelled to do so for a warrantless inspection.

every measure that might improve visibility. The Fourth Amendment requires that an instruction to improve safety be reasonable under the specific circumstances, not in the abstract. *See Brignoni-Ponce*, 422 U.S. at 878. *Mimms* permits such an intrusion only if it is supported by facts “available to the officer at the moment of the seizure or the search.” 434 U.S. at 112 (quoting *Terry*, 392 U.S. at 21–22). As framed by the majority, the rule invites intrusion on the basis of mere hunches, enabling even a pretextual stop dressed up as a safety concern over window tint to force visual access to a vehicle’s interior.⁴ Even if one believes, as the majority suggested at oral argument, that “if the interest that we’re trying to promote or protect here is officer safety, if they can’t see, they can’t see. It doesn’t matter if this was a legal tint or illegal tint,” Oral Arg. Tr. 34, the Constitution still demands that the intrusion be grounded in articulable facts, not an undifferentiated assertion of safety.

Imagine a motorist driving home from work in the early evening, windows rolled up against the cold. The vehicle’s tint is lawful, and the driver commits no traffic violation. An officer on routine patrol, citing “visibility concerns,” stops the

⁴ The Fourth Amendment’s reasonableness inquiry is objective: if the facts justify a stop, the officer’s motive does not matter. *See Whren v. United States*, 517 U.S. 806, 813–14 (1996) (“Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.”). Thus, the stop here, whether motivated by a genuine traffic concern or a pretext, was valid. But *Whren* does not authorize every further intrusion; each must be independently justified. “A determination that reasonable suspicion exists, however, need not rule out the possibility of innocent conduct.” *United States v. Arvizu*, 534 U.S. 266, 277 (2002) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 125 (2000)). The majority’s approach collapses the distinction between a valid stop and an independent intrusion, allowing compelled exposure of a vehicle’s interior without the individualized basis the Fourth Amendment demands.

car and orders the driver to lower all windows. There is no report of crime, no erratic driving, no furtive movement, and no other sign of danger. Under the majority's reasoning, the mere fact that tint limits a perfect view could justify this intrusion. That rule would allow officers to compel a vehicle's interior exposure without individualized suspicion, weakening the Fourth Amendment's protection against arbitrary interference. The harm lies in the government compelling access to private space without adequate justification. Rights ought not be measured by a person's willingness to forfeit them in harmless encounters, but by whether the government must meet the Constitution's requirement for specific and articulable grounds before it intrudes upon the individual.

Case law underscores the need for particularized facts. In *United States v. Brown*, we upheld an officer's opening of a car door not simply because window tint obstructed the view, but because the officers were responding to gunfire, saw a passenger switch seats, and observed suspicious behavior near the vehicle. 334 F.3d 1161, 1163–64 (D.C. Cir. 2003). In *United States v. Stanfield*, the Fourth Circuit upheld a similar intrusion based on multiple, specific indicators: a double-parked car in a high-crime area, a driver speaking with a known criminal, and heavily tinted windows. 109 F.3d 976, 978–79 (4th Cir. 1997). Neither court approved such an intrusion based on window tint alone. Moreover, the *Stanfield* court made clear that its holding addressed only traffic stops where dark tint magnified the threat to “the point of . . . unconscionability.” *Id.* at 981. The majority's rule departs from that careful limitation, extending authority to situations far removed from the extraordinary facts that justified the result in *Stanfield*.

Here, the stop occurred late at night in a high-crime area with recent reports of violence. The car was illegally parked, and the tint was so dark that the driver remained obscured even

after partially lowering the window and with artificial light directed inside. A passenger was discovered only after a windshield survey. Those facts, taken together, bear closer resemblance to the elevated-risk conditions described in *Brown* and *Stanfield* than to a routine traffic encounter.

Absent such circumstances, obstructed visibility alone does not suffice. Many motorists lawfully use tint to preserve privacy. They do not forfeit that interest merely by passing through high-crime areas or by committing minor parking violations. Even if an officer can't see clearly into a vehicle, the driver still has a constitutional privacy interest when the tint is legal, because that level of concealment is authorized by law.⁵ Those circumstances may heighten an officer's alertness, but each alone does not transform a motorist into a threat. That distinction matters both to avoid legitimizing suspicion by association and to prevent intrusions on liberty without sufficient basis. Otherwise, we risk eroding the line between legitimate precaution and impermissible pretext, at the expense of the privacy the Fourth Amendment was intended to protect.

III.

For the foregoing reasons, I concur in the judgment.

⁵ Factory-installed tint may appear opaque in bright sunlight. At night, lawful tint can make a driver difficult to see when cabin lights are off or street lighting is poor. Rain or condensation can further reduce transparency, as can the angle of approach or the darker tint permitted on rear passenger windows in many jurisdictions. None of these conditions, alone, poses a genuine safety risk.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

* * * * *

UNITED STATES OF AMERICA,	)	Criminal Action
	)	No. 20-088
vs.	)	
	)	
RONNARD WILLIAMS,	)	September 8, 2022
Defendant.	)	10:21 a.m.
	)	Washington, D.C.

* * * * *

**TRANSCRIPT OF PROCEEDING
BEFORE THE HONORABLE EMMET G. SULLIVAN,
UNITED STATES DISTRICT COURT SENIOR JUDGE**

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Official Court Reporter

***This hearing was held via videoconference and/or
telephonically and is, therefore, subject to the limitations
associated with audio difficulties while using technology,
i.e., static interference, etc.***

Proceedings reported by machine shorthand.
Transcript produced by computer-aided transcription.

P R O C E E D I N G S

THE COURTROOM DEPUTY: Your Honor, this is Criminal Case 20-088, United States of America versus Ronnard Williams.

Would the parties on the line please identify yourselves for the record, and we'll start with government counsel this morning.

MR. HART: Good morning, Your Honor.
Will Hart for the United States.

THE COURT: Good morning, Counsel.

MR. OHM: Eugene Ohm, joined by Marcelo Bonassa and Paulina Slagter, on behalf of Ronnard Williams.

Good morning, Your Honor.

THE COURT: Good morning, everyone.

Mr. Williams, how are you today, sir?

THE DEFENDANT: How you doing, Your Honor?

I am fine.

THE COURT: I am fine. We don't see you this morning.

Is there a problem at the jail, Mark?

THE COURTROOM DEPUTY: We had him before the hearing started. I don't know what's going on there.

(Whereupon, the Court and staff confer.)

THE COURT: There you go. Okay.

How are you this morning, Mr. Williams?

1 THE DEFENDANT: I am fine, Your Honor.

2 THE COURT: Good. Good. Good.

3 Counsel, we have been at this for a while. I am
4 quite familiar, as is everyone else, with all of the issues
5 in the case. And if someone wants to make a principal point
6 or two about either of the pending motions, go right ahead.
7 But it's not like this -- there is not a script here.
8 There's been a script since early this year.

9 Again, these are important issues for the Court,
10 for the parties. I am prepared to rule orally today, and
11 we'll proceed if necessary accordingly. But if you would
12 like to make some principal points, go right ahead.

13 I won't be offended if you say: Judge, the record
14 speaks for itself. I am quite familiar with the record;
15 it's voluminous. It's probably the most -- I don't think we
16 have devoted -- I don't think I have devoted this many hours
17 to suppression issues in my career, which stands 38 years.
18 I think we have had over eight hours, I believe, or
19 something like that, of testimony; and it's approaching the
20 amount of time for trial that we normally spend. But these
21 are important issues, and they have been well briefed by
22 everyone; and they are interesting issues.

23 So I will leave it up to Mr. Hart first; the
24 government always has the burden. It is the defendant's
25 motion to dismiss -- to suppress. The government always has

1 the burden, so I will give Mr. Hart an opportunity to make
2 his points. But, trust me, I am familiar with all of the
3 issues, Counsel. So go right ahead.

4 MR. HART: Thank you very much, Your Honor.

5 Your Honor, I think you hit the nail on the head.
6 This issue has been well-briefed, I think, on all sides. I
7 have very little to add.

8 THE COURT: Okay.

9 MR. HART: I think the record speaks for itself.

10 THE COURT: Thank you.

11 MR. HART: To the extent Your Honor has any
12 questions, I think, pretty much everything has been covered
13 in motions, oppositions, replies, and surreplies. I don't
14 really have much to add to the record at this point.

15 THE COURT: All right. Let me just ask one
16 question.

17 On this -- there is a chief question with respect
18 to the suppression motion. Sergeant Kniseley's testimony,
19 any adverse inferences the Court should draw because of
20 subsequent events or because of administrative events
21 concerning Sergeant Kniseley?

22 MR. HART: Well, no, Your Honor.

23 I think there are a lot of issues with that. I
24 think the first is that the event is totally and completely
25 unrelated to anything that occurred in this case. No

1 connection to Mr. Williams; it was a completely separate
2 stop.

3 The second issue is that it happened months after
4 the events in this case, of course. This case occurred in
5 May 2020. The stop that was at issue with these separate
6 individuals was in November of 2020.

7 Third, I understand counsel vigorously disagrees
8 with this characterization; but none of the findings against
9 Sergeant Kniseley, in the government's view, implicate his
10 veracity or his credibility to any significant extent that
11 Your Honor should incorporate and take into account while
12 accessing his testimony.

13 So for those reasons, Your Honor, I don't think
14 the administrative matter that occurred in November of
15 2020 -- it's its own issue; it's a separate personnel issue.
16 It shouldn't have any bearing on what happens in this case
17 with respect to Sergeant Kniseley's action vis-à-vis
18 Mr. Williams.

19 THE COURT: All right. Thank you, Counsel.

20 Mr. Ohm, et al., I am glad to hear you. Please be
21 brief with your principal points.

22 MR. OHM: Certainly, Your Honor.

23 I am going to take Mr. Hart's lead and also
24 submit, essentially, on all of the extensive briefing. But
25 I did want to respond to --

1 THE COURT: And let me just commend the attorneys.
2 Regardless of how I rule, Mr. Williams, the
3 lawyers have done a great job. I mean, issues have come up;
4 I have raised issues sometimes. I have been concerned about
5 other courts and what other courts have done; that's the way
6 our system works. It's been a long drawn-out process; but,
7 by the same token, it's been a fair process.

8 The attorneys have worked extremely hard when
9 responding to questions that have come up during testimony
10 and also questions that the Court has raised; so it's been
11 very interesting. Everyone has been very professional. I
12 just want to commend the attorneys, Mr. Williams; they have
13 worked very hard for you. And the government attorneys have
14 worked extremely hard as well.

15 I'm sorry, Mr. Ohm. Go right ahead, sir.

16 MR. OHM: I just want to -- with regard to the
17 Court's question to Mr. Hart, I just want to say that we
18 don't think that the Court needs to find Sergeant Kniseley
19 incredible or even to find any of his testimony incredible
20 for us to prevail on the suppression issue.

21 But, obviously, if Sergeant Kniseley's biases is a
22 relevant point for the Court to consider, if the Court
23 chooses to consider it, there is certainly enough evidence,
24 both in Sergeant Kniseley's testimony and also in terms of
25 his lack of veracity -- I think on that level, as well as

1 the bias that he had when he testified in front of Your
2 Honor, for the Court to question his credibility. But I
3 don't think the Court needs to reach that issue given the
4 testimony and evidence that was presented at the hearing.

5 THE COURT: Great. All right.

6 Thank you, Counsel.

7 With respect to the -- I think one of your
8 partners might have argued the motion to dismiss because of
9 the predicate conviction issue; is that correct?

10 Counsel, I mean, you probably have been up all
11 night preparing for court; I don't know. I'm sorry if you
12 have; but I am going to give you a chance to make your
13 points. Believe me, I understand the issues.

14 Go ahead. I am not going to deprive you of an
15 opportunity to express yourself.

16 MR. BONASSA: Thank you, Your Honor.

17 I think this issue has been extensively briefed;
18 and I think the briefs speak for themselves, and we'd submit
19 on them.

20 THE COURT: All right. Let me do this. Let me
21 take five minutes. I don't know if the attorneys have had a
22 chance to speak with their client this morning. If not --
23 Mark, if they want to be in a breakout room, they can.

24 I will tell -- let me just go so far as to say
25 this. What the Court is going to do is issue two oral

1 rulings. I am going to deny both motions; and that may, in
2 and of itself, be a basis for the attorneys to speak with
3 their client.

4 I am going to give you the reasons. And I am
5 going to -- it's going to take a little while to get through
6 this. But I didn't want to wait another two months, three
7 months or so, to issue the opinion; it's unfair to
8 Mr. Williams; he's detained. We have all focused a lot of
9 time and attention. But, in view of what I've just said, I
10 am inclined to deny the motions.

11 Mark, if the attorneys want a breakout room with
12 Mr. Williams to discuss further proceedings or to plan for
13 further proceedings, that's fine, Mark. I need about five
14 minutes to organize. All right?

15 THE COURTROOM DEPUTY: Sure, Your Honor.

16 THE COURT: Whatever the attorneys want to do is
17 fine. I am going to mute my video and audio. I will be
18 right here; I am just organizing my papers.

19 All right. Thank you, all.

20 MR. OHM: We'll take the breakout room,
21 Mr. Coates, if that's cool. Thank you.

22 (Whereupon, the proceeding paused.)

23 THE COURT: I am going to issue the opinion on the
24 motion to suppress first, Counsel.

25 Pending before the Court is Mr. Ronnard Williams'

1 motion to suppress tangible evidence, ECF No. 44.

2 The Court held evidentiary hearings on
3 Mr. Williams' motion on February 10, April 25th, and
4 May 25th, 2022. The Court has considered the testimony and
5 evidence presented during the hearings, including the
6 footage from the body-worn cameras and still shots, the
7 pleadings, and the entire record in this case.

8 The Court also finds Sergeant Kniseley's testimony
9 to be credible. Though the internal affairs and Chief of
10 Police's findings regarding the sergeant's actions during a
11 separate incident may be relevant to show bias and for
12 impeachment purposes, the Court's review of the body-worn
13 camera footage submitted into evidence corroborates Sergeant
14 Kniseley's account of the events. Mr. Williams disputes
15 that his vehicle was parked in a manner that blocked the
16 driveway and, second, that Sergeant Kniseley was able to
17 identify any illegal tint on the car. However, the evidence
18 demonstrates that the officers reasonably concluded that the
19 vehicle was parked within five feet of the entrance to the
20 parking lot. See government motion, Exhibit 1, February 10,
21 2022, hearing transcript, at 35, 7-11.

22 The Court also credits Sergeant Kniseley's
23 testimony that based upon his training and experience the
24 tint on Mr. Williams' car appeared to him to be illegal.
25 Indeed, the tint meter that Officer Laury used registered at

1 9 percent light transmittance, well below the legal
2 threshold. See government motion, at Exhibit 2.

3 Mr. Williams also argues that internal affairs and
4 chief of police's findings are "relevant" because of
5 Sergeant Kniseley's "questionable testimony" that: One, as
6 his car approached Mr. Williams' car, he noticed an
7 extremely dark tint, despite its headlights shining in his
8 direction; two, despite his testimony at a preliminary
9 hearing to the contrary, he knew at the time the tint
10 thresholds for each of the local jurisdictions and could
11 make a "good reasonable judgment about what that tint is,"
12 without a tint meter; and, three, part of his mission as a
13 GRU officer is to enforce tint regulations. That's set
14 forth in the defendant's supplemental brief, at ECF No. 82,
15 at 10.

16 Regarding the first and third contentions,
17 Sergeant Kniseley's testimony reasonably explained that:
18 Although he first noticed the headlights on the vehicle, he
19 next noticed the illegal tint on the vehicle when he was to
20 the right of the vehicle, not directly in front of its --
21 February 10, '22 -- not directly in front of it;
22 February 10, 2022, hearing transcript at 46, 17 to 21.

23 He also explained that though the main objective
24 of the GRU is, "to conduct firearm interdiction," there is
25 also an "expectation that when they encounter a violation of

1 law, that they should address it," *Id.* at 44, 2-11. The
2 Court does not find this testimony to be "questionable."

3 Regarding the second contention, Sergeant Kniseley
4 also reasonably clarified that he "wasn't talking about the
5 threshold of the law," but the "threshold of the light
6 transmittance on the vehicle," *Id.* at 51, 9 to 25; and,
7 also, 52, paragraph 1.

8 The Court's findings would remain the same even if
9 the evidence was submitted under Rule 404(b).

10 After considering all of the evidence, the Court
11 therefore proceeds to make the following findings of fact:

12 On May 10, 2020, at approximately 11 p.m., a team
13 of officers from the Gun Recovery Unit of the Metropolitan
14 Police Department were patrolling the 2600 block of Birney
15 Place, Southeast, Washington, D.C. See the February 10,
16 2022, transcript at 42, 13 to 17.

17 Sergeant Kniseley, the supervisor on the scene,
18 testified that the officers had decided to patrol that area
19 in particular given "that there have been some violent
20 crime, sounds of gunshots, things of that nature," *Id.* at
21 14, 19 to 20.

22 While on patrol, the officers approached a car
23 occupied by Mr. Williams for a suspected tint violation and
24 for partially blocking a driveway into a parking lot.
25 *Id.* at 16, 2-19.

1 Officer Christina Laury approached the driver's
2 side and tapped on the window of the vehicle. See April 25,
3 2022, hearing transcript at 25, 18 to 25.

4 There -- after the driver, Mr. Williams, partially
5 rolled down his window, Officer Laury introduced herself and
6 told Mr. Williams that the reason she was speaking to him
7 was because the car windows were illegally tinted. *Id.*
8 Officer Laury then requested Mr. Williams' documentation.
9 *Id.* According to Sergeant Kniseley, Mr. Williams was
10 "totally compliant." February 10, 2022, hearing transcript
11 at 103, 14-16.

12 While this was ongoing, Sergeant Kniseley had
13 moved to the other side of the vehicle. He testified that
14 he first noticed that Mr. Williams was not alone in the
15 vehicle when he walked to the front of the vehicle and
16 looked into the car through the front windshield.
17 February 10, 2022, hearing transcript at 19, 16 to 22.
18 Mr. Michael Morgan was sitting in the rear passenger's side
19 seat. *Id.*

20 Two other officers also arrived on the scene and
21 began repeatedly ordering Mr. Williams to lower his windows
22 because they said his car was dark and they couldn't see in.
23 Officer Laury also stated that they "couldn't really see
24 in." See generally government's motion, Exhibit 2, Laury
25 body-worn camera footage.

1 Sergeant Kniseley testified that Mr. Williams had
2 not done anything "suspicious beyond the tint issue" at the
3 time of the order to lower the windows. See Feb. 10, 2022,
4 hearing transcript at 104, 14-17.

5 Sergeant Kniseley further testified that he never
6 saw Mr. Williams look in the direction of the backseat
7 floorboard or pass anything to the backseat. *Id.* at 111,
8 113-114.

9 Mr. Williams complied with the orders, lowering
10 each of the windows partially, *Id.* at 20, 14 to 16.

11 After the windows were lowered, Officer Laury, who
12 was still standing by the driver's side of the vehicle,
13 began snapping her fingers over the hood of the vehicle as
14 she was shining her flashlight on the car. Sergeant
15 Kniseley interpreted the gesture as indicating that
16 something was amiss. See *Id.* at 21, 9 through 17.

17 Sergeant Kniseley used his flashlight to
18 illuminate the interior of the car from the passenger side
19 window, without breaking the pane of the car, and he noticed
20 a firearm resting on Mr. Morgan's right foot. *Id.* at 22, 1-4.

21 Upon seeing a firearm, he voiced a syncopation of
22 a codeword used by the unit to identify firearms, opened the
23 passenger side door, and seized control of the firearm, and
24 Mr. Morgan. *Id.* at 22, 6 through 8; 23, 9 through 12.

25 Officer Laury repeatedly ordered Mr. Williams to

1 unlock his car door and to get out of the car. See,
2 generally, the government's motion, Exhibit 2, Laury's
3 body-worn camera footage. Both individuals were placed in
4 handcuffs.

5 The officers then proceeded to search the vehicle.
6 Sergeant Kniseley began looking in the back seat where
7 Mr. Morgan had been removed and noticed a "hatch" that
8 opened up to the area behind the seats. *Id.* at 118.
9 Sergeant Kniseley then opened the trunk, and he found in the
10 center of the trunk a drawstring bag that contained a
11 firearm and suspended marijuana. *Id.* at 23, 18 to 23.
12 Other officers searched the rest of the vehicle and
13 identified additional marijuana on the front floorboard, and
14 U.S. currency in a box in a glove apartment. *Id.* at 25, 11
15 through 15.

16 Officer Laury used a tint meter on the front
17 driver's side window to measure the light transmittance,
18 which registered at 9 percent light transmittance, below the
19 legal threshold. She then issued two notices of infraction
20 for illegal window tint and blocking the driveway. See
21 government's motion, Exhibit 2; government motion,
22 Exhibit 3.

23 The Court now turns to the conclusions of law.

24 The Court first must address Mr. Williams'
25 argument that, at the time the police officer requested his

1 license and registration, the officers had no reason to
2 seize him. Defendant's motion, ECF No. 44-3. The Court
3 finds that the officers' decision to stop the vehicle was
4 properly justified.

5 "Generally, when a traffic offense is committed to
6 review" -- strike that. "Generally, when a traffic offense
7 is committed in the view of a police officer, the stop of
8 the vehicle is lawful." *United States versus McSwain*, No.
9 19-80, Judge Kotelly, 2019 Westlaw 2289322, at 6, D.D.C.
10 May 29, 2019. "The Fourth Amendment does not bar the police
11 from stopping and questioning a motorist when they witness
12 or suspect a violation of traffic laws, even if the offense
13 is a minor one." *United States v. Mitchell*, 951 F.2d 1291,
14 1295, D.C. Circuit 1991.

15 Here, the officers stopped the vehicle because the
16 officers had reasonably observed what appeared to be a tint
17 violation and a parking violation. See February 10, 2022,
18 hearing transcript, at 16, 2 through 19. One of the
19 officers later used a tint meter on the windows, which found
20 the tint to be in violation of local law, and the officer
21 issued a notice of infraction for the tint violation and for
22 blocking the driveway. See *Id.* at 25, 22 to 24.

23 In addition, the Supreme Court has made clear that
24 "an officer's inquiries into matters unrelated to the
25 justifications for the traffic stop do not convert the

1 encounter into something other than a lawful seizure, so
2 long as those inquiries do not measurably extend the
3 duration of the stop." *Arizona v. Johnson*, 555 U.S. 323,
4 333, 2009.

5 Here, the short time span that passed between the
6 officers approaching the vehicle and Mr. Williams' arrest
7 does not indicate that the stop lasted longer than was
8 necessary to effectuate the purpose of the stop. See, e.g.,
9 *United States versus Rocky Brown*, 334 F.3d 1161, 1170, D.C.
10 Circuit 2003. (Validating the stop and search where the
11 stop "lasted a mere matter of moments.")

12 The officers' decision to stop the vehicle to
13 investigate a vehicular violation was therefore lawful. See
14 *United States versus Vinton*, 594 F.3d 14, 19 to 20, D.C.
15 Circuit 2010, (holding that defendant was "properly stopped"
16 because the officer's "firsthand observations gave him
17 probable cause to believe that Vinton had been speeding and
18 driving with windows tinted in excess of the legal limit.")

19 Second, the Court must determine whether the
20 officer's orders that Mr. Williams roll down all of the
21 windows in his car constituted an unlawful search.

22 Mr. Williams argues that police lacked the
23 requisite level of suspicion to lawfully order a driver to
24 lower all windows down fully, and a generic concern for
25 officer safety cannot by itself justify such an order.

1 E.g., defendant's supplemental, ECF No. 103 at 2.

2 The government, on the other hand, argues that the
3 command to lower the vehicle's windows is a type of basic
4 safety precaution that courts generally allow during the
5 course of a traffic stop. E.g., government's supplemental
6 ECF 94, at 3.

7 Here, the Court finds that the officer's orders to
8 Mr. Williams to roll down his windows during the traffic
9 stop do not constitute a violation of his Fourth Amendment
10 rights.

11 "The touchstone of the Fourth Amendment is
12 reasonableness." *Ohio v. Robinette*, 519 U.S. 33, 39, 1996,
13 (quoting *Florida v. Jimeno*, 500 U.S. 248, 250 (1991)). And,
14 as the Court explained in *Pennsylvania v. Mimms*, 434 U.S.
15 106, 1977, reasonableness "depends on the balance between
16 the public interest and the individual's right to personal
17 security free from arbitrary interference by law officers."
18 *Id.* at 109 (quoting *United States v. Brignoni-Ponce*, 422
19 U.S. 873, 878, 1975.

20 Under this balancing test, and in the context of
21 traffic stops which are "especially fraught with danger to
22 police officers" -- I will add inferences there -- courts
23 have thus permitted officers to take measures that are
24 "negligibly burdensome in order to complete their mission
25 safely," *Rodriguez v. United States*, 575 U.S. 348, 356,

1 2015. See, also, *Mimms*, 434 U.S. at 111 (officer can order
2 driver out of a vehicle as a safety precaution); *Maryland v.*
3 *Wilson*, 519 U.S. 408, 414 to 15, 1997, (officer can order
4 passengers out of a vehicle as a safety precaution); *U.S. v.*
5 *Stanfield*, 109 F.3d 976, 981, Fourth Circuit 1997, (officer
6 can open the door to a vehicle if they cannot see through a
7 heavily tinted window.)

8 As the Supreme Court has stated, "certainly it
9 would be unreasonable to require that police officers take
10 unnecessary risks in the performance of their duties,"
11 *Terry v. Ohio*, 392 U.S. 1, 23, 1968.

12 Here, the officers lawfully stopped Mr. Williams'
13 car to investigate the suspected vehicular violations and,
14 upon reaching the car, officers ordered Mr. Williams to roll
15 down the windows of his car because the dark tint made it
16 difficult to see inside the car. February 10th, 2022,
17 hearing transcript, at 19, 16 to 22.

18 Sergeant Kniseley testified that the tint "was
19 nearly black-out," such that he did not realize there was a
20 person in the backseat until he "went towards the front of
21 the vehicle and looked in." *Id.*; see also *Id.* at 47, 2
22 through 4.

23 Once the back window was lowered, Sergeant
24 Kniseley then flashed his flashlight into the car's backseat
25 without breaking the pane of the car, and he saw the firearm

1 near Mr. Morgan's foot. *Id.* at 22, 1 through 4.

2 In such a situation, in which the windows of a car
3 are "darkly tinted, preventing the officers from having a
4 clear view of the car's occupants" -- *Rocky Brown*, 334 F.3d,
5 at 1169 -- the government's interest in officer safety is
6 "legitimate and weighty." *Mimms*, 434 U.S. at 110 through 111.

7 Multiple courts, including the D.C. Circuit, have
8 found that darkly tinted windows "dramatically increase the
9 risk," of danger to police officers during traffic stops.
10 *Rocky Brown*, 334 F.3d at 1168-69. Indeed, the Fourth
11 Circuit has found the potential harm to which officers are
12 exposed when they approach illegally tinted windows to be
13 "unconscionable." *Stanfield*, 109 F.3d at 981.

14 As the Fourth Circuit explained, when approaching
15 a vehicle whose occupants and interiors are blocked from
16 view by tinted windows, the officer "has no way of knowing
17 whether the vehicle's driver is fumbling for his driver's
18 license or reaching for a gun; he does not know whether he
19 is about to encounter a single law-abiding citizen or to be
20 ambushed by a car-full of armed assailants." *Id.* See also
21 *Rocky Brown*, 334 F.3d at 1169, quoting *Stanfield*
22 approvingly.

23 In contrast to the interest in officer safety, the
24 privacy and liberty interests implicated by ordering a
25 driver, lawfully stopped, to roll down the windows of his or

1 her car are comparably "de minimus." *Mimms*, 434 U.S. at 110
2 to 111. See, also, *Stanfield*, 109 F.3d at 981. "If, as the
3 Court has noted, officers face an inordinate risk every time
4 they approach a vehicle whose interior passengers are fully
5 visible to the officers -- *Mimms*, 434 U.S. at 110 -- the
6 risk these officers face when they approach a vehicle with
7 heavily tinted windows is quite simply intolerable."

8 "Officers routinely ask drivers to roll their
9 windows down during traffic stops. This request is
10 necessary to facilitate communication between the officers
11 and the driver, and it minimizes the threat to officer
12 safety inherent in all traffic stops." *United States versus*
13 *Smith*, No. 19-213, 2020 Westlaw 5603668, at 2, Eastern
14 District of California, September 18, 2020, holding that
15 order to roll down windows and act of using flashlight to
16 view interior of car was not an unlawful intrusion.

17 Moreover, unlikely with a residence, "there is no
18 legitimate expectation of privacy shielding that portion of
19 the interior of an automobile which may be viewed from
20 outside the vehicle by either inquisitive passersby or
21 diligent police officers. *Texas versus Brown*, 460 U.S. 730,
22 740, 1983. See, also, *United States versus Bynum*, 508 F.3d
23 1134, 1137, Eighth Circuit, 2007.

24 ("The act of looking through a car window is not a
25 search for Fourth Amendment purposes.") But for the illegal

1 tint, an order to roll down the windows does not require the
2 driver to expose any more of the car's interior than would
3 already be visible to the public eye if the windows were
4 transparent. Mr. Williams cannot claim a greater
5 expectation of privacy in the interior of his vehicle solely
6 because he violated the law operating an automobile that had
7 dark tint on the windows. See *New York v. Class*, 475 U.S.
8 106, 112 to 113, 1986. "Efforts to restrict access to an
9 area do not generate a reasonable expectation of privacy
10 where none would otherwise exist." See also *Oliver versus*
11 *United States*, 466 U.S. 170, 182 to 84, 1984 (placement of
12 "No Trespassing" signs on secluded property does not create
13 "legitimate privacy interest" in marijuana fields).

14 The Court therefore agrees with the government
15 that the order to roll down the darkly tinted windows was
16 more akin to a minimally burdensome safety precaution, not a
17 search.

18 Third, because the order to roll down the windows
19 was justified, the police lawfully seized the firearm at
20 Mr. Morgan's feet under the plain view doctrine.

21 It is well-established that under certain
22 circumstances the police may seize evidence in plain view
23 without a warrant; *Horton v. California*, 496 U.S. 128, 134,
24 1990, so long as, one, the officer did not violate the
25 Fourth Amendment in arriving at the place from which the

1 object was viewed; two, the object's incriminating nature
2 was readily apparent; and, three, the officer had a lawful
3 right of access to the object seized, *United States v.*
4 *Moore*, 75 F. Supp. 3d 444, 448, D.D.C. 2014.

5 Here, once the back window was rolled down, the
6 officer shined a flashlight into the car without breaking
7 the pane of the car, and viewed the firearm at Mr. Morgan's
8 feet. It is "beyond dispute" that the officer's action in
9 shining his flashlight to illuminate the interior of
10 defendant's car "trenched upon no right secured to the
11 latter by the Fourth Amendment"; *Brown*, 460 U.S. at 740.
12 The officer thus had constitutional authority to seize the
13 gun found in plain view. See *United States v. Smith*, 614
14 F. Supp. 2d -- strike that -- 614 F. Supp. 25, 29, D.D.C.,
15 1984, finding that officer had authority to seize shotgun he
16 observed inside a vehicle in plain view.

17 Fourth, the Court next considers whether the
18 police officers had probable cause to believe that
19 contraband might be found in the trunk of the car after
20 seizing the firearm at Mr. Morgan's feet.

21 The "scope of a warrantless search of an
22 automobile is defined by the object of the search and the
23 places in which there is probable cause to believe that it
24 may be found." *United States v. Ross*, 456 U.S. 798, 824,
25 1982. I need to check that cite.

1 "If probable cause justifies the search of a
2 lawfully stopped vehicle," then "it justifies the search of
3 every part of the vehicle and its contents that may conceal
4 the object of the search." *Id.* at 824-25.

5 The Court finds that, here, the officers had
6 probable cause to search the vehicle for additional
7 contraband.

8 First, the presence of a gun supporting the
9 possibility -- strike that. First, "the presence of a gun
10 supported the possibility that the car contained ammunition,
11 additional weapons, and/or other contraband." *Rocky Brown*,
12 334 F.3d at 1171. See also, *United States versus Christian*,
13 187 F.3d 663, 669, D.C. Circuit 1999. ("The presence of one
14 weapon may justifiably arouse concern that there may be more
15 in the vicinity.")

16 *United States v. Miller*, 265 Fed App, Appendix 8
17 [sic], Second Circuit 2008, (holding that once a gun was
18 found in a vehicle glove compartment, they had sufficient
19 probable cause to justify their search of the trunk.)
20 "Moreover, the presence of the gun suggested that drugs may
21 have been in the vicinity as well." *Rocky Brown*, 334 F.3d
22 at 1171 (citing cases).

23 Second, the vehicle in question had an opening in
24 the backseat that allowed a backseat passenger, including
25 Mr. Morgan, access to a space behind the seats.

1 February 10, 2022, hearing transcript at 118, 3-12. This
2 fact increased the likelihood that there could be contraband
3 hidden behind the seats or in the trunk. See *United States v.*
4 *Turner*, 119 F.3d 18, 20, D.C. Circuit 1997, (upholding
5 search of trunk after keys found in defendant's shoe and the
6 officer had observed "the smell of burnt marijuana emanating
7 from the car; pieces of torn cigar paper arrayed around
8 Turner, and a ziploc bag of green weed material found on the
9 floor behind his seat").

10 Third, there had been reports "within the previous
11 days" of shootings and the sounds of gunshots in the area in
12 which Mr. Williams was parked; one of the officers had been
13 in "numerous" illegal firearm recoveries in that area; see
14 *Id.* at 14, 11 to 24, and there were two people in the car.
15 See, e.g., *Rocky Brown*, 334 F.3d at 1171 (noting that the
16 fact that "multiple gunshots had reportedly been fired that
17 night from the lot in which the black car was parked
18 increased the likelihood that multiple guns were present, as
19 did the fact that there had been at least three people in
20 the car that night").

21 In view of all these reasons, the Court denies
22 Mr. Williams' motion.

23 I think I misstated -- if not page 7 -- to the
24 court reporter. Let's see.

25 I said that Mr. Williams cannot claim a greater

1 expectation of privacy in the interior of the vehicle solely
2 because he violated the law by placing the dark tint on his
3 windows.

4 I don't recall that there was testimony about who
5 placed the tint on the windows, so I would amend my ruling
6 by saying that because he violated the law by operating an
7 automobile that had dark tint on the windows.

8 Any objection, Mr. Hart, to that? I don't think
9 there was any objection about placement.

10 MR. HART: No. No. I don't think we know how the
11 tint got there.

12 THE COURT: All right. Otherwise, that's my
13 ruling. I will give a copy of this to the court reporter.
14 I know she must be tired; I am.

15 I will take a five-minute recess, and I will focus
16 in on the motion to dismiss. Again, Mark, if the attorneys
17 want a breakout room for a few minutes, that's fine. I just
18 need to get some water. I am going to mute my video and
19 audio.

20 Mark, just let me know when everyone is ready.

21 THE COURTROOM DEPUTY: Sure, Your Honor.

22 THE COURT: Mr. Williams may want a bathroom
23 recess; if he does, we'll try and accommodate him as well.
24 Okay.

25 (Whereupon, a recess was taken.)

1 THE COURTROOM DEPUTY: Your Honor.

2 THE COURT: Pending before the Court is
3 Mr. Williams' motion to dismiss the superseding indictment,
4 ECF No. 128.

5 The Court denies the motion for the following
6 reasons: "Before trial, a criminal defendant may move to
7 dismiss an indictment for failure to state an offense."
8 *United States v. Payne*, 382 F. Supp. 3d 71, 73, D.D.C. 2019,
9 citing Federal Rule of Criminal Procedure 12(b)(3)(B)(v).
10 "In ruling on a motion to dismiss, the Court is 'limited to
11 reviewing the face of the indictment and, more specifically,
12 the language used to charge the crimes.'" *Id.* Quoting
13 *United States v. Hillie*, 289 F. Supp. 3d 188, 193, D.D.C.
14 2018.

15 Federal Rule of Criminal Procedure 7(c)(1)
16 provides that an "indictment or information must be a plain,
17 concise, and definite written statement of the essential
18 facts constituting the offense charged." Consistent with
19 these requirements, the Supreme Court has held that an
20 indictment must:

21 One, "contain the elements of the offense
22 charged,"; two, "fairly inform a defendant of the charge
23 against which he must defend,"; and, three, "enable a
24 defendant to plead an acquittal or conviction in bar of
25 future prosecution for the same offense." *Hamling v. United*

1 *States*, 418 U.S. 87, 117, 1974.

2 Here, the Superseding Indictment charges
3 Mr. Williams with possession of a firearm while "knowing he
4 had previously been convicted of a crime punishable by
5 imprisonment for a term exceeding one year, in the State of
6 Maryland, Circuit Court for Prince George's County, Criminal
7 Case No. T091786X, and in the Commonwealth of Virginia,
8 Arlington County Circuit Court, Criminal Case No.
9 CR15001195-00." Superseding Indictment, ECF No. 118.

10 Mr. Williams argues that the Court should dismiss
11 the Superseding Indictment because the Maryland conviction
12 and the Virginia conviction are insufficient predicate
13 offenses [sic] for a Section 922(g)(1) violation. See
14 Defendant's Motion, ECF No. 128 at 1. He also argues that
15 the Superseding Indictment is facially invalid because it
16 does not contain all of the essential elements of the
17 offense. *Id.*

18 The Court first addresses Mr. Williams'
19 contentions regarding the Virginia conviction.

20 First, Mr. Williams argues that the Superseding
21 Indictment should be dismissed because it does not allege an
22 "essential element of the offense," namely, a valid
23 predicate conviction. Defendant's Motion, ECF No. 128,
24 at 4. Mr. Williams points to 18 U.S. Code Section
25 921(a)(20), which defines "convicted" as excluding "any

1 conviction for which a person has had civil rights
2 restored." In view of this exception, Mr. Williams argues
3 that the Superseding Indictment does not contend that
4 Mr. Williams had a valid predicate conviction, and so it was
5 facially invalid. Defendant's motion, ECF No. 128 at 5.

6 The Court disagrees.

7 The "statutory exception" in Section 921(a) (20)
8 "is an affirmative defense," *United States v. Romero*, Case
9 No. 12-cr-224, 2013 WL 625338, at 4, D.N.D. Feb. 20, 2013;
10 and, as the Supreme Court has explained, "it has never been
11 thought that an indictment, in order to be sufficient, need
12 anticipate affirmative defenses," *United States v. Sisson*,
13 399 U.S. 267, 288, 1970.

14 Rather, "as a general rule, it is the defendant's
15 burden to prove as an affirmative defense that his conduct
16 fell within the legislative exception, and there was no
17 necessity for the indictment to allege that it was not."
18 *United States v. Cartano*, 534 F.2d 788, 791, Eighth Circuit
19 1976.

20 The Court thus finds persuasive and agrees with
21 the reasoning and analysis of multiple circuit court
22 opinions concluding that the lack of restoration of rights
23 is not an element of a Section 922(g) charge. See, e.g.,
24 *United States v. Zuniga*, 767 F.3d 712, Seventh Circuit 2014;
25 *United States v. Osborne*, 173 F.3d 853, 854, Fourth Circuit

1 1999, per curiam, unpublished; *United States v. Fisher*, 137
2 F.3d 1158, 1166, Ninth Circuit 1998; and *United States v.*
3 *Bartelho*, 71 F.3d 436, 440, First Circuit 1995.

4 Moreover, *United States v. Pickett*, 353 F.3d 62,
5 D.C. Circuit 2004, on which Mr. Williams relies, is
6 distinguishable. In *Pickett*, the defendant was charged with
7 making a false statement in a matter within the jurisdiction
8 of the legislative branch, in violation of 18 U.S.C. Section
9 1001(a) (2), 353 F.3d at 66. The defendant argued that the
10 indictment's allegation that the false statement was "within
11 the jurisdiction of the legislative branch" was insufficient
12 because it failed to allege the charged conduct fell within
13 the specifications of 18 U.S.C. Section 1001 subsections
14 (c) (1) or (2), which require that the statement be made
15 during administrative matters or an investigation or review
16 of Congress. The D.C. Circuit agreed and reversed the
17 defendant's conviction. The Court noted that the indictment
18 only tracked the language of subsection (a), which included
19 the phrase "except as otherwise provided in this section."

20 Later in that section, specifically subsection
21 (c), the statute states, "with respect to any matter within
22 the jurisdiction of the legislative branch, subsection (a)
23 shall apply only to" the circumstances set forth therein.
24 In view of the language of the statute, the Court thus found
25 that subsection (c) were essential elements of the offense.

1 Here, in contrast, Section 921(a) (20) is titled
2 "Definitions" and is in a different section of the statute.
3 Moreover, nothing in the language of Section 922 itself
4 suggests that Section 921(a) (20) is anything more than a
5 mere legal definition. See *Pickett*, 353 F.3d at 68, paren,
6 explaining that "Congress rather plainly told us" the intent
7 of Section 1001(c) (2). The Court therefore does not find
8 *Pickett* to be controlling in this circumstance.

9 Mr. Williams, however, further contends that there
10 is no probable cause to support a finding that Mr. Williams
11 had knowledge as to his status as a felon in Virginia;
12 Defendant's motion, ECF No. 128, at 7.

13 As an initial matter, this Court has already
14 concluded that the lack of restoration of rights is not an
15 element of a Section 922(g) charge, and it is undisputed
16 that Mr. Williams' rights were not restored in Virginia.
17 See the Defendant's motion, ECF No. 128, at 10.

18 And regarding *Rehaif v. United States*, 139 Supreme
19 Court 2191, 2019, although the Supreme Court held that "to
20 convict a defendant, the Government must show that the
21 defendant knew he possessed a firearm and also that he knew
22 he had the relevant status when he possessed it," *Id.* at
23 2194, the Court declines to extend *Rehaif* as also requiring
24 indictments to anticipate all possible affirmative defenses.
25 See *Id.* at 2196. "This is notably not a case where the

1 modifier 'knowingly' introduces a long statutory phase, such
2 that questions may reasonably arise about how far into the
3 statute the modifier extends."

4 Similarly, regarding *United States v. Ruan*, 142
5 Supreme Court 2370, 2022, the Court agrees with the
6 government that, "Contrary to the defendant's suggestion,
7 *Ruan* does not rewrite the rules of statutory construction
8 regarding what constitutes an affirmative defense and what
9 constitutes an element of the offense, nor does it revise
10 decades of precedent requiring what must be pled in an
11 indictment and what must not." Surreply, ECF No. 136, at 3.

12 And finally, even if the Court agreed to consider
13 the sufficiency of the evidence as to Mr. Williams'
14 knowledge of his status, the Court may dismiss an indictment
15 on sufficiency of the evidence grounds as to an essential
16 element of the offense when "the material facts are
17 undisputed and only an issue of law is presented."
18 *United States versus Yakou*, 428 F.3d 241, 247, D.C. Circuit,
19 2005.

20 Here, a material fact is in dispute. The
21 government disputes that Mr. Williams was led to believe by
22 general media reports that his rights had been restored.
23 See Surreply, ECF No. 136 at 7.

24 Because the Court finds that the Virginia
25 conviction is a sufficient predicate under Section

1 922(g)(1), the Court need not address whether the Maryland
2 conviction was sufficient. Accordingly, Mr. Williams'
3 motion to dismiss, ECF No. 128, is denied.

4 All right. Those are my rulings, Counsel.

5 I don't know if you want a recess or do you need
6 to speak with your respective principals and/or clients.

7 Mr. Hart.

8 MR. HART: Thank you, Your Honor.

9 I didn't want to cut Mr. Ohm off.

10 Just from the government's end, in light of Your
11 Honor's rulings, I would anticipate conveying a plea offer,
12 the broad outlines of which I have discussed with Mr. Ohm
13 before, although it was not formal in any sense of the word.
14 I would expect to convey a plea offer detailing the terms
15 for Mr. Ohm in the very near future.

16 THE COURT: All right. Then subject to what
17 Mr. Ohm has to say, should the Court schedule just a status
18 hearing and, if so, the time frame? And the second part is
19 with respect to speedy rights.

20 Mr. Ohm.

21 MR. OHM: Your Honor, my -- we appreciate
22 Mr. Hart's position. I think that at this point, though,
23 Mr. Williams -- we would like to set a trial date within a
24 relatively short period of time. Mr. Williams, obviously,
25 has been waiting in detention for a long time.

1 THE COURT: All right. I just scheduled a trial
2 date in one of your cases, I believe, for early next year.
3 Was it January? Mr. Harris's case?

4 Is that your case, Mr. Ohm?

5 MR. OHM: I don't think so. I hope not.

6 THE COURT: No. It's one of your colleague's
7 cases. Let me just take a look. Let me take a look at the
8 calendar.

9 Mark, do we have a trial in January or not?

10 THE COURTROOM DEPUTY: Right now no, Your Honor.

11 THE COURT: We have Mr. Yoder in February. I can
12 move his trial because he is not detained.

13 What about February the 8th, Counsel, for trial?
14 And then, working backwards, any additional motions,
15 et cetera, et cetera.

16 MR. OHM: Your Honor, not to inconvenience the
17 Court in any way, but I think Mr. Williams at this time
18 would like to assert his speedy trial rights and get a trial
19 in this year, if the Court can accommodate that, please.

20 THE COURT: This trial shouldn't be too long,
21 should it? Two days or so?

22 MR. OHM: I would think, at the most.

23 THE COURT: Maybe there is something I can move
24 later on this year. Let's see.

25 Kristi, I think you are on the line. Kristi, can

1 we talk in the breakout room? I need to check on some
2 things on the calendar.

3 Mark, can you put us in a breakout room?

4 THE COURTROOM DEPUTY: Sure. Sure.

5 THE COURT: I am just going to mute my audio.

6 Are there bad dates for anyone in December or
7 November? I just need to know broadly. I may have to move
8 something in November, I can probably do that. I just need
9 to know from the attorneys.

10 MR. HART: I am scheduled to start a six-week
11 trial in about ten days or so, also on the 19th. The judge
12 in that case has promised the jurors will have it by
13 October 31st --

14 THE COURT: There are a lot of trials. I
15 understand, from my colleagues, there are a lot of trials
16 scheduled to start on the 19th. I don't know. I mean,
17 being able to please the jurors -- I don't think everyone's
18 trial is going to go forward, but that's between you and
19 that judge.

20 MR. HART: All I am saying, in terms of
21 availability, government counsel -- I think November looks
22 good, early December looks good.

23 THE COURT: Okay. What about defense counsel?

24 MR. OHM: November looks good, Your Honor.

25 I have a trial set for December 12th, but if --

1 THE COURT: Someone is starting a trial on
2 December the 12th? That's fine, whatever. I am not doing
3 it. I am not going to say anything more.

4 Let me look at November.

5 If you can put us all in a breakout room, Mark,
6 that will be great. Mr. Williams has been incarcerated
7 before -- we have been over this before -- over 400 days,
8 something like that.

9 MR. OHM: Yes, Your Honor.

10 MR. HART: Yes, Your Honor.

11 THE COURT: Okay. All right. You can put us
12 in -- okay, join breakout room right now. I will mute my
13 audio and video, or try to anyway.

14 (Whereupon, the Court and staff confer.)

15 THE COURT: How about -- I had a trial scheduled
16 for the end of November, Mr. Coates, it just got -- well,
17 it's no longer on the trial calendar at the defendant's
18 request.

19 What about November the 29th?

20 I will ask Mark; is that still an available date
21 or did we lose that slot? Still available?

22 THE COURTROOM DEPUTY: Yes, Your Honor. It is.

23 THE COURT: November 29th for jury selection,
24 that's the Tuesday after Thanksgiving. Also, there is a
25 pending motion, I think it's ECF No. 95. It appears to be

1 moot at this point, unless anyone else thinks otherwise.

2 MR. HART: Are you referring to the motion for
3 release, Your Honor?

4 THE COURT: You know what, I don't have it in
5 front of me. I was just speaking to my staff; I didn't pull
6 it up. One of the suggestions was that it appeared to be
7 moot at this point; I am not sure if that is the motion for
8 release or not, ECF No. 95.

9 MR. HART: I have that as a motion to dismiss,
10 Your Honor.

11 THE COURT: Because of the predicate offense?

12 MR. HART: Yes.

13 THE COURT: All right. I think it's moot, but I
14 will hear from Mr. Ohm.

15 MR. OHM: Your Honor, I think that was the motion
16 to dismiss. I'm sorry. One second, Your Honor.

17 THE COURT: Yes. It was a motion to dismiss, I am
18 pretty sure.

19 MR. HART: Yes, the original indictment.

20 THE COURT: The original indictment.

21 MR. HART: So that is moot because we superseded
22 it, Your Honor.

23 THE COURT: All right. What about that Tuesday
24 after Thanksgiving for voir dire, Counsel?

25 MR. OHM: I am available. I know that

1 Mr. Williams would like me to say that a sooner date would
2 be better; but I am available on the 29th, Your Honor.

3 THE COURT: All right. Let's do the 29th then.

4 Working backwards, with the exception of voir
5 dire -- I am trying to think through pretrial proceedings.
6 There is nothing else pending. I don't know if there will
7 be other motions or not. Will there be, Mr. Hart, or
8 Mr. Ohm? 404(b) or whatever? I don't know.

9 MR. HART: I think, from the government's side,
10 there very well can be motions, Your Honor.

11 THE COURT: Let's do this. Obviously, we have
12 some time. Today -- what is today's date, the 8th, right?

13 MR. HART: The 8th.

14 THE COURT: How much time -- with motions and
15 notices by everyone, how much time do you want?

16 Obviously, we have some time.

17 Can I just say three weeks? Whatever date that
18 is, Mark. And then three weeks for any responses and, then,
19 ten days thereafter for any replies? I just need some
20 dates, Mark, to look those up, if that time frame is good,
21 Counsel. And a hearing on pretrial motions may be for early
22 Thanksgiving week.

23 MR. HART: Your Honor, that time frame will work
24 for the government. I think it's likely that a colleague
25 will fill in for me or be substituted for me in this case so

1 that we can proceed accordingly and ensure that everything
2 is on track for November 29th.

3 THE COURT: Okay. We're going to lose you as the
4 trial attorney?

5 MR. HART: I am afraid that might be the case,
6 Your Honor.

7 THE COURT: I hate to do that; you have got so
8 much time and knowledge invested in this case. Is there any
9 way to avoid that?

10 MR. HART: I can certainly bring that to the
11 attention of my higher-ups.

12 THE COURT: Please, if you can. You have been
13 involved in this case for many, many -- I hate to lose that
14 institutional knowledge that you have.

15 MR. HART: Yes, Your Honor. I understand.

16 THE COURT: I strongly recommend that you should
17 be allowed to try it; I really do.

18 MR. HART: Yes, Your Honor. Then, again, I still
19 may have a colleague with me that will help out.

20 THE COURT: That's fine. I don't want to lose --
21 we have so many hours of argument and pleadings -- just a
22 ton of knowledge and information you have about this.

23 MR. HART: Yes, Your Honor.

24 THE COURT: If I need to talk -- ask John to call
25 me if there is a problem. Maybe I can say something to

1 persuade him to keep you on the case. Ask him to call me.
2 I have a strong recommendation that you be the principal
3 trial attorney just because of your institutional knowledge,
4 and you are a damn good lawyer. I don't want to start off
5 with someone else in a case that's been around for this long.

6 MR. HART: Understood.

7 THE COURT: Okay.

8 MR. OHM: Your Honor, I hate to interrupt. I saw
9 Mr. Williams raising his hand. I just wanted to make sure
10 there wasn't something --

11 THE COURT: If you need to talk to him, go ahead,
12 Mark, and put them in a breakout room. I don't know what
13 you are going to say. I am sitting right here, Mark.

14 THE COURTROOM DEPUTY: Okay.

15 (Whereupon, the proceeding pauses.)

16 THE COURT: We were discussing dates, Mark.

17 What were the dates that came up in the time frame?

18 THE COURTROOM DEPUTY: Sure. Motions and notices
19 due September 29th, responses October 21st, and replies
20 November 2nd.

21 THE COURT: And the proposed motion hearing dates?

22 THE COURTROOM DEPUTY: That, right now, is
23 November 16th, at 10:30 a.m.

24 THE COURT: All right. Counsel, any problems?

25 We obviously have some flexibility.

1 Any objections to those dates?

2 MR. OHM: No, Your Honor.

3 THE COURT: Okay. I have a standard pretrial
4 order; I will issue that as well. I will attach it to a
5 copy of the voir dire, and it invites additional questions.

6 All right. Are there other issues that we need to
7 discuss today, a need to schedule another status hearing
8 prior to the pretrial hearing? If so, I am happy to
9 accommodate Mr. Williams and everyone.

10 MR. HART: No, Your Honor.

11 From the government's perspective -- like I said,
12 my initial intent was to convey a plea offer. But given
13 that there doesn't seem to be a lot of interest in that, I
14 will not convey a plea offer.

15 THE COURT: All right. Well, I am not going to
16 get involved in plea discussions but, you know, do what you
17 want to do. You may surprise yourself. Who knows?

18 Anyway, give it some thought. Do what is best for
19 you and your office. Anyway, I will just leave it at that.

20 MR. OHM: Your Honor, I just want it to be clear.
21 So the motion to dismiss, in response to the Court's
22 question on ECF 95, that was the motion to dismiss based
23 upon the Maryland count.

24 My understanding -- my recollection is that the
25 government's superseding indictment also had the Maryland

1 conviction as an underlying offense.

2 THE COURT: Yes. I didn't address the Maryland
3 offense in the ruling either.

4 MR. OHM: I guess I don't -- I am just trying to
5 think of how this will play out. I can see, I guess, a
6 possibility that Mr. Williams could be at least
7 theoretically -- the jury can find that the Virginia offense
8 was a proper -- Virginia was not sufficient, I think,
9 through the affirmative defense; it's not sufficient to be
10 the predicate felony for the 922(g) but that the Maryland
11 was. So I think the Court might have to rule on the
12 Maryland offense as a predicate offense as well.

13 THE COURT: I tell you what, let's make it easy --
14 I am not prepared to go back to the drawing board this
15 morning. Include that among your requests, your motions.
16 If I need to rule on it, I will; I will be happy to do that.

17 MR. OHM: Okay. Thank you.

18 THE COURT: All right. Right now, that will just
19 remain on the docket; it will still toll speedy trial.

20 I am not going to penalize Mr. Williams and be
21 technical about it. If he wants a trial, I have got the
22 time. I am available, the parties are available; it's not
23 going to be a long trial. We'll go forward with the trial.

24 MR. OHM: Thank you.

25 THE COURT: I will let -- it will be in open

1 court, obviously. The pretrial proceedings will be held
2 virtually. Everyone entering the courtroom must be masked.
3 There will be more about that as we get closer to the trial
4 date -- I mean, marshals included -- everyone will be
5 masked, jurors as well. I will issue a separate order;
6 we'll talk about that at pretrial.

7 Are there any other issues that we need to focus
8 on today?

9 MR. OHM: Not on behalf of Mr. Williams.

10 THE COURT: Okay. Where is Mr. Williams now?

11 MR. OHM: D.C. jail.

12 THE COURT: D.C. jail.

13 MR. OHM: I think we might have lost Mr. Hart.

14 THE COURT: He looks frozen.

15 Mark can defrost him; that's the hard part.

16 THE COURTROOM DEPUTY: Okay. He emailed --

17 THE COURT: What's that?

18 THE COURTROOM DEPUTY: Let me try and get in
19 contact with him.

20 THE COURT: Before we adjourn, sure.

21 Just let me know when you are ready, Mark.

22 MR. OHM: He might be restarting.

23 (Whereupon, the proceeding pauses.)

24 THE COURTROOM DEPUTY: Mr. Hart, we've got you back?

25 MR. HART: Sorry about that.

1 THE COURTROOM DEPUTY: Your Honor, Mr. Hart is
2 back on the videoconference line.

3 THE COURT: All right. We noticed you were frozen
4 in time there.

5 MR. HART: I think you said any other issues from
6 the parties; that's the last I heard.

7 Nothing from the government, Your Honor.

8 THE COURT: Okay. If there is nothing else -- did
9 you hear the discussion about the other motion, ECF 95?

10 MR. HART: I heard all of that.

11 The last thing I heard was: Do the parties have
12 anything else for the Court? I think I said no, and then I
13 broke off.

14 THE COURT: Mr. Ohm is going to address in his
15 filings whether the Court needs to formally rule on
16 ECF No. 95.

17 I don't have anything else to say.

18 I will leave the issue of probing [sic] for the
19 trial up to Mr. Ohm, and we certainly will get the marshals
20 to accommodate. That's all I have to say.

21 Mark, I am going to ask you to reach out to the
22 jury office to reserve a pool. I don't know what the judges
23 are doing with respect to voir dire. I think it will
24 probably be in the ceremonial courtroom just because there
25 is more space there. Let's plan on that, Counsel. If there

1 is a change, then we should go to my courtroom, 24, in the
2 annex. We'll do that. For the time being, it will be the
3 ceremonial courtroom. Things change almost daily because of
4 the pandemic. It's still unfortunate that almost daily some
5 employee in the courthouse tests positive; that's the way it
6 is.

7 All right. Mr. Williams, you take care; be
8 healthy, be safe, take care.

9 Attorneys, thank you. All of you are outstanding.
10 We'll talk again. Okay.

11 MR. OHM: Thank you, Your Honor.

12 THE COURT: Mark, confirm that pretrial date and
13 time again and, also, the commencement date of trial, the
14 voir dire date and time; it should be 9:00.

15 THE COURTROOM DEPUTY: Okay.

16 THE COURT: What's the date and time for the
17 motions hearing?

18 THE COURTROOM DEPUTY: Motion hearing is
19 November 16, at 10:30 a.m.; jury selection and voir dire,
20 November 29th at nine o'clock a.m.

21 THE COURT: That's fine, Mark.

22 Ask Virginia to reserve a jury panel for us, okay?

23 THE COURTROOM DEPUTY: Yes, Your Honor.

24 THE COURT: The standard number. I don't think we
25 need anymore than two alternates for trial; it's a short

1 trial.

2 Does anyone think we need more than two
3 alternates? One of the questions that came up yesterday
4 from the judges was: What happens when a juror tests
5 positive during the course of the trial? I don't even want
6 to think about that. I will leave it up to the parties --
7 to the attorneys to think about that, what happens.

8 It hasn't happened yet, to our knowledge.
9 Hopefully it won't happen. But who would have thought we
10 would still be doing virtual hearings two years after the
11 pandemic hit us. Anyway, keep that thought in mind: What
12 should the Court do at that point? I don't even want to
13 think about it. I raised it because it came up yesterday;
14 no one had a good answer.

15 All right. Everyone, take care. Be safe, be
16 healthy. Bye. Have a nice day.

17 MR. OHM: Bye, Your Honor.

18 THE COURT: Let me ask you, worst-case scenario --
19 did we lose -- who did we lose; Mr. Hart? Did we lose him?

20 See if you can get him back on.

21 I just wanted to inquire about the criminal
22 history category, what the range is. I just need to know
23 what is going on here. I need to know whether the parties
24 ever requested a category calculation. If not -- if you
25 need one, I can probably get one.

1 (Whereupon, the proceeding pauses.)

2 THE COURTROOM DEPUTY: Mr. Hart, we got you back.

3 MR. HART: I am not running away.

4 THE COURT: You were too fast. We lost you, you
5 are so fast.

6 I don't recall if the parties ever asked for an
7 early mutual evaluation from probation. I can get one if
8 you wanted. I just need to know what range are we talking
9 about, and whether there are any mandatories, worst-case
10 scenario. If anyone knows with any certainty. If you don't
11 know, I don't want you to guess.

12 MR. HART: No mandatories. As far as a sentencing
13 range, I'd have to go back --

14 THE COURT: Don't worry about it.

15 Does anyone need a calculation from probation?

16 Mr. Ohm?

17 MR. OHM: No, Your Honor.

18 THE COURT: Okay. All right. Everyone take care.

19 Be safe.

20 Hold it. No other questions from anyone?

21 I don't have any.

22 Mark, do you have questions?

23 MR. OHM: Judge, can you run down the deadlines
24 again?

25 THE COURT: Yes. Run through those deadlines

1 again, Mark.

2 THE COURTROOM DEPUTY: Sure.

3 The motion notices, due September 29th; responses,
4 October 21st; replies, November 2nd; motion hearing,
5 pretrial conference, November 16 at 10:30 a.m.; and jury
6 selection on November 29th at nine o'clock a.m.

7 MR. OHM: I'm sorry. The replies were due on the
8 2nd you said?

9 Thank you. I appreciate it.

10 THE COURTROOM DEPUTY: All right.

11 MR. OHM: We'll talk. Nothing else from us.

12 THE COURT: All right. Everyone, take care.
13 Enjoy the day. Take care. Bye-bye.

14 (Whereupon, the proceeding concludes, 12:14 p.m.)

15 * * * * *

16 **CERTIFICATE**

17 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby
18 certify that the foregoing constitutes a true and accurate
19 transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings to the best of my
ability.

20 This certificate shall be considered null and void
21 if the transcript is disassembled and/or photocopied in any
22 manner by any party without authorization of the signatory
below.

23 Dated this 29th day of October, 2022.

24 /s/ Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter

25

UNITED STATES DISTRICT COURT

District of Columbia



UNITED STATES OF AMERICA

v.

RONNARD WILLIAMS

JUDGMENT IN A CRIMINAL CASE

Case Number: 20-cr-88-(2) JMC

USM Number: 72473-007

Eugene Ohm

Defendant's Attorney

THE DEFENDANT:☐ pleaded guilty to count(s) _____☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☒ was found guilty on count(s) One (1s) of the Superseding Indictment filed on 6/17/2022, solely as to the Glock 22 found in
after a plea of not guilty. the passenger compartment of the car.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:922(g)(1)	Unlawful Possession of a Firearm and Ammunition by a Person Convicted of a Crime Punishable by Imprisonment for a Term Exceeding One Year	5/10/2020	1s

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) 2 of the Original Indictment ☒ 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.

3/21/2023

Date of Imposition of Judgment

Signature of Judge

Jia M. Cobb, U.S. District Judge

Name and Title of Judge

March 27, 2023

Date

DEFENDANT: RONNARD WILLIAMS

CASE NUMBER: 20-cr-88-(2) JMC

IMPRISONMENT

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

Forty-one (41) Months (3 years, 5 months) on Count 1s, with credit for time served.

☒ The court makes the following recommendations to the Bureau of Prisons:
The Court recommends that Defendant be housed at the FCI- Petersburg facility. The Court also recommends that Defendant participate in the RDAP program. While incarcerated, defendant to receive educational and vocational training.

☐ 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: RONNARD WILLIAMS

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SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Thirty-six (36) months (3 years) on Count 1s.

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 the location where 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 other conditions on the attached page.

DEFENDANT: RONNARD WILLIAMS

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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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: RONNARD WILLIAMS
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SPECIAL CONDITIONS OF SUPERVISION

Substance Abuse Testing - You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.

Full Time Employment or Vocational Services Program - Unless you are employed full-time (at least 30 hours per week), you must participate in a vocational services program and follow the rules and regulations of that program. Such a program may include job readiness training and skills development training.

DEFENDANT: RONNARD WILLIAMS
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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$	\$	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ 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, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$	<u>0.00</u>	\$	<u>0.00</u>
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☐ 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 Sheet 6 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:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** 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: RONNARD WILLIAMS
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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 \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
- ☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- The financial obligation is immediately payable to the Clerk of the Court for the U.S. District Court, 333 Constitution Ave NW, Washington, DC 20001. Within 30 days of any change of address, you shall notify the Clerk of the Court of the change until such time as the financial obligation is paid in full.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.