

APPENDICES

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-4015

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

MARCUS RUBEN BLAND, JR.,

Defendant – Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at
Newport News. Elizabeth W. Hanes, District Judge. (4:23-cr-00030-EWH-DEM-1)

Argued: December 10, 2025

Decided: January 21, 2026

Before KING, HARRIS, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ARGUED: Salvatore M. Mancina, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Alexandria, Virginia, for Appellant. James Reed Sawyers, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee. **ON BRIEF:** Jeremy C. Kamens, Federal Public Defender, Rodolfo Cejas, II, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Alexandria, Virginia, for Appellant. Erik S. Siebert, United States Attorney, Peter G. Osyf, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In this appeal from the Eastern District of Virginia, defendant Marcus Ruben Bland challenges his criminal judgment of conviction, rendered by the district court following an August 2024 bench trial in Newport News. Ultimately, the court adjudged Bland guilty of the offense of knowingly possessing a firearm, to wit, a semi-automatic pistol, as a person with a prior felony conviction, in contravention of 18 U.S.C. § 922(g)(1). *See United States v. Bland*, No. 4:23-cr-30 (E.D. Va. Dec. 19, 2024), ECF No. 44 (the “Judgment”).

Of especial relevance here, in proceedings leading to the bench trial, the district court denied Bland’s motion to suppress evidence that had been obtained by officers with the Newport News Police Department — i.e., the pistol underlying the charged offense — on the night of Bland’s arrest in December 2022. To that end, the court readily determined that the officers had possessed a reasonable, articulable suspicion to seize Bland, pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968), and its progeny. *See, e.g., Illinois v. Wardlow*, 528 U.S. 119, 123 (2000) (relying on *Terry* and concluding that “an officer may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a *reasonable, articulable suspicion* that criminal activity is afoot” (emphasis added)).

On appeal, Bland challenges the district court’s Judgment by maintaining, inter alia, that the Newport News police officers violated his Fourth Amendment right to be free from an unreasonable seizure. In that regard, Bland maintains that “the evidence the . . . officers recovered during [the] encounter [i.e., the firearm] . . . should [have been] suppressed

because [the officers'] seized him without reasonable suspicion.” *See* Br. of Appellant 12. And on that basis, Bland maintains that the court erred in denying his motion to suppress.*

Our Court reviews “de novo the ultimate legal contention of whether reasonable suspicion existed to justify police action.” *See United States v. McCoy*, 513 F.3d 405, 410 (4th Cir. 2008). And otherwise, we review a trial court’s factual findings underpinning such a determination for clear error, construing them in the light most favorable to Bland, as the non-moving party. *See United States v. Black*, 707 F.3d 531, 534-37 (4th Cir. 2013).

In these circumstances, having carefully assessed the record on appeal — as well as the appellate submissions of the parties and the able arguments of counsel in Richmond — we discern no reversible error with respect to the district court’s denial of Bland’s motion to suppress. Accordingly, we are content to affirm the Judgment.

AFFIRMED

* Bland also pursues an appellate contention concerning the underlying legality of his conviction for the § 922(g)(1) offense. Specifically, Bland contends that pursuant to the Supreme Court’s 2022 decision in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022), the offense of § 922(g)(1) is “unconstitutional under . . . [Bruen’s] text and history standard.” *See* Br. of Appellant 13. As Bland acknowledges, however, that contention is foreclosed by our precedent. *See United States v. Canada*, 123 F.4th 159, 161 (4th Cir. 2024); *United States v. Hunt*, 123 F.4th 697, 700 (4th Cir. 2024).

FILED: January 21, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-4015
(4:23-cr-00030-EWH-DEM-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARCUS RUBEN BLAND, JR.

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with [Fed. R. App. P. 41](#).

/s/ NWAMAKA ANOWI, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA,

v.

MARCUS RUBEN BLAND, JR.,

Defendant.

CRIMINAL ACTION NO.
4:23cr30

TRANSCRIPT OF PROCEEDINGS
(Motions Hearing)

Norfolk, Virginia

June 27, 2024

BEFORE: THE HONORABLE ELIZABETH W. HANES
United States District Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Peter G. Osyf
Assistant United States Attorney
Counsel for the United States

FEDERAL PUBLIC DEFENDER'S OFFICE

By: Rodolfo Cejas, II
Assistant Federal Public Defender
Counsel for the Defendant

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(None)

1 anything else -- and I'm going to address the motion to
2 dismiss -- but anything else you think I need to address
3 regarding the motion to suppress?

4 MR. OSYF: No, Your Honor. Thank you.

5 THE COURT: All right.

6 Mr. Cejas, anything else from you on that?

7 MR. CEJAS: No, Your Honor.

8 THE COURT: Do either of you want to be heard on
9 the motion to dismiss?

10 MR. CEJAS: No, Your Honor.

11 MR. OSYF: No, Your Honor.

12 I would just like to note for the Court the U.S.
13 Supreme Court's recent decision in *Rahimi*, which I think
14 goes even more so to any factual challenges to or facial
15 challenges to *Bruen*. So, that's all, Your Honor.

16 THE COURT: All right. You know, I can rule on the
17 motion to dismiss. I will say for the parties that this is
18 an area of the law that is very much developing and
19 changing, and there have been opinions from the Fourth
20 Circuit and the Supreme Court. I recognize that the defense
21 may feel that they need to preserve their arguments, but I
22 do expect that as there are developments in the case law
23 that the parties address those developments. I think I have
24 an obligation to look at them, understand them, and decide
25 how they impact my analysis, and it would be helpful for me

1 if, as these motions are filed, the parties do address any
2 new developments. And I recognize the Fourth Circuit's
3 opinion, and especially the opinion from the Supreme Court
4 that just recently came out.

5 So, here, there is a motion to dismiss as to Count
6 One, which charges felon in possession of a firearm. There
7 are two challenges that are made. Mr. Bland makes two
8 challenges. The first is a facial challenge.

9 Mr. Bland, a facial challenge is essentially an
10 argument that every application of this statute would be
11 unconstitutional, which, in other words, would mean that
12 there is no context in which the statute could be applied to
13 anyone and still be constitutional.

14 The Fourth Circuit, in *United States versus Canada*,
15 which came out in the last month, considered this specific
16 issue, which is, is 922(g)(1) facially constitutional. They
17 held that it was. That decision is binding on this Court,
18 and I think the defendant has acknowledged that it would be,
19 and so on that basis, I would deny the facial challenge.

20 The as-applied challenge is a little bit more
21 complicated.

22 Mr. Bland, an as-applied challenge is essentially
23 asking whether the application of the statute to you
24 specifically, given the circumstances, is unconstitutional.
25 That being said, even though it's framed as an as-applied

1 challenge, really, most of the argument really mirrored the
2 facial challenge, and so there is not really an articulation
3 of how the specifics of Mr. Bland's possession of a firearm
4 would make enforcement of that law unconstitutional as to
5 him. I think that would be enough for me to deny the
6 motion, because I think it's necessary to be able to point
7 to something that says, I'm different, and this is why, as
8 applied to me, this statute is unconstitutional. But the
9 argument that's actually made is that Mr. Bland is one of
10 the people, as a citizen of the United States, and that
11 really isn't distinguishing him from anyone else. But even
12 if I consider this as-applied challenge, I do think it would
13 fail.

14 It turns in part, Mr. Bland, on your felony
15 convictions. Your prior felony convictions are for felony
16 assault.

17 The Fourth Circuit, in *Canada*, didn't have to
18 address this issue. They even acknowledge that there could
19 be some room for an as-applied challenge. They also didn't
20 clarify for the Court the analysis that the Court should
21 use, and there has been some debate as to what would be the
22 proper analysis. I do think, though, that the Fourth
23 Circuit's analysis in the *United States versus Canada* would
24 suggest that this would be a constitutional application of
25 the statute, and they talked about individuals who threaten

1 the public safety. I think it would be reasonable to
2 conclude that a felony assault would fall into this
3 category, so I do think that their opinion is at least
4 suggestive of the fact that, even as applied to Mr. Bland,
5 the statute is constitutional.

6 This Court of law and a number of District Courts
7 have considered as-applied challenges, specifically *United*
8 *States versus Lane*, *United States versus Hill*, *United States*
9 *versus Perry*. They have upheld the constitutionality of
10 922(g) (1) both facially and as applied.

11 When you look at the facts of those cases, they are
12 fairly similar or even, I think, the defendants in those
13 cases would have had a better argument than Mr. Bland has,
14 in that some of the felony convictions that supported the
15 felony status of the defendant did not involve violent
16 conduct, for example, a drug conviction or a felony perjury.
17 But, here, when you look at the conduct, which is felony
18 assault, I think, then, it is a stronger argument for the
19 government.

20 I have reviewed the reasoning set forth by Judge
21 Alston in the *United States versus Reilly*, and I would agree
22 with him that *Bruen* did not overrule *District of Columbia*
23 *versus Heller* or *McDonald versus City of Chicago*. Both of
24 those are Second Amendment cases. Because of that, I think
25 I do have to look at the Fourth Circuit's reasoning in the

1 *United States versus Moore*, that that case would be
2 applicable here, and would be binding on this Court, and
3 would require that I find that the statute is constitutional
4 as applied to Mr. Bland.

5 But even if I go on and look at the full *Bruen*
6 framework, as Judge Alston explained, what I am to look at
7 would be the history and tradition of the nation's firearm
8 regulations. And, here, I again agree with the government
9 that *the Rahimi* decision, which is a Supreme Court decision
10 that came out about a week ago, talks about the fact that
11 traditionally the firearm regulation in the United States
12 allows the government to disarm individuals who present a
13 credible threat to the physical safety of others, and I
14 think the logic is that an individual who has been convicted
15 of a violent felony, the government can use that
16 justification to prohibit them from possessing the firearm.

17 So, based upon all of that, I think that it's
18 fairly clear that Mr. Bland's as-applied challenge must also
19 fail.

20 And so, on that basis, Mr. Bland, I will deny both
21 your motion to suppress as well as your motion to dismiss.

22 Our trial date is set for July 9th. Let me just
23 ask the parties, are there any other issues that we need to
24 address in anticipation of the trial?

25 Mr. Cejas?

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA

v.

Criminal Case No. 4:23cr30

MARCUS RUBEN BLAND, JR.,

Defendant.

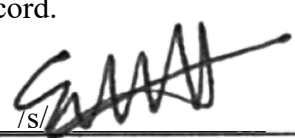
ORDER

This matter is before the Court on Defendant's Motion to Dismiss, ECF No. 16, and Motion to Suppress, ECF No. 17. The Court held an evidentiary hearing on June 27, 2024, at which the Court heard evidence and arguments from both Defendant and the Government. For the reasons stated on the record, Defendant's Motion to Dismiss and Motion to Suppress are DENIED. ECF Nos. 16, 17.

It is SO ORDERED.

The Clerk is directed to send a copy of this Order to all counsel of record.

Date: July 1, 2024



Elizabeth W. Hanes
United States District Judge