APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. LAINDRELL MYQUAIL COOPER, Defendant.	No. 23-CR-2034-CJW-MAR **ORDER**

I. INTRODUCTION

This matter is before the Court on defendant's Motion to Dismiss the Superseding Indictment.[1] (Doc. 27). The government filed a timely resistance. (Doc. 28). For the following reasons, the Court **denies** defendant's Motion to Dismiss the Superseding Indictment as facially unconstitutional and **holds-in-abeyance** defendant's as-applied challenge.

II. RELEVANT BACKGROUND

On May 26, 2023, defendant was charged by criminal Complaint with one count of possession of ammunition by a felon. (Doc. 2). Then, on December 12, 2023, a grandy jury returned an Indictment, charging defendant with one count of possession of ammunition by a felon. (Doc. 7). On April 25, 2024, a grand jury returned a two-count Superseding Indictment, charging defendant with one count of possession of a firearm by a prohibited person (Count 1), in violation of Title 18, United States Code, Sections 922(g)(1), 922(g)(3), and 924(a)(2); and one count of possession of ammunition by a

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[1] The Court notes that although Count 1 charges defendant under both Sections 922(g)(1) and (g)(3), defendant has motioned only under Section 922(g)(1). (*See* Docs. 21 & 27). The Court finds the omission of such challenge under Section 922(g)(3) is likely an unintended one, and so the Court will address the motion to dismiss under both subsections.

felon (Count 2), in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8). (Doc. 21). Count 1 alleges that defendant, knowing he had previously been convicted of a crime punishable by a term of imprisonment exceeding one year and knowing that he was then an unlawful user of marijuana, knowingly possessed a firearm in and affecting commerce, specifically a Glock 17, .40 S&W caliber pistol. (*Id.*, at 1-2). Count 2 alleges that defendant, knowing he had previously been convicted of a crime punishable by a term of imprisonment exceeding one year, knowingly possessed ammunition in and affecting commerce, namely four rounds of Hornady, .40 S&W caliber ammunition; two rounds of Federal, .40 S&W caliber ammunition; and one round of Winchester, .40 S&W caliber ammunition. (*Id.*, at 2).

III. DISCUSSION

Defendant argues the Court should dismiss the Superseding Indictment. (Doc. 27). Defendant asserts Section 922(g)(1) is inconsistent with this Nation's historical tradition of firearm regulation, as required by *Bruen*. *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). (Doc. 27-1, at 3-7).

The Court finds that neither Sections 922(g)(1) nor 922(g)(3) violate the Second Amendment on their faces and therefore denies defendant's motion to dismiss on those grounds. In arriving at this conclusion, the Court first finds that 922(g)(1) and 922(g)(3) implicate conduct protected by the Second Amendment. Second, the Court concludes that Sections 922(g)(1) and 922(g)(3) are consistent with this Nation's traditional regulation of possession of firearms by criminals.

*A. Post-***Bruen** *Facial Challenge of 922(g)(1)*

Defendant asserts Section 922(g)(1) violates the Second Amendment right to bear arms. (Doc. 27-1). Defendant argues first that the Second Amendment's plain text covers conduct regulated in Section 922(g)(1). (*Id.*, at 3-4). Second, defendant asserts the government cannot and has not met its burden to show that the regulation of the conduct in the statute—possession of a firearm by a felon—is consistent with this Nation's historical tradition of firearm regulation as required in *Bruen*. (*Id.*, at 4-7). For the reasons that follow, the Court denies the motion to dismiss on this ground.

This Court finds Section 922(g)(1) is facially constitutional. In *United States v. Jackson*, the Eighth Circuit Court of Appeals found Section 922(g)(1), prohibiting convicted felons from the possession of firearms, is constitutional as-applied to Jackson—a "nonviolent" drug felon. 69 F.4th 495, 505-06 (8th Cir. 2023). Reviewing historical analogues relating to restrictions on gun possession, the court found that the law is consistent with the Nation's historical tradition of firearms regulation. *Id.* at 501-06. Further, in several cases now, this Court has found Section 922(g)(1) facially constitutional based on *Jackson*, and it adopts its analysis and findings here. *See, e.g.*, *United States v. Faust*, No. 23-cr-2005-LTS-MAR, 2023 WL 4669028, at *2-4 (N.D. Iowa June 30, 2023), adopted by *United States v. Faust*, No. CR23-2005-LTS-MAR, 2023 WL 4626672 (N.D. Iowa July 19, 2023); *United States v. Pruden*, No. 23-CR-42-CJW-MAR, 2023 WL 6628606, at *5 (N.D. Iowa Oct. 11, 2023). Thus, the Court denies defendant's facial challenge to Section 922(g)(1) and **denies** defendant's motion to dismiss on this ground.

*B. Post-*Bruen* Facial Challenge of 922(g)(3)*

Assuming defendant intended to motion, too, under Section 922(g)(3), the Court denies the motion on that ground.

The Court has on several occasions held Section 922(g)(3) facially constitutional. *See, e.g.*, *United States v. Garcia*, Case No. 23-CR-2018-CJW-MAR, at Doc. 25; *United States v. Springer*, Case No. 23-CR-1013-CJW-MAR, at Doc. 44; *United States v. Wuchter*, Case No. 23-CR-2024-CJW-MAR, at Doc. 33; *United States v. Ledvina*, Case No. 23-CR-36-CJW-MAR; *United States v. Grubb*, Case No. 23-CR-1014-CJW-MAR, at Doc. 29; *United States v. Cooper*, Case No. 23-CR-2040, at Doc. 34. Further, the Eighth Circuit Court of Appeals has recently held the same; this Court is bound by that decision. *United States v. Veasley*, No. 23-1114, 2024 WL 1649267, at *9 (Apr. 17,

2024) (holding that Section 922(g)(3) is facially constitutional under *Bruen* analysis). The Court makes the same finding here for the same reasons, which it need not repeat here.

Thus, the Court **denies** defendant's motion to dismiss on this ground.

C. Post-*Bruen *As-Applied Challenges

Defendant also argues Section 922(g)(1) is unconstitutional as-applied to him. (Doc. 27-1, at 6-7). The Court also assumes that had defendant challenged his Superseding Indictment under Section 922(g)(3), he would have also done so as-applied. These challenges must wait, however, until the presentation of evidence at trial. *United States v. Turner*, 842 F.3d 602, 605 (8th Cir. 2016) (stating a district court cannot adjudicate an as-applied challenge without first resolving factual issues related to the alleged offense, and thus, must wait to do so until trial).

The Court, therefore, **holds** defendant's as-applied challenges **in abeyance** until trial.

IV. CONCLUSION

For these reasons, defendant's Motion to Dismiss the Superseding Indictment (Doc. 27) is **denied** as to the ground Section 922(g)(1) is facially unconstitutional under the Second Amendment and as to the ground Section 922(g)(3) is facially unconstitutional. The Court **holds in abeyance** until trial defendant's as-applied challenges that the statutes are unconstitutional as-applied to him under the Second Amendment.

IT IS SO ORDERED this 1st day of July, 2024.

C.J. Williams, Chief Judge
United States District Court
Northern District of Iowa

UNITED STATES DISTRICT COURT

Northern District of Iowa

UNITED STATES OF AMERICA	) **JUDGMENT IN A CRIMINAL CASE**
	)
v.	) Case Number: **0862 6:23CR02034-001**
	)
LAINDRELL MYQUAIL COOPER	) USM Number: **10049-511**
	)

■ **ORIGINAL JUDGMENT**
☐ **AMENDED JUDGMENT**
Date of Most Recent Judgment:

Zachary D. Crowdes
Defendant's Attorney

THE DEFENDANT:

■ pleaded guilty to count(s) **2 of the Superseding Indictment filed on April 25, 2024**

☐ pleaded nolo contendere to count(s) ______ which was accepted by the court.

☐ was found guilty on count(s) ______ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 922(g)(1) and 924(a)(8)	**Possession of Ammunition by a Felon**	**11/18/2022**	**2**

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) **1 of the Superseding 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.

C.J. Williams, Chief Judge
United States District Court
Name and Title of Judge

Signature of Judge

May 12, 2025
Date of Imposition of Judgment

May 13, 2025
Date

DEFENDANT: **LAINDRELL MYQUAIL COOPER**
CASE NUMBER: **0862 6:23CR02034-001**

PROBATION

☐ The defendant is hereby sentenced to probation for a term of:

IMPRISONMENT

■ The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
160 months on Count 2 of the Superseding Indictment. It is ordered that the term of imprisonment for the instant offense be served consecutively to the undischarged term of imprisonment imposed for the case set forth in paragraph 38 of the presentence report (Black Hawk County, Iowa, Case No. FECR229978), pursuant to USSG §5G1.3(d).

■ The court makes the following recommendations to the Federal Bureau of Prisons:
It is recommended that the defendant be designated to a Bureau of Prisons facility as close to the defendant's family as possible, commensurate with the defendant's security and custody classification needs.

It is recommended that the defendant participate in the Bureau of Prisons' 500-Hour Comprehensive Residential Drug Abuse Treatment Program or an alternate substance abuse treatment program.

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

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

☐ at ______________ ☐ a.m. ☐ p.m. on ______________ .

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on ______________ .

☐ as notified by the United States Marshal.

☐ as notified by the United States 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: **LAINDRELL MYQUAIL COOPER**
CASE NUMBER: **0862 6:23CR02034-001**

SUPERVISED RELEASE

■ Upon release from imprisonment, the defendant will be on supervised release for a term of:
3 years on Count 2 of the Superseding Indictment.

MANDATORY CONDITIONS OF SUPERVISION

1) The defendant must not commit another federal, state, or local crime.
2) The defendant must not unlawfully possess a controlled substance.
3) The defendant must refrain from any unlawful use of a controlled substance.
The defendant 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 the defendant poses a low risk of future controlled substance abuse. *(Check, if applicable.)*
4) ■ The defendant must cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
5) ☐ The defendant 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 the defendant resides, works, and/or is a student, and/or was convicted of a qualifying offense. *(Check, if applicable.)*
6) ☐ The defendant must participate in an approved program for domestic violence. *(Check, if applicable.)*

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

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STANDARD CONDITIONS OF SUPERVISION

As part of the defendant's supervision, the defendant must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for the defendant's 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 the defendant's conduct and condition.

1) The defendant must report to the probation office in the federal judicial district where the defendant is authorized to reside within 72 hours of the time the defendant was sentenced and/or released from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed. The defendant must also appear in court as required.
3) The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the court or the probation officer.
4) The defendant must answer truthfully the questions asked by the defendant's probation officer.
5) The defendant must live at a place approved by the probation officer. If the defendant plans to change where the defendant lives or anything about the defendant's living arrangements (such as the people the defendant lives with), the defendant 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, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6) The defendant must allow the probation officer to visit the defendant at any time at the defendant's home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.
7) The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about the defendant's work (such as the defendant's position or the defendant's job responsibilities), the defendant 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, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8) The defendant must not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9) If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.
10) The defendant 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) The defendant 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) As directed by the probation officer, the defendant must notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and must permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
13) The defendant must follow the instructions of the probation officer related to the conditions of supervision.

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SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the United States Probation Office:

1. **The defendant must not have contact during the defendant's term of supervision with the individuals set forth in paragraph 101 of the presentence report, in person or by a third party. This includes no direct or indirect contact by telephone, mail, email, or by any other means. The United States Probation Office may contact the aforementioned individuals to ensure the defendant's compliance with this condition.**

2. **The defendant must submit the defendant's person, property, house, residence, vehicle, papers, computers [as defined in 18 U.S.C. § 1030(e)(1)], other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. The defendant must warn any other occupants that the premises may be subject to searches pursuant to this condition. The United States Probation Office may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.**

3. **The defendant must participate in a cognitive behavioral program that addresses anger and/or assaultive conduct, and the defendant must comply with the rules and regulations of the program.**

4. **The defendant must participate in a substance abuse evaluation. The defendant must complete any recommended treatment program, which may include a cognitive behavioral group, and follow the rules and regulations of the treatment program. The defendant must participate in a program of testing for substance abuse. The defendant must not attempt to obstruct or tamper with the testing methods.**

5. **If not employed at a lawful type of employment as deemed appropriate by the United States Probation Office, the defendant must participate in employment workshops and report, as directed, to the United States Probation Office to provide verification of daily job search results or other employment related activities. In the event the defendant fails to secure employment, participate in the employment workshops, or provide verification of daily job search results, the defendant may be required to perform up to 20 hours of community service per week until employed, with the total amount of community service performed not to exceed 400 hours.**

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them. Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

______________________________	______________
Defendant	Date
______________________________	______________
United States Probation Officer/Designated Witness	Date

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CRIMINAL MONETARY PENALTIES

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

	Assessment	AVAA Assessment[1]	JVTA Assessment[2]	Fine	Restitution
TOTALS	**$ 100**	**$ 0**	**$ 0**	**$ 0**	**$ 0**

☐ 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.

Name of Payee	Total Loss[3]	Restitution Ordered	Priority or Percentage
TOTALS	$ __________	$ __________	

☐ Restitution amount ordered pursuant to plea agreement $ __________

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the following page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

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

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

[1] Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
[2] Justice for Victims of Trafficking Act of 2015, 18 U.S.C. § 3014.
[3] 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.

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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 ■ $ **100** due immediately;

☐ 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:

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

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

☐ Joint and Several

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

☐ The defendant must pay the cost of prosecution.

☐ The defendant must pay the following court cost(s):

■ The defendant must forfeit the defendant's interest in the following property to the United States:
As set forth in the Preliminary Order of Forfeiture filed on December 11, 2024, Document No. 42.

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

United States Court of Appeals
For the Eighth Circuit

No. 25-2152

United States of America

Plaintiff - Appellee

v.

Laindrell Myquail Cooper, also known as Kuddo

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Eastern

Submitted: April 17, 2026
Filed: May 19, 2026

Before SMITH, BENTON, and ERICKSON, Circuit Judges.

BENTON, Circuit Judge.

Laindrell Myquail Cooper pled guilty to possessing ammunition as a felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). The district court[1] sentenced him

[1]The Honorable C.J. Williams, Chief Judge, United States District Court for the Northern District of Iowa.

to 160 months in prison. He appeals. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

I.

On November 18, 2022, Quintorey Kemp was in downtown Waterloo, Iowa. Kemp, a member of the "Only the Brothers" (OTB) gang, often carried a firearm and had been in multiple shootings. Law enforcement called him a "known shooter." At a downtown barbershop, Kemp confronted Andrew Spates and Keivon Anderson, members of the rival gang "All About Action" (ABA), flashing his firearm. Kemp then sat in a car outside the barbershop.

Learning of the confrontation, Cooper, also an ABA member, left for the barbershop, driven by Ariouna Brown. He wore all-black clothing and a face mask showing only his eyes. He asked to be dropped off at a parking garage a block and a half from the barbershop. Traffic cameras showed him looking around as he walked to the barbershop.

Arriving, Cooper entered and then exited the barbershop. Brown's car was waiting outside. Anderson walked to the car and opened the back door. But Cooper did not get in. Kemp exited his car and walked to the sidewalk. Spates and Anderson saw him, pointed to him, and then took cover. Kemp had a firearm in his hand, shielded from Cooper's view. Cooper walked to the middle of the street, with buses between him and Kemp. When Cooper was at the back of the second bus, Kemp crouched behind a pickup truck and then turned to run. Cooper came around the bus, firing with a high-capacity magazine at Kemp as he fled. Kendrick Brown, Kemp's cousin who was also at the scene, began firing at Cooper. But Cooper continued to pursue Kemp. Kemp fled towards a storefront vestibule. Cooper continued firing, then fled into an alley.

Cooper was charged with one count of possession of a firearm by a prohibited person and one count of possession of ammunition by a felon. He pled guilty to the second count and now appeals.

II.

Cooper asserts his conviction under 18 U.S.C. § 922(g)(1) is facially unconstitutional under the Second Amendment. This argument is foreclosed by binding precedent. *See* ***United States v. Cunningham***, 114 F.4th 671, 675 (8th Cir. 2024) ("The longstanding prohibition on possession of firearms by felons is constitutional."); ***United States v. Jackson***, 110 F.4th 1120, 1125 (8th Cir. 2024) (holding "there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1)").

III.

Cooper believes the district court erred by cross-referencing U.S.S.G. § 2A2.1(a)(2), the attempted murder provision, in calculating his base offense level because the evidence shows Cooper acted in self-defense. This court reviews "the district court's findings of fact for clear error and its application of the Sentencing Guidelines de novo." ***United States v. Burling***, 420 F.3d 745, 749 (8th Cir. 2005). "If the district court chose a permissible view of the evidence, its holding is not clearly erroneous." ***United States v. Dickson***, 127 F.4th 722, 728 (8th Cir. 2025).

U.S.S.G. § 2K2.1 determines the base offense level for a defendant—like Cooper—who unlawfully possesses ammunition. But the guidelines direct the court to apply the offense-level calculation for a different offense, if the defendant used the ammunition "in connection with the commission or attempted commission of another offense." ***United States v. Clark***, 999 F.3d 1095, 1097 (8th Cir. 2021), *citing* **U.S.S.G. § 2X1.1(c)(1)**. *See* **U.S.S.G. § 2K2.1(c)(1)(A)**.

U.S.S.G. § 2A2.1 covers attempted murder. Under federal law, murder is "the unlawful killing of a human being with malice aforethought." **18 U.S.C. § 1111(a).** Malice aforethought means "an intent, at the time of a killing, willfully to take the life of a human being, or an intent willfully to act in callous and wanton disregard of the consequences to human life." ***United States v. Comly***, 998 F.3d 340, 343 (8th Cir. 2021), *citing* **Eighth Circuit Manual of Model Jury Instructions (Criminal)** § 6.18.1111A-1 (2018).

The district court applied the § 2A2.1(a)(2) cross-reference after finding—by a preponderance of the evidence—that Cooper attempted to murder Kemp. Viewing the video from a traffic camera, it made detailed findings that Cooper did not see Kemp with a weapon and instead came to the scene with the premeditation to shoot him:

> When we focus on what's visible to the defendant here and what he knew, the facts work very differently. So I'm looking at 2 minutes and 21 seconds. This is when Kemp is out of the truck, and it looks for the first time perhaps he is pulling something in his right hand. He is bladed. His body is bladed. He is standing behind the full-size extended cab pickup truck that looks to be almost as tall as he is. And to the extent he's holding a firearm, the firearm is down low. Clearly not visible to the defendant, it appears to me, from the angle he has looking at Mr. Kemp.
>
> The other thing I note is, maybe, just maybe, at this point, at 2:21, the first time that maybe you can see Kemp with a gun, the defendant has some view between the buses that may give him some glimpse of the front of the truck, but the angle, to me, looking across there, the defendant is in the shadow of the second bus already, and it appears to me that it's very likely that he cannot even see Kemp at this point.
>
> Advance to 2:22 please. So at 2:22, we can see now the shadow of the bus is now advanced by 2 or 3 feet down the road. The defendant appears to be looking up the road, not even across, through the bus or at the bus. And Mr. Kemp is again blocked by the truck. And to the extent he has a gun out at all, he's bladed. To the extent that there was

argument that Anderson and Spates saw Kemp and pointed at him and saw that he had a gun, the bus blocks their view. There's absolutely no way from where they're at that they can see through the bus and see Kemp holding a gun when it's—to the extent he's holding it, it's down low. It's below the truck and it's between it and the bus and Anderson and Spates. So I'm not buying that.

I don't need to see the rest, but as you continue to play it, the defendant never attempts to get in the car. There's never an attempt for him to get into the vehicle. This is not a reaction where he's attempting to get in the vehicle, suddenly Anderson and Spates say, "Oh, my gosh! Kemp has a gun! He's pointing it at us!" and only in response to that does he abandon getting in the car and decide he's going to shoot at him.

What this looks like to me instead is that the defendant fully intended to go after Kemp from the beginning. There is a lot of premeditation to this. He intentionally came to this location heavily armed. He came to the location and was dropped off a couple blocks away so he could sneak up on the location. He came to the location wearing black with a full mask.

This is not during the pandemic. Nobody else in this photograph is wearing a mask. The only reason you wear a mask at this point is to disguise his identity. The defendant then intentionally walks down behind the bus. So I disagree with the defense contention that if he really intended to shoot at Kemp, he would have done it to begin with.

No. What he is doing is what he is intending to do and that is to use the bus as a way of sneaking around to the side of the bus and the back end of it so he can come up on Kemp from behind and shoot at him.

Even if—even if I were to stretch this, which I think the facts simply cannot support, to the idea that the defendant saw Kemp with a firearm, Kemp never raised the firearm. He never pointed the firearm at the defendant. He never discharged the firearm. He didn't point it at the defendant. He didn't point it at Spates. He didn't point it at Anderson. He didn't point it at anybody. The gun, to the extent he has one, is pointed to the ground the entire time he has the gun. He then

> puts it either back behind his satchel or in the satchel. And until he's being shot at and is running away, he doesn't pull the gun out again. And even when he pulls out the gun again, it's pointed to the ground and he is running for his life.

Cooper shot repeatedly at Kemp, demonstrating that he had the specific intent to kill. *See* ***United States v. Angel***, 93 F.4th 1075, 1079 (8th Cir. 2024) ("Angel fired five shots at Woodland and Fisher, hitting Fisher. The district court, relying on *Greer*, did not clearly err in finding Angel had a specific intent to kill."); ***United States v. Greer***, 57 F.4th 626, 630 (8th Cir. 2023) (holding that "shooting at a particular person, or a group of people, demonstrates a specific intent to kill").

Cooper argues he "acted in self-defense" and, therefore, "did not have the required intent to kill." Self-defense is an affirmative defense to attempted murder. ***Angel***, 93 F.4th at 1079. Under federal law, "If a person reasonably believes that force is necessary to protect himself or another person from what he reasonably believes to be unlawful physical harm about to be inflicted by another and uses such force, then he acted in self defense." ***United States v. Farlee***, 757 F.3d 810, 815 (8th Cir. 2014). "However, self defense which involves using force likely to cause death or great bodily harm is justified only if the person reasonably believes that such force is necessary to protect himself or a third person from what he reasonably believes to be a substantial risk of death or great bodily harm." ***Id***. at 817. "Fear that another might employ deadly force, without any action by the other to support that fear, is insufficient to create a reasonable belief of imminent danger." ***United States v. Davidson***, 108 F.4th 706, 711 (8th Cir. 2024). Knowledge or belief that another person has a firearm is not alone sufficient to support a claim of self-defense. *See* ***Angel***, 93 F.4th at 1080 (rejecting claim of self-defense where alleged aggressor previously flashed a gun but was walking away when the defendant confronted him).

Cooper contends the court should apply Iowa, not federal law, to his self-defense claim. This court need not decide the issue because he cannot claim self-defense under either. Similar to federal law, Iowa law states that "A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any actual or imminent use of unlawful force." **Iowa Code Ann. § 704.3**. Reasonable force means "force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat." **Iowa Code Ann. § 704.1(1)**.

Cooper believes he was reasonable to believe that deadly force was necessary to avoid injury or risk to his life or that of another because Kemp was "from a rival gang," had "verbally accosted" his friends and "flashed a firearm," and his friends were pointing at Kemp and hiding behind a car. To begin, the district court found no evidence that Cooper knew of the verbal altercation or that Kemp flashed a firearm:

> The other problem that we have here is a lot of the defense turns on presumptions about what the defendant knew or saw. It's argued that the defendant knew about the threats in the barbershop, knew that Kemp had pulled a gun on his friends, knew that he had made a threat in there. There's no evidence of any of that. It's possible. In fact, it might very well be the case. Spates clearly called the defendant. But I have no evidence of what the defendant knew, no evidence that he knew about any gun that was pulled on anybody. The defendant hasn't provided that testimony, and the government hasn't provided that evidence in its case either.

Even with this information, the district court found Cooper was not acting in self-defense:

> To the extent that Kemp displayed a firearm in the barbershop before the defendant even arrived at the scene, there's no evidence that he pointed it at anybody or he threatened to kill anybody in there. And so there's no immediate risk of harm to anybody, risk of death or serious bodily injury to anybody. And the only person that made a risk

> of serious bodily injury or death is the defendant when he decided he was going to treat this as the O.K. Corral and started shooting at people.
>
> . . . .
>
> In America, unfortunately, and in Iowa, unfortunately, anybody can have a gun these days. So the fact that Kemp has a gun is not grounds to shoot him. The fact that he has a gun and even pulls it out is not grounds to shoot him. It doesn't put anybody in danger. It's not a threat to anybody's life.
>
> . . . .
>
> So we're largely speculating on what the defendant knew or saw. We also are largely speculating on what his intent was, and all we can do is conclude from his actions what his intent was. If his actions were to simply get out of there and avoid the confrontation and protect his friends, he would have gotten into the car that he never even attempted to get into.
>
> And the government's right. We don't even have to get that far, because there were a half a dozen different ways the defendant could have reacted to this if he really thought that he or his friends were in imminent danger than to pull a firearm and shoot at a fleeing man. They could have left the scene. They could have gone out the back of the barbershop. They could have gotten into the car and left the location. They could have called the police. They could have done a dozen different things that would have not have resulted in the defendant discharging a firearm multiple times in broad daylight in a city, in public, and trying to kill a man.

Here, the district court did not clearly err in finding defendant was the aggressor. On defendant's first shot, Kemp crouched behind the truck. He remained crouching behind parked cars for a few moments and then he fled with his back turned toward defendant. *See* ***Angel***, 93 F.4th at 1080 (rejecting self-defense claim where defendant followed the alleged aggressor while he was walking away). Kemp took no action likely to cause death or great bodily harm. *See* ***Greer***, 57 F.4th at 630 ("That T.R. in fact had a gun in his sweatshirt pocket and no doubt entered the Brady Mart up to no good did not justify Greer's attempt to use deadly force, in the presence of innocent bystanders, before T.R. took any action likely to cause death or great bodily harm.").

Cooper also relies on another provision of Iowa law which provides, "A person may be wrong in the estimation of the danger or the force necessary to repel the danger as long as there is a reasonable basis for the belief of the person and the person acts reasonably in the response to that belief." **Iowa Code Ann. § 704.1(2)**. He argues that Kemp's flashing of his firearm was alone a "threat of deadly force under Iowa law." *See* ***State v. Crutcher***, 1 N.W.2d 195, 198 (Iowa 1941) (holding that "an actual assault by the victim is not always necessary in order to justify a defendant in using a deadly weapon in self-defense, if the circumstances are such as to cause a reasonable apprehension that an assault is about to be committed"). But, as the district court found, Cooper presented no evidence that he knew Kemp had a firearm or that he saw him flash it. And when Cooper first encountered Kemp, he moved away from him, not toward him.

Finally, Cooper asserts a claim of "imperfect self-defense." "An imperfect self-defense involves the defendant's unreasonable use of deadly force to thwart an assault." ***United States v. Milk***, 447 F.3d 593, 599 (8th Cir. 2006). "A defendant can show imperfect self-defense with evidence that '(1) the defendant unreasonably but truly believed that deadly force was necessary to defend himself, or (2) the defendant inadvertently caused the victim's death while defending himself in a criminally negligent manner.'" ***United States v. High Hawk***, 121 F.4th 701, 705 (8th Cir. 2024), *quoting* ***Milk***, 447 F.3d at 599.

But aggressors cannot succeed on a claim of imperfect self-defense. "An imperfect self-defense claim is premised on the view that *some* action was necessary for the defendant to protect himself." ***Milk***, 447 F.3d at 599. In "this case, the evidence, when viewed in the prosecution's favor, showed that it was actually"

Cooper "who initiated the assault with the intention of fighting, hurting, or killing" Kemp. ***Id***. This is inconsistent with a self-defense claim, be it a perfect or imperfect one. ***Id***.

Overall, the district court found:

> I think the description given by the government that the defendant was hunting down Kemp is an accurate one. The defendant was running after a man who was running away from him with his back turned, discharging multiple rounds at him, trying to kill the man. That is as far from an act of self-defense as you could possibly get.
>
> So my view of the facts is that the defendant did attempt to murder Mr. Kemp.

The court did not err in applying the cross-reference to § 2A2.1(a)(2).

* * * * * * *

The judgment is affirmed.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 25-2152

United States of America

Plaintiff - Appellee

v.

Laindrell Myquail Cooper, also known as Kuddo

Defendant - Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Eastern
(6:23-cr-02034-CJW-1)

JUDGMENT

Before SMITH, BENTON, and ERICKSON, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

May 19, 2026

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

Adopted April 15, 2015
Effective August 1, 2015

Revision of Part V of the Eighth Circuit Plan to Implement the Criminal Justice Act of 1964.

V. Duty of Counsel as to Panel Rehearing, Rehearing En Banc, and Certiorari

Where the decision of the court of appeals is adverse to the defendant in whole or in part, the duty of counsel on appeal extends to (1) advising the defendant of the right to file a petition for panel rehearing and a petition for rehearing en banc in the court of appeals and a petition for writ of certiorari in the Supreme Court of the United States, and (2) informing the defendant of counsel's opinion as to the merit and likelihood of the success of those petitions. If the defendant requests that counsel file any of those petitions, counsel must file the petition if counsel determines that there are reasonable grounds to believe that the petition would satisfy the standards of Federal Rule of Appellate Procedure 40, Federal Rule of Appellate Procedure 35(a) or Supreme Court Rule 10, as applicable. *See Austin v. United States,* 513 U.S. 5 (1994) (per curiam); 8th Cir. R. 35A.

If counsel declines to file a petition for panel rehearing or rehearing en banc requested by the defendant based upon counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion to withdraw must be filed on or before the due date for a petition for rehearing, must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for rehearing, and must request an extension of time of 28 days within which to file pro se a petition for rehearing. The motion also must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

If counsel declines to file a petition for writ of certiorari requested by the defendant based on counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

A motion to withdraw must be accompanied by counsel's certification that a copy of the motion was furnished to the defendant and to the United States.

Where counsel is granted leave to withdraw pursuant to the procedures of *Anders v. California,* 386 U.S. 738 (1967), and *Penson v. Ohio*, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing pro se a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petion for writ of certiorari.