

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2026

DAMION KENT HALLMON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-CR-365 (KMM/DTS)

Plaintiff,

v.

ORDER

Damion Kent Hallmon,

Defendant.

The Court held a final pretrial conference in this matter on October 25, 2023 and issued bench rulings on the parties' motions in limine and Defendant Damion Kent Hallmon's motion to dismiss the indictment. This Order is intended only to memorialize the Court's decisions.

I. The Government's Motions in Limine

A. Motion in Limine Nos. 1–4 (ECF 112)

The government seeks four evidentiary rulings in limine. First, the government asks the Court to preclude the defense from offering or referring to any hearsay statements of Mr. Hallmon in the presence of the jury under Fed. R. Evid. 802. This motion was granted in part to the extent that the government seeks to introduce limited information about the events leading to the search of Mr. Hallmon's vehicle. The Court reserved ruling on the motion to the extent the rule of completeness requires admission of additional information surrounding the circumstances of the traffic stop.

In Motion in Limine No. 2, the government asks for an order sequestering potential witnesses except the case agents pursuant to Fed. R. Evid. 615. The Court noted the defense objection to the government's case agent sitting at counsel table, granted the motion, and informed the defense that Mr. Hallmon's investigator would be permitted to remain in the courtroom on the same terms as the government's case agent.

Third, the government seeks an order precluding the defense from referring to the potential penalties faced by Mr. Hallmon if convicted of the offense alleged in the Indictment. The government's Motion in Limine No. 3 is granted.

Fourth, the government asks the Court to limit defense cross-examination of any witness regarding prior bad acts or convictions of the witnesses to only those matters permitted under Fed. R. Evid. 404, 608, and 609. Motion in Limine No. 4 was granted, and the parties appeared to agree that there are currently no known issues of concern. If anything changes, the Court instructed the defense to raise the issue in advance prior to initiating questioning in the presence of the jury.

B. Motion in Limine No. 5 (ECF 113)

The government asks the Court to admit evidence of Mr. Hallmon's prior felony conviction in Ramsey County for possession of a firearm by an ineligible person from September 19, 2007 pursuant to Fed. R. Evid. 404(b)(2). Evidence of another crime or bad act may not be admitted to prove a person's character in order to show that the person acted in conformity with that character on a particular occasion. Fed. R. Evid. 404(b)(1). Rule 404(b) allows trial courts to admit evidence of previous crimes for non-

propensity purposes, such as a person’s knowledge, motive, or intent. Fed. R. Evid. 404(b)(2).

However, “[m]ere recitation of [Rule 404(b)’s permissible purposes] without an accompanying case-specific analysis risks couching criminal propensity in terms of knowledge, intent, or lack of mistake. Rule 404(b), by its own terms, requires more.” *United States v. Cotton*, 823 F.3d 430, 435 (8th Cir. 2016); *United States v. Drew*, 9 F.4th 718, 726–27 (8th Cir. 2021) (Kelly, J., concurring) (same); *United States v. Harrison*, 70 F.4th 1094, 1099 (8th Cir. 2023) (Stras, J., concurring in the judgment) (“The truth is that a prior conviction is irrelevant in most actual-possession cases, unless, of course, the whole point is to allow the jury to make a propensity inference.”). Under Eighth Circuit precedent, “evidence of a defendant’s previous firearm possession *can* be relevant to prove knowledge and intent. . . . But . . . it is not enough for the government simply to claim, in any firearm case, that such evidence ‘goes to the defendant’s knowledge and intent’ and therefore meets the relevance prong of [the] 404(b) test.” *Drew*, 9 F.4th at 726 (Kelly, J., concurring). If there is a “proper purpose for evidence of a prior conviction, the conviction may be admitted if it is (1) relevant to a material issue; (2) similar in kind and not overly remote in time to the crime charged; (3) supported by sufficient evidence; and (4) higher in probative value than prejudicial effect.” *Cotton*, 823 F.3d at 434 (quotations omitted).

The government asserts that the evidence of Mr. Hallmon’s 2007 conviction is admissible for the limited purposes of establishing knowledge of and intent to possess the loaded firearm, his familiarity with and opportunity to acquire firearms and ammunition,

and/or the absence of accident or mistake in the circumstances of this case. Specifically, the government asserts that the events that led to the 2007 conviction were similar to those involved in this case, and most importantly, that Mr. Hallmon made statements about that incident indicating that he would claim that the firearm discovered in his bedroom belonged to another person. According to the government, Mr. Hallmon's defense in this case will be to claim that the firearm and ammunition at issue belonged to another occupant of the vehicle, he had no relationship to those items, and that he had no control over either. Therefore, the government argues that the 2007 conviction for unlawful possession of a firearm is admissible for a non-propensity purpose. In support of its position, following the pretrial conference, the government provided the Court with a brief transcript and a recording of Mr. Hallmon's statements.

The Court finds that the government has, commendably, done more than merely recite Rule 404(b)'s permissible purposes by arguing that the prior conviction goes to his knowledge and intent as well as to undermine his defense that the gun belonged to another person. However, having reviewed the relevant materials, the Court denies the government's Motion in Limine No. 5. First, the Court finds that the government's introduction of the 2007 conviction presents great risk of allowing a forbidden propensity inference. The government proposes to introduce the 2007 conviction (and evidence collateral to it) to tell the jury that when Mr. Hallmon previously was accused of unlawfully possessing a firearm, he suggested that he could avoid responsibility by blaming another. This theory still implicates Rule 404(b)(1)'s forbidden purposes because it suggests that Mr. Hallmon knowingly possessed the firearm and ammunition at

issue and once again blamed another person. This is prohibited propensity evidence as well.

Second, based on its review of the transcript and the recording of Mr. Hallmon's statements regarding the incident leading to the 2007 conviction, the Court finds scant support for the notion that Mr. Hallmon's comments reveal a similarity between his likely defense in this case and an attempt to shift blame in connection with the prior case. In fact, during the interrogation Mr. Hallmon accepted responsibility. The passing suggestion that the gun could have belonged to someone else had more to do with his frustration with his treatment by police than it did with a plan to shift blame to another person.

Finally, the Court finds that admitting the 2007 conviction would require the introduction of collateral evidence to demonstrate any non-propensity purpose it might serve, which would risk distracting the jury from the relevant issues in this case. Namely, to demonstrate the relevance of the prior conviction, the government would need to introduce evidence concerning the statements Mr. Hallmon made and further describe the circumstances of how the gun was found. This would lead to a response from the defense, through cross-examination or otherwise, to counter the government's version of events. And that would all amount to a sideshow entirely collateral to the issues that should be the focus of the trial in this case—whether Mr. Hallmon knowingly possessed ammunition *in August of 2022*, not whether he knowingly possessed a firearm more than sixteen years ago.

C. Motion in Limine No. 6 (ECF 114)

The government seeks an order permitting it to introduce evidence of five prior convictions for Mr. Hallmon (four felonies, and one misdemeanor), for purposes of impeachment if he elects to testify at trial. Motion in Limine No. 6 is granted in part. The motion is granted to the extent that if he chooses to testify, the government may use the following convictions for purposes of impeachment: (1) third degree drug sale (felony) from 2019; (2) fifth degree drug possession (felony) from 2015; and (3) giving peace officer false information (misdemeanor) from 2013. The Court reserved ruling on whether to allow the government to use a felony conviction for a Stearns County third degree drug sale from 2011. In addition, the Court will determine the admissibility of the 2007 firearm conviction after hearing more about Mr. Hallmon's intended testimony.

D. Motion in Limine No. 7 (ECF 115)

In Motion in Limine No. 7, the government requests permission to introduce evidence of drug possession and use by Mr. Hallmon that it argues is intrinsic to the charged offense and gave rise to the search of his vehicle. The motion was granted in part such that the government may elicit brief and narrow testimony from Officer LeBaron about the reason he searched the vehicle, subject to the limitations imposed by the Court during the pretrial conference.

E. Motion in Limine No. 8 (ECF 116)

The government asks the Court to issue an order precluding the defense from presenting questions, evidence, references, or arguments concerning national or local

controversies regarding pretextual stops, expansions of stops, or searches by police officers. This motion was granted.

F. Motion in Limine No. 9 (ECF 117)

The government seeks an order precluding the defense from referring to Mr. Hallmon's family circumstances at the time of the offense, including the recent death of a child that are (a) based on hearsay statements, and/or (b) are offered without first requesting a sidebar with the Court to determine relevance and admissibility. The Court reserved ruling on this issue pending further developments and instructed Mr. Hallmon to present a letter brief if he seeks the admission of his own hearsay statements.

II. Mr. Hallmon's Motions in Limine

A. Motion for Counsel to Participate in Voir Dire (ECF 124)

Mr. Hallmon asks that his counsel be given the opportunity to conduct voir dire by asking follow up questions of jurors after the Court completes its voir dire. He seeks up to thirty minutes for his counsel to question the panel. The Court denied this motion, but explained its procedure for voir dire, including providing each side a reasonable opportunity to discuss follow-up questions with the Court with respect to prospective jurors.

B. Motion to Exclude Evidence of Other Alleged Bad Acts (ECF 125)

1. 2018 Incident

Mr. Hallmon indicates that the government provided notice of its intent to introduce evidence of a 2018 incident where police allegedly seized a gun from his person. He represents that the government subsequently notified the defense that it would

not be offering evidence of the 2018 incident. The government confirmed it would not introduce such evidence at the pretrial conference. The motion is granted in part with respect to this incident.

2. 2007 State Conviction

Mr. Hallmon asks the Court to exclude evidence of a prior state conviction for felon in possession of a firearm from 2007 pursuant to Federal Rule of Evidence 404(a) because it can serve no purpose other than to indicate a propensity to carry a gun and has no probative value toward any permitted purpose under Rule 404(b). The motion is granted, consistent with the Court's ruling on the government's Motion in Limine No. 5.

IT IS SO ORDERED.

If this Order can be read to contradict any rulings from the pretrial conference, the discussion at the conference controls the question. If the parties have any questions regarding the Court's rulings or need further clarification, they are instructed to email chambers.

III. Mr. Hallmon's Motion to Dismiss (ECF 130)

Mr. Hallmon filed a motion seeking to dismiss the Indictment, arguing that the prohibition in 18 U.S.C. § 922(g)(1) on possession of firearms by felons is unconstitutional on its face and as applied to his case. Mr. Hallmon argues that under *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), a regulation prohibiting possession of firearms is constitutionally permissible only when the government can show that it is consistent with the nation's history and tradition of firearms regulation, and because he has only been convicted of non-violent felonies, the

government cannot meet its burden in this case. The relief Mr. Hallmon seeks is foreclosed by the Eighth Circuit's decisions in *United States v. Jackson*, 69 F.4th 495 (8th Cir. 2023) and *United States v. Cunningham*, 70 F.4th 502 (8th Cir. 2023). Accordingly, his motion to dismiss the Indictment is denied.

IT IS SO ORDERED.

Date: October 30, 2023

s/Katherine Menendez

Katherine Menendez
United States District Judge

United States Court of Appeals
For the Eighth Circuit

No. 24-1837

United States of America

Plaintiff - Appellee

v.

Damion Kent Hallmon, also known as Damion Kent Adam L. Hallmon, also known as Damion Kale Hallmon, also known as Damien Kent Hallmon, also known as Damion Kent Hallman, also known as Damion Kale Hallman, also known as Dee X, also known as Daniel K. Tanner, also known as Marcus Jamaine Wallace, also known as Damion K. Williams

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: May 14, 2025

Filed: April 24, 2026

Before BENTON, KELLY, and GRASZ, Circuit Judges.

GRASZ, Circuit Judge.

A jury found Damion Kent Hallmon guilty of being a felon in possession of ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). The district court¹ sentenced Hallmon to 74 months of imprisonment and three years of supervised release. Hallmon appeals, claiming the district court erred by denying his pretrial motions to suppress evidence and statements, determining there was sufficient evidence that the ammunition traveled in interstate commerce, excluding recorded jail phone calls, and imposing an offense level enhancement for obstruction of justice. Hallmon also argues his charge and conviction violate the Second Amendment. We affirm.

I. Background

On August 28, 2022, Officer LeBaron of the Bloomington, Minnesota Police Department saw a suspended object hanging from the rearview mirror of a vehicle, in violation of Minnesota law. Officer LeBaron then ran a license plate query on the vehicle and discovered its registered owner, Hallmon, had a suspended driver's license. Officer LeBaron visually confirmed Hallmon was driving the vehicle and conducted a traffic stop. Shortly after, Officer Witt joined Officer LeBaron.

At the time of the stop, the vehicle had four occupants: Hallmon, Ieisha McGrone, and their two children. Hallmon identified McGrone as his fiancée. After stating the reasons for the traffic stop, Officer LeBaron instructed Hallmon to exit the vehicle. While Hallmon exited, Officer LeBaron observed a bag that appeared to contain marijuana on the floorboard. Officer LeBaron grabbed the bag and remarked it smelled like marijuana. Hallmon agreed. Officer LeBaron then asked Hallmon if there was other drug paraphernalia in the car. Hallmon answered there might be some marijuana in the ashtray. Consequently, Officer LeBaron decided to

¹The Honorable Katherine M. Menendez, United States District Judge for the District of Minnesota.

search the vehicle and instructed the passengers to exit. As McGrone and the children left the car, Hallmon told McGrone to grab her handbag, which was sitting in the front passenger seat, but Officer LeBaron told her to leave it.

During the search, Officer LeBaron opened the handbag and found a loaded pistol.² After securing and unloading the pistol, Officer LeBaron spoke to McGrone about the firearm. McGrone eventually told Officer LeBaron the firearm belonged to Hallmon, and that he gave it to her. Officer LeBaron then spoke to Hallmon. Hallmon stated he was “taking the fall” for the firearm and that the firearm was his. Hallmon correctly identified the color and caliber of the firearm, and explained he handed it to McGrone during the stop. Officer LeBaron arrested Hallmon.

Hallmon was indicted for being a felon in possession of ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). Before trial, Hallmon filed a motion to suppress evidence obtained during the search of his vehicle and a motion to suppress statements given to Officer LeBaron. A magistrate judge held a hearing on Hallmon’s motions and issued a report and recommendation that the district court deny the motions. The district court adopted the report and recommendation and denied both motions. Hallmon also filed a motion to dismiss the indictment before trial, arguing it violated the Second Amendment. The district court denied the motion.

The district court held a five-day jury trial. At trial, Special Agent Lervoog of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives testified that the recovered ammunition had moved in interstate commerce. Additionally, Hallmon sought to introduce recorded jail calls between himself and McGrone. The district court excluded the calls as inadmissible hearsay. Hallmon testified, but

²The pistol seized, a Polymer 80, did not have a serial number and is commonly referred to as a “ghost gun” or “privately made firearm.”

McGrone did not, asserting her Fifth Amendment privilege. The jury found Hallmon guilty.

At sentencing, the district court applied a two-level enhancement for obstruction of justice and sentenced Hallmon to 74 months of imprisonment and three years of supervised release. Hallmon timely appeals.

II. Analysis

Hallmon argues the district court erred by (1) failing to suppress evidence obtained from the vehicle; (2) failing to suppress his statements to Officer LeBaron; (3) excluding the recorded jail phone calls; (4) finding there was sufficient evidence the ammunition traveled in interstate commerce; (5) imposing an offense level enhancement for obstruction of justice; and (6) denying his motion to dismiss because his charge and conviction violate the Second Amendment. We address each argument in turn.

A. Motion to Suppress Evidence

First, Hallmon argues the district court erred by denying his motion to suppress evidence. “We review the denial of a motion to suppress *de novo* but the underlying factual determinations for clear error, giving due weight to inferences drawn by law enforcement officials.” *United States v. Guzman*, 926 F.3d 991, 997 (8th Cir. 2019) (quoting *United States v. Walker*, 840 F.3d 477, 483 (8th Cir. 2016)).

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV. “A traffic stop constitutes a seizure and therefore must be supported at least by reasonable suspicion.” *Guzman*, 926 F.3d at 997. An officer has reasonable suspicion “when he has ‘a particularized and objective basis for suspecting the particular person stopped of criminal activity.’” *Kansas v. Glover*, 589 U.S. 376, 380 (2020) (quoting *United States v. Cortez*, 449 U.S. 411, 417–18 (1981)). When we evaluate reasonable suspicion, we consider “the totality of the

circumstances — the whole picture” *Cortez*, 449 U.S. at 417. “Although a mere hunch does not create reasonable suspicion, the level of suspicion the standard requires is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause.” *Navarette v. California*, 572 U.S. 393, 397 (2014) (cleaned up).

However, “a lawfully-initiated traffic stop can become unlawful if it is unreasonably extended.” *United States v. Callison*, 2 F.4th 1128, 1131 (8th Cir. 2021). “Generally, a stop should last no longer than is necessary to confirm or dispel the officer’s suspicions.” *United States v. Long*, 532 F.3d 791, 795 (8th Cir. 2008); *see also Rodriguez v. United States*, 575 U.S. 348, 350 (2015) (“[A] police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution’s shield against unreasonable seizures.”). But “an officer may extend the traffic stop if he develops reasonable suspicion of additional criminal activity.” *United States v. Virrueta*, 121 F.4th 706, 710 (8th Cir. 2024); *see also United States v. Gastelum*, 11 F.4th 898, 902 (8th Cir. 2021) (“An officer’s suspicion of criminal activity may reasonably grow over the course of a traffic stop as the circumstances unfold and more suspicious facts are uncovered.” (quoting *United States v. Magallon*, 984 F.3d 1263, 1278 (8th Cir. 2021))).

Separately, a police officer may lawfully search “every part of the vehicle and its contents that may conceal the object of the search,” if they have probable cause. *United States v. Ross*, 456 U.S. 798, 825 (1982). “[P]robable cause exists when, given the totality of the circumstances, a reasonable person could believe there is a fair probability that contraband or evidence of a crime would be found in a particular place.” *United States v. Vittetoe*, 86 F.4th 1200, 1203 (8th Cir. 2023). “The government bears the burden of demonstrating that the officers had probable cause at the time they searched the [vehicle].” *Id.*

Here, Hallmon argues the vehicle stop, its duration, and the subsequent search of the vehicle violated the Fourth Amendment. We disagree.

First, the vehicle stop was constitutional. At the suppression hearing, Officer LeBaron testified he stopped the vehicle because he saw a suspended object that was obstructing the driver's view and because he discovered the vehicle's registered owner, who appeared to be the driver, had a suspended license. In Minnesota, it is illegal to drive with an object "suspended between the driver and the windshield," Minn. Stat. § 169.71, subd. 1(a)(2), and it is illegal to drive with a suspended license. Minn. Stat. §171.24, subd. 1(1). Consequently, for either reason, Officer LeBaron had probable cause to initiate the stop and the stop comports with the Fourth Amendment. *See United States v. Adler*, 590 F.3d 581, 583 (8th Cir. 2009) ("Any traffic violation, however minor, provides probable cause for a traffic stop." (quoting *United States v. Wright*, 512 F.3d 466, 471 (8th Cir. 2008))).

Although Hallmon argues that Officer LeBaron's body camera footage does not depict what Officer LeBaron saw at the initiation of the stop, the footage does show that the vehicle had a suspended object and Hallmon admitted his license was suspended. In other words, the body camera footage and Hallmon's admission validated Officer LeBaron's claimed reasons for the stop. Further, the magistrate judge was best positioned to weigh Officer LeBaron's credibility and did not clearly err in believing his account of the events.³ *See United States v. Riley*, 684 F.3d 758, 762 (8th Cir. 2012); *see also United States v. Mendoza*, 677 F.3d 822, 827 (8th Cir. 2012) ("[W]hen the trial judge's credibility determination is based upon 'a coherent and facially plausible story that is not contradicted by extrinsic evidence, that finding, if not internally inconsistent, can virtually never be clear error.'" (quoting *Anderson v. City of Bessemer City*, 470 U.S. 564, 575 (1985))). Therefore, we reject Hallmon's first argument.

Second, the duration of the vehicle stop was constitutional. Officer LeBaron began the traffic stop by discussing the suspected traffic violations with Hallmon.

³The district court reviewed the magistrate judge's credibility findings de novo, and it determined Officer LeBaron's testimony was credible and established probable cause for the vehicle stop.

He then went to his squad car to run a criminal history check on Hallmon. Officer LeBaron's questions and actions were related to the purpose of the traffic stop and did not unreasonably prolong its duration. *See United States v. Roberts*, 687 F.3d 1096, 1099 (8th Cir. 2012). Additionally, Officer LeBaron testified that during the stop Hallmon appeared nervous and displayed physical signs consistent with marijuana use — bloodshot eyes, watery eyes, and dilated pupils. Together, these observations provided Officer LeBaron with lawful grounds to continue the stop “based on new facts creating a reasonable articulable suspicion of criminal activity.” *United States v. Watts*, 7 F.3d 122, 126 (8th Cir. 1993); *see also United States v. Bowman*, 660 F.3d 338, 345 (8th Cir. 2011).

Nonetheless, Hallmon contends the body camera footage does not corroborate Officer LeBaron's testimony because it does not show he was nervous or displayed physical signs of drug use. However, as the district court noted, the footage's resolution may not show details that were visible to Officer LeBaron's naked eye. And we decline to depart from the magistrate judge's and district court's determinations that Officer LeBaron's testimony was credible. *See Wright*, 512 F.3d at 472 (“We give great deference to a lower court's credibility determinations because the ‘assessment of a witness's credibility is the province of the trial court.’” (quoting *United States v. Heath*, 58 F.3d 1271, 1275 (8th Cir. 1995))). As a result, we do not find that the vehicle stop was unconstitutionally extended.

Third, the vehicle search was constitutional. Officer LeBaron lawfully instructed Hallmon to exit the vehicle. *See United States v. Gonzalez-Carmona*, 35 F.4th 636, 641 (8th Cir. 2022). As Hallmon exited the vehicle, Officer LeBaron saw a small bag on the driver's side floorboard, which appeared to contain marijuana. Officer LeBaron picked up the bag, indicated it smelled like marijuana, and asked Hallmon if it contained marijuana. Hallmon agreed it smelled like marijuana. Officer LeBaron then asked Hallmon if there were other narcotics or drug paraphernalia in the vehicle, and Hallmon stated there may be some marijuana in the ashtray. Accordingly, Officer LeBaron ordered the passengers to leave the vehicle and he searched the car. Considering the marijuana bag Officer LeBaron had already

discovered and Hallmon's admission, there was a "fair probability that contraband or evidence of a crime" would be found in Hallmon's vehicle during a search. *Illinois v. Gates*, 462 U.S. 213, 238 (1983). Thus, Officer LeBaron had probable cause to conduct the search. See *United States v. Brown*, 634 F.3d 435, 438 (8th Cir. 2011) (finding probable cause to conduct an automobile search where the officers smelled marijuana and the driver admitted to smoking marijuana).

In conclusion, the district court did not err by denying Hallmon's motion to suppress evidence.

B. Motion to Suppress Statements

Second, Hallmon argues the district court erred by failing to suppress statements he made during the stop because he was in custody and was not given *Miranda* warnings. "We review the district court's factual findings for clear error and its legal conclusions, including the question of custody, *de novo*." *United States v. Roberts*, 975 F.3d 709, 715 (8th Cir. 2020).

"Law enforcement officials must administer *Miranda* warnings before interrogating persons in their custody." *Id.*; see *Miranda v. Arizona*, 384 U.S. 436, 444–45 (1966). If law enforcement does not administer *Miranda* warnings, any statements made during a custodial interrogation must be suppressed. See *United States v. Thompson*, 976 F.3d 815, 823–24 (8th Cir. 2020). Absent a formal arrest, a person is "in custody" where there is a "restraint on freedom of movement of the degree associated with a formal arrest." *California v. Beheler*, 463 U.S. 1121, 1125 (1983) (cleaned up). This inquiry turns on whether, under the totality of the circumstances, an objectively reasonable person in the suspect's shoes would have felt free to terminate the interrogation and leave. *Roberts*, 975 F.3d at 716. In making this inquiry, we consider six non-exhaustive factors: whether the suspect (1) was told "questioning was voluntary," (2) "possessed unrestrained freedom of movement," (3) "initiated contact with authorities or voluntarily acquiesced" to questioning, (4) was subjected to "strong arm tactics or deceptive stratagems," (5)

was in a police-dominated atmosphere, and (6) was ultimately “placed under arrest” *United States v. Griffin*, 922 F.2d 1343, 1349 (8th Cir. 1990). Generally, a “traffic stop does not constitute custody for purposes of *Miranda* because ‘a traffic stop is presumptively temporary and brief’ and ‘circumstances associated with the typical traffic stop are not such that the motorist feels completely at the mercy of the police.’” *United States v. Thompson*, 976 F.3d 815, 824 (8th Cir. 2020) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 437–38 (1984)). But “[i]f a motorist who has been detained pursuant to a traffic stop thereafter is subjected to treatment that renders him ‘in custody’ for practical purposes, he will be entitled to the full panoply of protections prescribed by *Miranda*.” *Berkemer*, 468 U.S. at 440.

Under our precedent and considering the *Griffin* factors, we conclude Hallmon was not in custody. Although Hallmon was asked to step outside the vehicle, and he spoke with Officer LeBaron away from others, Hallmon was not constrained to “the degree associated with a formal arrest.” *Beheler*, 463 U.S. at 1125. Hallmon was not handcuffed nor forced to sit in a patrol car. *See United States v. Soderman*, 983 F.3d 369, 377 (8th Cir. 2020) (finding these facts evidenced “a degree of free movement”). Further, the atmosphere was not “police dominated”; only two officers were present during the stop and Hallmon spoke alone with Officer LeBaron. *See United States v. Sandell*, 27 F.4th 625, 630 (8th Cir. 2022). Officer LeBaron did not employ any strong arm or deceptive tactics during the relatively brief questioning. And Hallmon continued to converse with Officer LeBaron.

While Officer LeBaron initiated questioning, did not tell Hallmon he was not in custody, and ultimately arrested Hallmon, the circumstances here do not resemble those in which we have determined a suspect was in custody. *See United States v. Czichray*, 378 F.3d 822, 827 (8th Cir. 2004) (“‘[C]ustody’ cannot be resolved merely by counting up the number of factors on each side of the balance”); *see also United States v. Puckett*, 139 F.4th 730, 742–44 (8th Cir. 2025). As a result, the district court correctly denied Hallmon’s motion to suppress the statements because Officer LeBaron was not required to advise Hallmon of his *Miranda* rights before the arrest.

C. Sufficiency of the Evidence

Third, Hallmon argues there was insufficient evidence to establish the ammunition he possessed traveled in interstate commerce, a requisite element of the convicted offense. See § 922(g)(1). “We review the sufficiency of the evidence de novo, viewing evidence in the light most favorable to the government, resolving conflicts in the government’s favor, and accepting all reasonable inferences that support the verdict.” *United States v. Perez*, 61 F.4th 623, 627 (8th Cir. 2023) (quoting *United States v. Acosta*, 619 F.3d 956, 960 (8th Cir. 2010)). “Evidence supporting a conviction ‘need not preclude every outcome other than guilty.’” *Id.* (alteration incorporated) (quoting *United States v. Pierson*, 544 F.3d 933, 938 (8th Cir. 2008)). “We will overturn a conviction on appeal only if no reasonable jury could have found the defendant guilty beyond a reasonable doubt.” *Id.*

Hallmon contends the government’s only evidence related to the interstate commerce element was Special Agent Lervoog’s testimony, which was insufficient because he did not disprove Hallmon’s theory that the bullets were counterfeit ammunition. Hallmon’s argument is unpersuasive; the prosecution’s evidence “need not exclude every reasonable hypothesis except that of guilt” *United States v. Alvarado-Sandoval*, 997 F.2d 491, 493 (8th Cir. 1993) (quoting *United States v. Lincoln*, 630 F.2d 1313, 1316 (8th Cir. 1980)). Special Agent Lervoog testified the ammunition traveled in interstate commerce after inspecting the ammunition and its headstamps. Specifically, he testified that the ammunition was made by several different manufacturers, all of which are located outside of Minnesota. This testimony is legally sufficient for the jury to conclude, beyond a reasonable doubt, the ammunition was manufactured outside of Minnesota and, thus, traveled in interstate commerce. See *United States v. Haynes*, 62 F.4th 454, 458–59 (8th Cir. 2023) (holding that expert testimony about a firearm’s location of manufacture satisfies the government’s burden to prove § 922(g)(1)’s interstate commerce element).

D. Exclusion of the Recorded Jail Calls

Fourth, Hallmon challenges the district court's exclusion of several phone calls he had with McGrone while he was in jail. Hallmon sought to introduce the calls because he claims McGrone's statements support an inference that McGrone owned the firearm and ammunition, not him. But the district court excluded the calls on the basis they were inadmissible hearsay. Hallmon argues the district court erred for three reasons: (1) the calls were admissible under the present state of mind exception, Fed. R. Evid. 803(3); (2) the calls were admissible under the residual exception, Fed. R. Evid. 807; and (3) his due process rights were offended by their exclusion. "We review evidentiary rulings for an abuse of discretion, but our review is de novo when the challenge implicates a constitutional right." *United States v. West*, 829 F.3d 1013, 1017 (8th Cir. 2016). "Even where an evidentiary ruling is an abuse of discretion or violates a constitutional proscription, however, we will not reverse unless the error is more than harmless in that it affected a substantial right or had more than a slight influence on the verdict." *Id.*

The Federal Rules of Evidence generally prohibit the admission of hearsay. Fed. R. Evid. 802. Hearsay is defined as "a statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement." Fed. R. Evid. 801(c)(1)–(2). "The hearsay rule" is "grounded in the notion that untrustworthy evidence should not be presented to the triers of fact." *Chambers v. Mississippi*, 410 U.S. 284, 298 (1973). Indeed, "[o]ut-of-court statements are traditionally excluded because they lack the conventional indicia of reliability: they are usually not made under oath or other circumstances that impress the speaker with the solemnity of his statements; the declarant's word is not subject to cross-examination; and he is not available in order that his demeanor and credibility may be assessed by the jury." *Id.*

However, there are exceptions to the hearsay rule. Relevant here, Rule 803(3) allows for the admission of a statement that describes the declarant's "then-existing state of mind . . . , or emotional, sensory, or physical condition" Fed. R. Evid.

803(3). And Rule 807, “the residual exception,” allows for the admission of a statement that is “supported by sufficient guarantees of trustworthiness” and is “more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.” Fed. R. Evid. 807(a)(1)–(2). More specifically, Rule 807 allows the admission of a hearsay statement if it “(1) has ‘equivalent circumstantial guarantees of trustworthiness’ to statements admitted under the enumerated exceptions, (2) is offered as evidence of a material fact, (3) is more probative on the point offered than any other reasonably available evidence, and (4) will best serve the general purposes of the rules of evidence and the interests of justice.” *United States v. End of Horn*, 829 F.3d 681, 685 (8th Cir. 2016).

As a preliminary note, the district court correctly concluded McGrone’s statements were hearsay. McGrone’s statements were made outside of court and, to the extent McGrone’s statements were relevant, Hallmon sought to admit them to prove he did not possess the gun and its ammunition.

Next, the district court did not abuse its discretion in declining to apply Rule 803(3)’s exception. Hallmon has failed to identify specific statements which reflected McGrone’s present state of mind. McGrone’s statements that she “would’ve took that charge” and “would’ve told [LeBaron] that [firearm] was mine” is a substantive reflection about the past, not an expression of present feelings or observations. These statements are not “substantially contemporaneous” with the relevant events, so Rule 803 does not apply. *United States v. Naiden*, 424 F.3d 718, 722 (8th Cir. 2005) (explaining that the present state of mind exception is intended to apply to “immediate reaction[s],” not statements made after the declarant has “ample opportunity to reflect on the situation”). To the extent Hallmon refers to McGrone’s statements about their family,⁴ McGrone’s state of mind is irrelevant. *See Lenza v. Wyrick*, 665 F.2d 804, 810 (8th Cir. 1981) (“[T]he state of mind

⁴ We carefully reviewed each of the excluded phone calls. In the August 2022 calls, McGrone and Hallmon discussed personal financial and familial hardship. In the February 2023 calls, McGrone and Hallmon discussed custody of their children.

exception to the hearsay rule allows the admission of extrajudicial statements to show the state of mind of the declarant if that state of mind is *at issue* in the case.”) (emphasis added). McGrone’s statements about child custody do not make it more or less probable that Hallmon possessed the firearm and ammunition. *Cf. Evans v. Luebbers*, 371 F.3d 438, 444 (8th Cir. 2004) (determining the state of mind exception applied to a victim’s former statements that she feared the defendant, who was accused of first-degree murder).

Similarly, the district court did not abuse its discretion by declining to apply Rule 807 because McGrone’s statements lacked sufficient indicia of reliability. Rule 807 is intended to apply to “exceptional circumstances where the evidence [is] necessary, highly probative, and carrie[s] a guarantee of trustworthiness equivalent to or superior to that which underlies the other recognized exceptions.” *United States v. Thunder Horse*, 370 F.3d 745, 747 (8th Cir. 2004) (quoting *United States v. Renville*, 779 F.2d 430, 439 (8th Cir. 1985)). But, here, McGrone is not a neutral party, and she did not make the statements under oath. *See United States v. Bruguier*, 961 F.3d 1031, 1033 (8th Cir. 2020) (explaining a declarant’s statements did not possess “circumstantial guarantees of trustworthiness” because the declarant “was not under oath and there is good reason to doubt a person who knows her romantic partner is accused of committing a serious crime.”); *see also United States v. Bobo*, 994 F.2d 524, 528 (8th Cir. 1993) (“[C]ertain close relationships . . . have long been recognized to diminish the trustworthiness of hearsay statements against the declarant’s penal interest.”). Therefore, the exceptional circumstances warranting application of Rule 807 are not present here.

Last, Hallmon argues the exclusion offended his Fifth Amendment due process rights under the Supreme Court’s decision in *Chambers v. Mississippi*. We disagree. In *Chambers*, the Supreme Court “found a due process violation in the combined application of Mississippi’s common-law ‘voucher rule,’ which prevented a party from impeaching its own witness, and its hearsay rule that excluded the testimony of three persons to whom that witness had confessed.” *United States v. Scheffer*, 523 U.S. 303, 316 (1998). *Chambers*, however, does not stand for the

proposition that a defendant’s due process rights are violated when hearsay evidence is excluded. *See id.*; *see also id.* at 308 (“A defendant’s right to present relevant evidence is not unlimited, but rather is subject to reasonable restrictions.”). Instead, “*Chambers* was an exercise in highly case-specific error correction,” *Montana v. Egelhoff*, 518 U.S. 37, 52 (1996), and the Court “specifically confined its holding to the ‘facts and circumstances’ presented in that case.” *Scheffer*, 523 U.S. at 316. We do not find the facts in *Chambers* analogous to those here, so it does not apply. *Cf. Chambers*, 410 U.S. at 300–01 (finding the confessions bore “considerable assurance of their reliability” because they were (1) made close in time to the murder, (2) to the declarant’s close acquaintances, (3) corroborated by extrinsic evidence, including eyewitness testimony, and (4) self-incriminatory).

In summary, the district court did not err by excluding the recorded jail calls.

E. Obstruction of Justice Enhancement

Fifth, Hallmon challenges the district court’s application of a two-level enhancement to his base offense level for obstruction of justice. “We review the district court’s interpretation and application of the Sentencing Guidelines *de novo*, and we review findings of fact for clear error.” *United States v. Garcia*, 61 F.4th 628, 631 (8th Cir. 2023) (quoting *United States v. Gomez-Diaz*, 911 F.3d 931, 936 (8th Cir. 2018)).

The Sentencing Guidelines provide for a two-level increase to a defendant’s base offense level if “the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense or conviction” U.S. Sentencing Guidelines Manual § 3C1.1 (U.S. Sentencing Comm’n 2023) [hereinafter U.S.S.G.]. “A district court may apply the obstruction-of-justice enhancement only if it finds by a preponderance of the evidence that the defendant engaged in obstructive conduct.” *Gomez-Diaz*, 911 F.3d at 936. Obstructive conduct includes “threatening intimidating, or otherwise unlawfully influencing . . . a witness . . . , directly or

indirectly, or attempting to do so” and “committing, suborning, or attempting to suborn perjury” U.S.S.G. § 3C1.1 cmt. n.4(A)–(B).

The district court found that the two-level obstruction of justice enhancement applied because Hallmon attempted to unlawfully influence McGrone to accept responsibility for the firearm, and Hallmon committed perjury by perpetuating a false narrative about his conversation with his employer.⁵ The district court’s conclusion was based on an independent evaluation of several phone calls, including those that were not presented to the jury, and Hallmon’s testimony. Its findings are sufficient to support an obstruction of justice enhancement by a preponderance of the evidence. *See United States v. Porter*, 140 F.4th 997, 1001 (8th Cir. 2025) (affirming obstruction of justice enhancement where defendant “did not threaten or intimidate anyone with his jail calls,” but tried to have a third party “claim the gun”).

F. Constitutionality of Charge and Conviction

Sixth, Hallmon argues the district court erred by denying his motions to dismiss the indictment and vacate his conviction because § 922(g)(1) is unconstitutional on its face and as applied to him. We review a district court’s denial of a motion to dismiss the indictment and constitutional challenges de novo. *See United States v. Robinson*, 140 F.4th 989, 997 (8th Cir. 2025). As Hallmon acknowledges, our precedent forecloses his argument. *See United States v.*

⁵At trial, the government introduced a recorded jail call between Hallmon and Turner. In the recording, Hallmon stated he was at the police station on a “PC hold” for “felon in possession” and that the police had his “burner.” Hallmon then testified that he intended “burner” to mean cell phone as opposed to firearm. Turner likewise testified that he understood burner to mean cell phone. After reviewing the phone calls and the trial testimony, the district court concluded the testimony was “not credible” and did not make sense unless Turner and Hallmon were talking about a burner gun.

Cunningham, 114 F.4th 671, 675 (8th Cir. 2024); *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024). We are bound by this precedent.

III. Conclusion

For the reasons explained above, we affirm the district court's judgment.

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

No. 24-1837

United States of America

Appellee

v.

Damion Kent Hallmon, also known as Damion Kent Adam L. Hallmon, also known as Damion Kale Hallmon, also known as Damien Kent Hallmon, also known as Damion Kent Hallman, also known as Damion Kale Hallman, also known as Dee X, also known as Daniel K. Tanner, also known as Marcus Jamaine Wallace, also known as Damion K. Williams

Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:22-cr-00365-KMM-1)

ORDER

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

June 18, 2026

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

/s/ Susan E. Bindler