

United States Court of Appeals
For the Eighth Circuit

No. 24-3418

United States of America

Plaintiff - Appellee

v.

Darius Carter

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: January 13, 2026
Filed: August 25, 2026

Before SHEPHERD, KELLY, and STRAS, Circuit Judges.

STRAS, Circuit Judge.

After Darius Carter’s mother bought him a gun from a pawn shop, he killed someone with it. Although he denies any role in buying it and claims the district court¹ made two mistakes, one at trial and the other at sentencing, we affirm.

¹The Honorable Henry E. Autrey, United States District Judge for the Eastern District of Missouri.

I.

Neither Carter nor his girlfriend, Sarah Mason, could buy a gun on their own. No one would sell him one because he is a felon. Just 20 at the time, Mason could not buy one either. Out of options, they turned to his mother.

She went along with a plan to put the guns on layaway and have Carter and Mason personally make all but the last payment. To complete the transaction, she had to fill out and sign Form 4473, a Bureau of Alcohol, Tobacco, Firearms, and Explosives requirement used “to enforce . . . verification measures.” *Abramski v. United States*, 573 U.S. 169, 173 (2014). She answered “yes” to a question about whether she was “the actual transferee/buyer.” The form warned that buying one for someone else was illegal, but she did it anyway.

The purchases went unnoticed until investigators found Mason dead from a gunshot wound to the back of her head several months later. The discovery of Mason’s pistol, which Carter’s mother had bought for her, led them to the gun-buying scheme. Once they figured out that Carter had orchestrated the purchases, the government charged him in a two-count indictment with making, and conspiring to make, a false statement in buying them. *See* 18 U.S.C. § 922(a)(6) (false statements to acquire a firearm); *id.* § 371 (conspiracy); *id.* § 2 (accomplice liability).

The government did not want to limit itself to just the false statements or the facts surrounding the pawn-shop transactions. Rather, it asked to introduce testimony that Mason had died under “suspicious circumstances.” It thought the evidence was admissible to show how Carter “got caught,” but the defense believed it was a backdoor way of implying that he had killed her. The district court sided with the government, which was able to get a conviction on both counts.

The “suspicious circumstances” mentioned at trial became a full-blown allegation of murder at Carter’s sentencing. The government presented evidence that he had shot her with one of the guns his mother bought. Also mentioned were

the deteriorating relationship between Carter and Mason, his presence near the scene, and the fact that his gun had gone missing following the shooting. From there, the district court concluded that he had “used . . . [a] firearm . . . cited in the offense[s] of conviction” to kill her. U.S.S.G. § 2K2.1(c)(1). It led to a nearly ten-fold jump in the advisory range to 180 months in prison—the exact sentence he received. See 18 U.S.C. §§ 924(a)(2) (establishing a 120-month maximum for the false-statements offense), 371 (setting a 60-month maximum for conspiracy); see also U.S.S.G. § 2A1.1 (providing the base offense level for first-degree murder).

II.

Carter believes he should have received an acquittal, not a prison sentence. Allegedly missing was evidence of his participation. For conspiracy, the government needed to prove the existence of an agreement and an “overt act” toward completion of the crime. *United States v. Hutchinson*, 488 F.2d 484, 490 & n.13 (8th Cir. 1973) (explaining that the “overt act” must “effect the object of the conspiracy” (citation omitted)); see *United States v. Hayes*, 574 F.3d 460, 472 (8th Cir. 2009) (laying out the elements of a conspiracy). Guilt on an accomplice-liability theory, by contrast, required Carter to have “affirmative[ly] participat[ed]” in the completed crime, which was lying on the forms. *United States v. Rolon-Ramos*, 502 F.3d 750, 758 (8th Cir. 2007); see *Rosemond v. United States*, 572 U.S. 65, 71 (2014) (requiring “an affirmative act in furtherance of th[e] offense”). In evaluating the sufficiency of the evidence on these elements, our review is de novo, viewing it “in the light most favorable to the government and drawing all reasonable inferences in favor of the verdict.” *United States v. Streb*, 36 F.4th 782, 790 (8th Cir. 2022).

The conspiracy came first, once Carter and his mother agreed she would make the purchase. Even before she went to the pawn shop, Carter discussed the idea of using his mother as a “straw buyer” with someone who worked there. See *United States v. Abfalter*, 340 F.3d 646, 655 (8th Cir. 2003) (explaining that an admission by someone involved in a straw purchase is strong evidence of a plan). Then, after she bought the guns for Carter and Mason, the payments to the pawn shop matched

the money withdrawn from their accounts, not hers. *See United States v. Parks*, 364 F.3d 902, 906 (8th Cir. 2004), *abrogated on other grounds by United States v. Booker*, 543 U.S. 220 (2005). No lingering doubt about ownership remained after he called one of them “my gun” in a text message. Even if they had never completed the crime, there were multiple overt acts along the way, including picking out which to buy, the withdrawals, and the payments to the pawn shop. *See Hutchinson*, 488 F.2d at 490. From this evidence, the jury could reasonably infer that they conspired to falsely claim she was the “actual . . . buyer.”

Those same facts also proved that Carter “affirmative[ly] participat[ed]” in the scheme. *Rolon-Ramos*, 502 F.3d at 758; *see United States v. Frazier*, 605 F.3d 1271, 1278–79 (11th Cir. 2010) (listing the elements for a conviction under 18 U.S.C. § 922(a)(6)). Evidence that Carter and Mason took the guns to the range the day after his mother bought them showed that they were “the actual transferee[s]/buyer[s].” *See United States v. Fields*, 977 F.3d 358, 363 (5th Cir. 2020) (explaining that the elements include making a material false statement that affects the lawfulness of a firearm sale that is “intended to deceive or likely to deceive . . . a federally licensed firearms dealer”); *Frazier*, 605 F.3d at 1278–79 (same). And testimony that Carter came up with the plan, gave her the money, and went along to make the final payment shows he participated. *See Fields*, 977 F.3d at 364–65 (explaining that going with the straw buyer to the store was evidence of participation). The jury could have relied on any of these individual acts, or all of them together, to conclude that he aided and abetted in the false statements.

Carter’s position is that every piece of evidence is equally consistent with a gift. We have long held, however, that the evidence does not need to be “inconsistent with every other reasonable hypothesis.” *United States v. Cheshier*, 134 F.4th 534, 539 (8th Cir. 2025) (citation omitted). And even if it did, the gift theory is a poor fit for the evidence, particularly the testimony of the pawn-shop employee that the plan was to arrange the transactions so they “wouldn’t look like a straw purchase.” *See Abramski*, 573 U.S. at 186–87 (explaining that a true “gift” is different because the purchaser uses her own money). In the end, the jury just believed the other witnesses

over Carter. *See United States v. Kehoe*, 310 F.3d 579, 593–94 (8th Cir. 2002) (“Decisions as to credibility and as to what weight particular testimony should receive properly rest with the jury.” (citation omitted)).

III.

Even if the jury heard enough to find him guilty, Carter claims it heard too much because the district court allowed a detective to testify that Mason’s death was “suspicious.”² We review evidentiary rulings like this one for an abuse of discretion and will “revers[e] only when an improper evidentiary ruling affected the defendant’s substantial rights or had more than a slight influence on the verdict.” *United States v. Anderson*, 783 F.3d 727, 745 (8th Cir. 2015) (citation omitted).

A.

The main problem with the detective’s statement is that it fails the most basic test for admissibility: relevance. *See* Fed. R. Evid. 402. It did not make any “fact . . . of consequence in determining” whether Carter was guilty “more or less probable.” Fed. R. Evid. 401; *see United States v. Christian*, 427 F.2d 1299, 1301 (8th Cir. 1970) (“It . . . is improper . . . to admit evidence of a crime unrelated in any particular [way] to the one with which defendant was . . . charged.”). The charged conduct was complete, at the latest, once his mother made the false statements. The fact that Mason died months later under “suspicious circumstances” did not make it more likely that he played a role in what his mother did, either through agreement or affirmative participation in the scheme. *See United States v. Fleck*, 413 F.3d 883, 890 (8th Cir. 2005) (noting that “the explanation of why police” started investigating a defendant was “irrelevant to the charges at issue”).

²We disagree with the government’s argument that Carter waived his objection. The district court was clear in its ruling that there was no “legal basis” for the challenge, so it would have been futile to keep renewing it. *See United States v. Young*, 753 F.3d 757, 775 (8th Cir. 2014).

It makes no difference that Mason’s death was the reason investigators started looking into the guns. In *Fleck*, we rejected a history-of-the-investigation theory of admissibility. 413 F.3d at 890. There, the district court had admitted evidence of another crime, insurance fraud, to show “why [the police] [were] doing the investigation” and were “at the [defendants’] home” when they found firearms. *Id.* at 889–90 (first and second alterations in original). We held that the evidence was “wholly irrelevant” because it “had nothing to do with the” charged crime. *Id.* at 890; see *United States v. Ladue*, 561 F.3d 855, 857–58 (8th Cir. 2009) (explaining when there is a sufficient connection); *United States v. Forcelle*, 86 F.3d 838, 842 (8th Cir. 1996) (reaching a similar conclusion about platinum stealing and mail fraud). The reason, we said, is that the facts underlying the insurance fraud did not “provide any context for and were not inextricably intertwined . . . with[]the commission of the crime of possessing firearms as a felon.” *Fleck*, 413 F.3d at 890.

The same is true here. The government made no attempt to connect Mason’s death to the false statements or the firearm purchases. Nor did it link the crimes through traditional *res gestae* criteria, like time, locational proximity, or common purpose. See *United States v. Moore*, 735 F.2d 289, 292 (8th Cir. 1984) (per curiam) (explaining that *res gestae* involves “knowledge of the time, place, and circumstances of the acts which form the basis of the charge”). Eliciting testimony that Mason died “suspicious[ly],” in other words, was gratuitous: it cast a shadow over Carter while being “irrelevant to the charges at issue.” *Fleck*, 413 F.3d at 890; see Fed. R. Evid. 404(b)(1) (“Evidence of any other crime, wrong, or act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.”).

Slapping the “intrinsic[-]evidence” label on it does nothing to change our view. *Forcelle*, 86 F.3d at 841 (citation omitted). Largely synonymous with the common-law concept of *res gestae*, see *id.*, it allows evidence of other bad acts when they are part of the “charged offense,” *United States v. Maxwell*, 643 F.3d 1096, 1100 (8th Cir. 2011) (citation omitted), and provides “context” for how or why it happened, *United States v. Guzman*, 926 F.3d 991, 1000 (8th Cir. 2019). Examples

include “logically . . . prov[ing] any element of [a] crime charged,” “complet[ing] the story,” or showing “consciousness of guilt.” *United States v. Vaca*, 38 F.4th 718, 721 (8th Cir. 2022) (first alteration in original) (citation omitted).

We have already explained why Mason’s death was not part of the “charged offense[s].” *Id.* It was not “consciousness[-]of[-]guilt” evidence because nothing suggests that Carter killed her to cover up the earlier false statements. *United States v. Alvarez-Sorto*, 160 F.4th 930, 940 (8th Cir. 2025) (listing “threatening a witness” or “tossing a gun” as examples (citation omitted)); *Vaca*, 38 F.4th at 722 (rejecting a “consciousness-of-guilt justification” when the act was unconnected to “the [underlying] charges”). If anything, the detective’s testimony completed a different “story” of how their relationship had deteriorated. *Fleck*, 413 F.3d at 890 (citation omitted). From there, it invited the jury to wonder about whether he may have killed Mason. As in *Fleck*, “the district court [here] abused its discretion in allowing testimony at trial” about the circumstances of Mason’s death.³ *Id.*

B.

Not every evidentiary error, however, leads to a new trial. Only if the “ruling affected [Carter’s] substantial rights or had more than a slight influence on the verdict” will he receive one. *Anderson*, 783 F.3d at 745 (citation omitted).

Here, the isolated references to Mason’s “suspicious” death had at *most* a “slight influence on the verdict.” *Id.* (citation omitted); *see United States v. Pfeffer*, 901 F.2d 654, 657 (8th Cir. 1990) (making “little” use of wrongly admitted evidence is an indicator of harmlessness). Over the three-day trial, only one witness, out of the ten the government called, mentioned the “suspicious” nature of her death. And even then, only a single time when describing how the investigation began. *See United States v. Bruguier*, 161 F.3d 1145, 1152 (8th Cir. 1998) (explaining that

³The government has never argued that the evidence would have been admissible under Fed. R. Evid. 404(b).

evidence that was “mentioned only briefly” did not have “much influence on the jury’s verdict”).

To be sure, the prosecutor also raised the point “briefly during opening and closing,” *United States v. Adams*, 820 F.3d 317, 324 (8th Cir. 2016), which increased the impact of the error. But like the detective, the prosecutor did not dwell on it. With the rest of the trial focused on the false statements and Carter’s role in the scheme, the remarks “did not have a substantial influence on the verdict.” *Fleck*, 413 F.3d at 891 (holding that a similar error was harmless).

What tipped the balance was the “overwhelming” amount of admissible evidence. *United States v. Lindsey*, 702 F.3d 1092, 1100–01 (8th Cir. 2013). From Carter’s text message calling it “my gun” to the suspicious timing of the withdrawals from his account, his it-was-a-gift defense was unlikely to persuade the jury. Add the fact that a pawn-shop employee recalled that the scheme was Carter’s idea, and there is little chance that he would have been acquitted, even if the jury had never been exposed to the government’s “suspicio[ns].” See *Anderson*, 783 F.3d at 745.

IV.

Once the case reached sentencing, Mason’s death was fair game. The reason was a cross-reference in the Sentencing Guidelines allowing the district court to increase his offense level to “the most analogous offense guideline” for homicide if he used a “firearm . . . cited in the offense of conviction in connection with the commission” of a murder. U.S.S.G. § 2K2.1(c)(1)(B) (covering “prohibited transactions involving firearms or ammunition” (capitalization omitted)); see *id.* § 2A1.1. In this case, application of the cross-reference resulted in a 159-month increase to the statutory maximum of 180 months.

Getting there required the district court to make two findings by a preponderance of the evidence. See *United States v. Stroud*, 673 F.3d 854, 862 (8th Cir. 2012) (evaluating similar findings). First, Carter murdered Mason. See *United*

States v. Davis, 753 F.3d 1361, 1361 (8th Cir. 2014) (per curiam); see also *United States v. Greer*, 57 F.4th 626, 629 (8th Cir. 2023) (explaining that the elements of first-degree murder are “the unlawful killing of a human being with malice aforethought” and “premeditation” (citation omitted)). And second, one of the firearms illegally bought at the pawn shop was the murder weapon. See U.S.S.G. § 2K2.1(c)(1) (stating that it must be a “firearm . . . cited in the offense of conviction”). Each is a factual finding subject to clear-error review. See *United States v. Bradley*, 127 F.4th 1127, 1131 (8th Cir. 2025). Whether the gun was “cited in” either conviction, on the other hand, is a legal question we review de novo. U.S.S.G. § 2K2.1(c)(1); see *United States v. Edger*, 924 F.3d 1011, 1014 (8th Cir. 2019).

A.

The government had more evidence at its disposal during sentencing. See *United States v. Pratt*, 553 F.3d 1165, 1170 (8th Cir. 2009) (giving district courts “wide discretion” over what kind of information to consider (citation omitted)); *United States v. Shackelford*, 462 F.3d 794, 796 (8th Cir. 2006) (allowing evidence that would not be admissible at trial to be used at sentencing). In addition to the “suspicious circumstances” remark from trial, the government introduced text messages to provide a motive for the killing: the couple’s relationship had fallen apart. See *United States v. Blue Thunder*, 604 F.2d 550, 554 (8th Cir. 1979) (explaining that “dissatisfaction” with a relationship was a motive for murder). One from Carter, for example, said it was “done” after Mason had gone “through [his] phone.” See *United States v. Crow Ghost*, 79 F.4th 927, 936–37 (8th Cir. 2023) (describing evidence of a “turbulent relationship” as a motive for murder). A crumpled-up letter at the crime scene, believed to be written by her, discussed Carter’s infidelity, which she had apparently discovered by searching the phone.

Carter also had the opportunity to commit the crime. According to cell-site location information, Carter’s phone was in the “general area of [her] residence” about an hour before he reported the murder. It was not much of a leap to infer that

he had time to kill Mason, dispose of the gun, and then return to the scene to report her death. *See Blair-Bey v. Nix*, 44 F.3d 711, 713 (8th Cir. 1995) (explaining that an unaccounted-for window of time gave defendants an opportunity to commit a murder). Adding to the suspicion was an odd statement he made to a woman he later dated: the police “couldn’t figure [the murder] out and there is a river nearby.”

Finally, the circumstances surrounding her death *were* suspicious enough to infer that he premeditated the crime with “malice aforethought.” *United States v. Angel*, 93 F.4th 1075, 1078 (8th Cir. 2024). Shooting her in the back of the head ruled out an accident and “demonstrate[d] a specific intent to kill.” *Id.* at 1079 (citation omitted). The texts, the timeline, and Carter’s odd statement suggested premeditation. It all added up to first-degree murder, which brought the cross-reference into play and made the “most analogous offense guideline” the one covering that crime. U.S.S.G. § 2K2.1(c)(1)(B); *see id.* § 2A1.1.

B.

The gun he used to kill her also had to be “cited in the offense of conviction.” *Id.* § 2K2.1(c)(1). To satisfy this requirement, the gun must have “formed the basis” for at least one of the false-statement convictions. *Edger*, 924 F.3d at 1014 (noting it applies when, for example, “a defendant is convicted of [one offense] and used the same shotgun in connection with [another crime] months earlier”). “[T]he entire record of the case,” not just the indictment, is available in making the determination. *Id.*

The Heckler & Koch VP9 purchased from the pawn shop “formed the basis” for both offenses. *Id.* The signed paperwork, the indictment, and the witnesses all mentioned it. It was, in other words, “cited in” the “record of the case.” *Id.* (citation omitted); *see* U.S.S.G. § 2K2.1(c)(1).

The closer call is whether the evidence supported the finding that Carter used it to murder Mason. A ballistics test showed that the rifling on the bullet was

“consistent with . . . an HK VP9,” even though the weapon went missing after her death. Another link between the bullet and the gun was Carter’s use of the same type of ammunition at a gun range months earlier, right after getting it. *See Redding v. Minnesota*, 881 F.2d 575, 578 (8th Cir. 1989) (relying on access to the “same type and brand of ammunition” for sufficiency). Hardly overwhelming proof, but enough to get by clear-error review. *See United States v. Tucker*, 243 F.3d 499, 506 (8th Cir. 2001) (explaining that “clear[-]error” review requires a high level of “deference”).

It makes no difference that the false-statement offenses occurred months before the murder. The relevant Guideline says that the gun used must have been “cited in the offense[s] of conviction,” not that the “[o]ther offense[s]” must have occurred around the same time. U.S.S.G. § 2K2.1(c)(1); *see Edger*, 924 F.3d at 1014. The illegal purchase of the gun, which was later used to kill Mason, fulfills this requirement.⁴ *See Taylor*, 160 F.4th at 882 (“For the cross-reference to apply, the firearm used in the charged crime must also have been used in the commission of the other crime.”).

V.

We accordingly affirm the judgment of the district court.

KELLY, Circuit Judge, concurring in part and dissenting in part.

The cross reference in § 2K2.1(c)(1) applies here if the firearm used in the first-degree murder was “cited in the offense of conviction.” USSG § 2K2.1(c)(1);

⁴Relevant-conduct principles support our conclusion. *See* U.S.S.G. § 2K2.1 cmt. n.13(D) (instructing courts to consider “the relationship between the [two offenses], consistent with relevant[-]conduct principles”). Illegal conduct initially gave him access to the firearm, which he then used as the murder weapon, “sufficiently connect[ing]” the two crimes. *Id.* § 1B1.3 cmt. n.5(B)(ii) (defining the “same course of conduct”); *see id.* § 1B1.3(a)(4); *Edger*, 924 F.3d at 1014; *United States v. Taylor*, 160 F.4th 874, 882 (7th Cir. 2025).

id. § 2K2.1, comment. (n.14(E)) (2024).⁵ But the Guidelines also instruct that, before applying it, the sentencing court “must consider the relationship between the instant offense and the other offense, consistent with relevant conduct principles.” Id. § 2K2.1, comment. (n.14(E)) (citing USSG § 1B1.3(a)(1)–(4)). The definition and principles of “relevant conduct” are found in § 1B1.3:

(1) [] all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant; and . . . that occurred during the commission of the offense of conviction, in preparation for that offense, or in the course of attempting to avoid detection or responsibility for that offense; [and]

(2) . . . all acts and omissions described . . . above that were part of the same course of conduct or common scheme or plan as the offense of conviction[.]

USSG § 1B1.3(a); see also id. § 1B1.3, comment. (n.1) (explaining the scope of “[t]he principles and limits of sentence accountability”). In my view, applying the cross reference to first-degree murder in this case is not consistent with those principles.

Mason was killed months after Carter aided and abetted the making of false statements, meaning that her death was not committed “during” or “in preparation for” the conspiracy to straw purchase firearms. See USSG § 1B1.3(a)(1); cf., e.g., United States v. Ware, 141 F.4th 970, 974 (8th Cir. 2025) (holding conduct that occurred “[d]uring the course of the straw-purchasing conspiracy” was relevant conduct under the Guidelines). I agree with the court that “[t]he charged conduct was complete, at the latest, once his [codefendant] made the false statements,” and that “nothing suggests that Carter killed [Mason] to cover up the earlier false

⁵Because Carter was sentenced under the 2024 version of the Guidelines, all references to the Guidelines within this opinion are to that version.

statements.” Unlike a conviction for unlawful possession of a firearm,⁶ which we have recognized as a continuing offense, United States v. Maxim, 55 F.3d 394, 397–98 (8th Cir. 1995), making a false statement during a firearm purchase happens at a discrete point in time and does not even require as an element that a firearm be successfully purchased, see 18 U.S.C. § 922(a)(6); 8th Cir. Model Criminal Jury Instruction 6.18.924. Mason’s death, therefore, was not relevant conduct under § 1B1.3(a)(1).

Nor was Mason’s death “part of the same course of conduct or common scheme or plan” as the straw purchase conspiracy. See id. § 1B1.3(a)(2). Under the Guidelines, offenses are part of the same course of conduct “if they are sufficiently connected or related to each other as to warrant the conclusion that they are part of a single episode, spree, or ongoing series of offenses.” Id. § 1B1.3, comment. (n.5(B)(ii)). Factors to consider include: the similarity of the offenses, the regularity of the offenses, and the time between the offenses. Id. “When one of the[se] factors is absent, a stronger presence of at least one of the other factors is required.” Id. A common scheme or plan requires that the events “be substantially connected to each other by at least one common factor, such as common victims, common accomplices, common purpose, or similar *modus operandi*.” Id. § 1B1.3, comment. (n.5(B)(i)) (2024).

Applying these definitions, Mason’s killing was not part of the same course of conduct as the straw purchase conspiracy: the offenses were not similar, did not occur with regularity, and did not occur close in time. See id. § 1B1.3, comment. (n.5(B)(ii)). Nor were the two offenses part of a common scheme or plan. See id. § 1B1.3, comment. (n.5(B)(i)). The only common factor between them was the VP9 firearm, and finding that commonality sufficient under the Guidelines would read out the instruction that, in addition to finding the firearm was “cited in the offense

⁶Carter’s only convictions were for conspiring and aiding and abetting in making false statements to purchase firearms. Regardless of the legality of his possession of those firearms, possession is not the crime of conviction. See USSG § 1B1.3(a) (defining relevance in relation to the “offense of conviction”).

of conviction,” the district court must consider whether the application of the cross reference is “consistent with relevant conduct principles.” Id. § 2K2.1, comment. (n.14(E)). In other words, if the firearm only needed to be the same firearm in both offenses for the cross reference to apply, there would be no need to consider relevant conduct principles.⁷ Such a reading fails to consider the full Guidelines provision.

The Guidelines are advisory, but it is procedural error to apply them improperly. Peugh v. United States, 569 U.S. 530, 537 (2013) (citing Gall v. United States, 552 U.S. 38, 51 (2007)). I would reverse and remand for resentencing. I otherwise concur in the court’s opinion.

⁷The ruling in United States v. Taylor, 160 F.4th 874, 884 n.3 (7th Cir. 2025), is not to the contrary. In Taylor, the court affirmed application of the cross reference to an unlawful *possession* of a firearm conviction, not to a false statement conviction, id. at 881–84, just as this court has done numerous times, see, e.g., United States v. Porter, 140 F.4th 997, 1000–01 (8th Cir. 2025); United States v. Angel, 93 F.4th 1075, 1078–80 (8th Cir. 2024); United States v. Clark, 999 F.3d 1095, 1097–98 (8th Cir. 2021); see also USSG § 2K2.1, comment. (n.14(E)(i)) (when defendant’s offense of conviction is for unlawfully possessing a shotgun on October 15,” his “unlawful [use and] possession of the same shotgun” months earlier in connection with another offense will ordinarily be “part of the same course of conduct or common scheme or plan” as the offense of conviction). The government cites no case where a court has found that the use of the same firearm for two discrete, non-continuing offenses is sufficient to satisfy relevant conduct principles. See United States v. Rooney, 63 F.4th 1160, 1170 (8th Cir. 2023) (“The burden is on the government to show a sentence enhancement was warranted.”).