

United States Court of Appeals
For the Eighth Circuit

No. 25-3409

United States of America

Plaintiff - Appellee

v.

David Lee Negrete

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: June 9, 2026

Filed: October 8, 2026

Before COLLOTON, Chief Judge, ARNOLD and GRASZ, Circuit Judges.

GRASZ, Circuit Judge.

David Negrete pled guilty to being a felon in possession of a firearm under 18 U.S.C. §§ 922(g)(1) and 924(a)(8), and the district court¹ sentenced him to 77 months of imprisonment. Before pleading guilty, Negrete moved to suppress

¹The Honorable Stephen H. Locher, United States District Judge for the Southern District of Iowa.

evidence obtained during a search of his person and a vehicle in which he was a passenger. Negrete appeals the denial of his motion to suppress and the sentence. We affirm.

I. Background

Shortly after midnight, Des Moines, Iowa, Police Officer Matthew Sander stopped a vehicle because its registered owner had an outstanding warrant. After requesting backup, he approached the vehicle and saw two occupants in the vehicle's front seats. The passenger, David Negrete, rolled down the window, and Officer Sander detected a strong odor of marijuana. While speaking to the vehicle's owner, Officer Sander noticed Negrete was shielding his face from view and looking down.

After Officer Sander returned to his patrol vehicle to run the stopped vehicle's driver's license, Officer Michael Mordini arrived at the scene. As both officers then approached the stopped vehicle, Negrete opened his door and stepped out. Officer Mordini instructed Negrete to reenter the vehicle, and he complied. Shortly after, Officer Josh Hodges arrived.

As Officer Sander arrested the driver, Officer Mordini watched Negrete suspiciously move his hands about the vehicle, placing them where they could not be seen and reaching for the door handle. In response, Officer Mordini asked Negrete to exit the vehicle. After Negrete did so, Officer Mordini saw him place his left hand in his jacket pocket.

Officer Mordini handcuffed and briefly frisked Negrete before Officer Hodges conducted a more in-depth frisk. Officer Hodges first checked the left side of Negrete's jacket before mistakenly inserting his hand into Negrete's left pants pocket and immediately withdrawing it because that action was outside the frisk's scope. He then patted the outside of Negrete's right pants pocket and felt what he believed to be a controlled substance. Finally, he checked the right side of Negrete's jacket for weapons. After completing the frisk, Officer Hodges removed a package from

Negrete's right pants pocket. The package was later found to contain methamphetamine.

During the search of the vehicle, officers found a firearm under the seat where Negrete had been sitting. Officers also found a backpack containing controlled substances and drug paraphernalia on the front passenger-side floor of the vehicle. The backpack held marijuana; a mixture of marijuana and MDMA; and a mixture of fentanyl, xylazine, and methamphetamine.

A grand jury indicted Negrete under 18 U.S.C. §§ 922(g)(1) and 924(a)(8) for possessing a firearm as a convicted felon, and Negrete moved to suppress evidence seized from his person and the vehicle. The district court denied his motion. Negrete entered a conditional guilty plea, which preserved his right to appeal the denial of his suppression motion. At sentencing, the district court found that, because "the gun was loaded and right underneath the seat where Mr. Negrete was sitting," the firearm had the potential to facilitate the possession of drugs. The court therefore applied a four-level enhancement for possessing a firearm in connection with another felony offense and sentenced him to 77 months of imprisonment, the bottom of the applicable Guidelines range. Negrete timely appealed.

II. Analysis

On appeal, Negrete challenges (1) the district court's denial of his motion to suppress and (2) the district court's application of the four-level sentencing enhancement. We address each issue in turn.

A. Motion to Suppress

Negrete argues that the district court erred by denying his motion to suppress the evidence seized from his person and the vehicle. Specifically, he argues that (1) the officers unlawfully expanded Negrete's detention after the traffic stop had shifted to the owner's warrant, and (2) the frisk exceeded the narrow limits permitted under *Terry v. Ohio*, 392 U.S. 1 (1968). "We review a district court's denial of a motion to

suppress *de novo*, but we review the district court’s underlying factual determinations for clear error.” *United States v. Demilia*, 771 F.3d 1051, 1054 (8th Cir. 2014).

When a search or seizure violates the Fourth Amendment and yields incriminating evidence, the exclusionary rule, “when applicable, forbids the use of [such] improperly obtained evidence at trial.” *Herring v. United States*, 555 U.S. 135, 139 (2009).

i. Detention

First, Negrete argues his detention was unlawful, and the evidence obtained from his detention should be suppressed as fruit of the poisonous tree. “A passenger has standing to challenge his detention because all occupants of a stopped vehicle are subject to a Fourth Amendment seizure.” *United States v. Green*, 275 F.3d 694, 699 (8th Cir. 2001).² And a defendant may seek suppression of evidence derived from an unlawful detention even if he lacked a privacy interest in the place searched. *United States v. Davis*, 943 F.3d 1129, 1132 (8th Cir. 2019).

Negrete’s detention, however, was lawful at its inception. Negrete’s initial detention was lawful because Sander had probable cause to stop the vehicle based on the owner’s outstanding warrant. *See Waters v. Madson*, 921 F.3d 725, 739 (8th Cir. 2019) (“If an officer acts lawfully in detaining the driver, he acts lawfully in concurrently detaining the passenger.”).

²Even if a passenger does not have a “possessory or property interest” in the vehicle that was searched, a passenger “may still contest the lawfulness of his own detention and seek to suppress evidence as the fruit of his illegal detention.” *Green*, 275 F.3d at 699. “[A]n individual’s [Fourth Amendment] interest is not diminished simply because he is a passenger as opposed to the driver when the stop occurred.” *Id.* (quoting *United States v. Kimball*, 25 F.3d 1, 5 (1st Cir. 1994)).

And Negrete's detention did not become unlawful when Officer Mordini ordered him to reenter and remain in the vehicle. Police may take reasonable actions at the scene of an investigation to ensure safety and preserve the status quo without reasonable suspicion. *Brendlin v. California*, 551 U.S. 249, 258 (2007). Considering the vehicle's owner was being arrested for an active warrant and the stop occurred in the middle of the night, Mordini's command was a reasonable measure to ensure officer safety. *See, e.g., United States v. Warren*, 984 F.3d 1301, 1304–05 (8th Cir. 2021) (holding the seizure of a passenger reasonable when the officer was investigating the driver and it was dimly lit). Negrete also offers no evidence that the detention lasted longer than necessary to provide for officer safety.

Accordingly, Negrete has not shown an unlawful seizure occurred. Because the seizure was lawful, Negrete's fruit of the poisonous tree argument necessarily fails. *See Davis*, 943 F.3d at 1133–34.

ii. Frisk

Second, Negrete argues the frisk exceeded the lawful limits under *Terry*. Negrete is correct, but neither of his arguments warrants suppression of the evidence found during the frisk.

Negrete claims the frisk exceeded its constitutionally permissible scope when Officer Hodges inserted his hand into Negrete's left pants pocket. A frisk is typically "limited to a pat-down of the individual's outer clothing" when "the police reasonably suspect the individual is armed." *United States v. Pratt*, 355 F.3d 1119, 1121 (8th Cir. 2004). The "justification for a pat-down search or protective frisk is officer safety." *United States v. Gray*, 213 F.3d 998, 1000 (8th Cir. 2000). Here, Officer Hodges exceeded the permissible scope of a *Terry* frisk when he searched inside Negrete's left pants pocket. *See United States v. Aquino*, 674 F.3d 918, 923 (8th Cir. 2012). He then proceeded with a lawful pat down. In our view, it was reasonable for Officer Hodges to finish his frisk in this manner, as he still needed to ensure the officers' safety by determining whether Negrete was armed. And in any

event, Officer Hodges’s intrusion into Negrete’s left pocket produced no evidence and did not prompt him to investigate Negrete’s right pocket. *See United States v. Olivera-Mendez*, 484 F.3d 505, 511 (8th Cir. 2007) (“Evidence should not be excluded from trial based on a constitutional violation unless the illegality is at least a but-for cause of obtaining the evidence.”).

Negrete also argues that Officer Hodges did not immediately recognize the methamphetamine in his right pocket as contraband because Hodges patted down that pocket and then completed the entire frisk before reaching inside. “[O]fficer[s] may seize items from the individual’s pockets [during a frisk] if the incriminating nature of the item is immediately apparent through the officer’s sense of touch.” *Pratt*, 355 F.3d at 1121. The district court credited Officer Hodges’s testimony that he immediately recognized the object in Negrete’s pocket as a controlled substance without manipulating or squeezing it. A credibility determination “can almost never be a clear error unless there is extrinsic evidence that contradicts the witness’s story or the story is so internally inconsistent or implausible on its face that a reasonable fact-finder would not credit it.” *United States v. White*, 41 F.4th 1036, 1038 (8th Cir. 2022) (quoting *United States v. Holly*, 983 F.3d 361, 363–64 (8th Cir. 2020)). Negrete does not offer any extrinsic evidence to contradict Officer Hodges’s account. Nor does Officer Hodges’s decision to finish frisking Negrete for weapons before reaching into his pocket render Officer Hodges’s testimony internally inconsistent or implausible. Thus, the district court did not clearly err in crediting Officer Hodges’s testimony.

B. Sentencing Enhancement

Negrete also argues the district court erred by applying the four-level sentencing enhancement under U.S.S.G. § 2K2.1(b)(7)(B). We disagree. “[W]e review the district court’s factual findings for clear error and [its] interpretation of the Guidelines *de novo*.” *United States v. Deberry*, 137 F.4th 729, 733 (8th Cir. 2025).

Section 2K2.1(b)(7)(B) provides for a four-level enhancement if the defendant “used or possessed any firearm . . . in connection with another felony offense” “Where the other felony offense is drug possession, this enhancement applies ‘if the firearm or ammunition facilitated, or had the potential of facilitating, another felony offense.’” *United States v. Watkins*, 91 F.4th 955, 961 (8th Cir. 2024) (quoting *United States v. Walker*, 900 F.3d 995, 997 (8th Cir. 2018)). When the defendant possesses only a user quantity of drugs and is not a trafficker, the district court should affirmatively find that the firearm facilitated or had the potential to facilitate the drug offense. *Id.* at 961–62. However, Guidelines Application Note 14(A) to § 2K2.1 does not require that district courts use any particular words or make a “specific finding.” *United States v. Sneed*, 742 F.3d 341, 344 (8th Cir. 2014). Instead, “[i]f ‘the record makes clear the district court understood and properly applied the “facilitate” standard of note 14(A)’ in finding possession of a firearm in connection with a felony drug offense, there is no error of law.” *United States v. Mitchell*, 963 F.3d 729, 732 (8th Cir. 2020) (quoting *Sneed*, 742 F.3d at 344).

Here, Negrete argues the district court presumed, rather than found, the required nexus. He contends that such a presumption conflicts with *District of Columbia v. Heller*, 554 U.S. 570 (2008); *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022); and *United States v. Rahimi*, 602 U.S. 680 (2024). But the district court did not presume facilitation. Instead, it found that because “the gun was loaded and right underneath the seat where Mr. Negrete was sitting,” the firearm had the potential to facilitate Negrete’s drug possession offense.

We have repeatedly held that “[t]he ‘facilitate’ standard may be met ‘when a defendant concurrently possesses drugs and a firearm while in public, like in a car.’” *See, e.g., Sneed*, 742 F.3d at 344–45 (quoting *United States v. Swanson*, 610 F.3d 1005, 1008 (8th Cir. 2010)). So where, as here, the defendant “had illicit drugs in his pocket and a weapon nearby on the passenger floorboard,” the district court’s finding was supported by the record. *Watkins*, 91 F.4th at 962 (affirming application of enhancement); *cf. United States v. Dalton*, 557 F.3d 586, 589 (8th Cir. 2009) (reversing application of enhancement because there was no finding of facilitation

or potential of facilitation, despite a “temporal and spatial nexus” between a firearm and methamphetamine). Accordingly, the district court did not err in applying the sentencing enhancement.

III. Conclusion

We affirm the district court’s judgment.
