

NOT FOR PUBLICATION

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 23-11558

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UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

*versus*

MICHAEL KENDRICK,

*Defendant-Appellant.*

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Appeal from the United States District Court  
for the Middle District of Florida  
D.C. Docket No. 5:20-cr-00010-JA-PRL-1

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Before WILLIAM PRYOR, Chief Judge, BRANCH, and ABUDU, Circuit Judges.

ABUDU, Circuit Judge:

Michael Kendrick appeals his convictions and 144-month sentence for drug and firearm-related offenses. He raises four issues on appeal: (1) that the district court erred in denying his

motion to suppress evidence and statements; (2) that the evidence was insufficient to support his convictions; (3) that the district court abused its discretion in providing a supplemental jury instruction; and (4) that the court miscalculated his base offense level and abused its discretion by imposing a substantively unreasonable sentence. After careful review, and with the benefit of oral argument, we affirm.

### **I. FACTUAL BACKGROUND & PROCEDURAL HISTORY**

On July 6, 2019, at approximately 1:30 a.m., while patrolling an area in Ocala, Florida, Officer Shelby O’Grady noticed a vehicle, with Kendrick later identified as the driver.<sup>1</sup> As O’Grady was traveling eastbound on a main street, Kendrick was traveling westbound on a parallel residential street one block north of O’Grady. Kendrick then turned south, heading toward the main street on which O’Grady was driving. O’Grady continued eastbound on the main street, driving past Kendrick, and stopped in a left-turn lane, while continuing to observe the vehicle in her driver’s side-view mirror. According to O’Grady, as Kendrick approached the main

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<sup>1</sup> The Ocala Police Department assigned patrol officers to specific zones throughout the city. O’Grady was patrolling zone six during this particular shift. She described this zone as a “high-crime area” due to the amount of well-documented violent crimes and drug crimes that occurred in this relatively small part of the city. More officers were assigned to patrol zone six compared to other zones. Because of the heightened crime in this area, O’Grady was actively looking for lawful reasons—such as traffic violations—to stop a vehicle so she could investigate what individuals were doing in the area at that time.

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street, he failed to stop at a stop sign and, instead, stopped in the middle of a crosswalk before turning right to head westward on the main street, in violation of Florida law. *See* FLA. STAT. § 316.123(2)(a) (“[E]very driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection . . .”). O’Grady turned around to follow the vehicle to get its tag number, but she did not immediately activate her emergency lights or initiate a stop.

As O’Grady followed, Kendrick turned onto a residential street, parked in a driveway, and turned off his headlights. When O’Grady looped around the block and returned to the original intersection, Kendrick had already pulled out of the driveway and was again traveling on the main road. A few blocks later, he turned onto another residential street and pulled into a second driveway. At that point, O’Grady activated her emergency overhead lights and stopped behind his parked car. Activating the overhead lights triggered her in-car camera to begin recording.

As these lights were activated, Kendrick exited the vehicle alone. A small white object fell from Kendrick’s person to the ground outside of the vehicle by the driver’s door. Twice, O’Grady ordered him to return to the vehicle, but instead, he ran. O’Grady pursued him on foot, radioed for backup, and located Kendrick hiding in bushes approximately one block away. O’Grady deployed her TASER, subdued him, and detained him until other officers

arrived at the scene. She recovered two cell phones and \$1,844 in cash.

During the encounter, Kendrick told O’Grady that others had been in the vehicle with him but that “they just got away.” O’Grady never saw anyone else in the vehicle, and the dash cam footage showed only Kendrick. When other officers arrived, one of them recovered the small white object Kendrick apparently dropped. The object was a plastic bag containing an “off-white colored substance,” which later was determined to be the drug eutylone. A police dog searched the perimeter of the vehicle and alerted the officers to the presence of narcotics in the vehicle. Thereafter, O’Grady and another officer searched the inside of Kendrick’s car and found drug paraphernalia and a loaded semiautomatic handgun under the passenger seat.

Kendrick was arrested and charged with several state offenses arising from the incident, including drug and firearm-related offenses. The local police department notified federal authorities, which opened an investigation. From the investigation, it was determined that the firearm and drug paraphernalia contained no usable fingerprints but that DNA from four individuals—including Kendrick—was present on the firearm. In early February 2020, a federal grand jury indicted Kendrick for possession of a controlled substance with intent to distribute, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C) (Count 1), possession of a firearm in furtherance of that drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (Count 2), and for being a felon in possession of a

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firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2) (Count 3).

On February 12, 2020, Kendrick appeared in state court on the related state charges and a Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) agent, accompanied by a task force officer (“TFO”) from the Ocala Police Department, executed the federal arrest warrant. The TFO read Kendrick his *Miranda*<sup>2</sup> rights and asked him, “Do you understand all those rights?” to which Kendrick responded, “Yes sir.” Kendrick then signed a written *Miranda* waiver form.

As the ATF agent, TFO, and Kendrick were driving to the federal facility, the TFO questioned Kendrick about his DNA on the firearm and about a relative named Lamar, who Kendrick argued was in the car with him during the traffic stop. Kendrick answered the officer’s questions. When asked whether Lamar shared his last name, Kendrick responded:

No, I don’t know . . . ya know what I’m saying . . . because I really don’t know how this job works. I don’t, ya know, I know you read me my rights and stuff I really don’t know . . . you know what I’m saying? . . . But I’ll give you that much . . . I ain’t got nothing to hide.

Kendrick continued to engage in further discussion with the ATF agent and TFO in the car, with the conversation turning back to

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<sup>2</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

the DNA evidence and the drugs found outside of the car. Kendrick said the gun was not his but indicated that he was never asked if he touched the gun. Furthermore, Kendrick was adamant that he did not have any drugs on him and that he knew “for a fact ain’t nothing came out [his] lap.”

The conversation continued until they reached the federal courthouse, where Kendrick made his initial appearance before a magistrate judge. He was arraigned, entered a plea of not guilty as to all three counts, and the case was set for trial.

Prior to trial, Kendrick moved to suppress all the evidence seized following the initial July 6, 2019, traffic stop. He argued that the traffic stop violated his Fourth Amendment rights because Officer O’Grady lacked probable cause to believe a traffic offense had occurred and lacked reasonable suspicion of criminal activity. Furthermore, Kendrick contended that when federal authorities arrested him on February 20, 2020, the statements he made while he was being transported were involuntary and obtained in violation of his Fifth and Sixth Amendment rights. He argued that he had either invoked his *Miranda* rights or that there was not a valid waiver of his rights and, therefore, the TFO improperly attempted to elicit incriminating statements. Kendrick also noted the informal environment in which his *Miranda* rights were read to him—outside of the state courthouse on a hot day—and argued that the totality of the circumstances warranted suppression of his statements.

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The district court referred the motion to a magistrate judge, who conducted a suppression hearing. O’Grady testified to her eyewitness account of the traffic stop and the alleged traffic violation. Defense counsel presented an investigator who testified that, based on her on-site inspection, it would not have been possible for O’Grady to see the stop sign in her side-view mirror from the position she described.

After hearing the testimony and reviewing the evidence, the magistrate judge issued a report and recommendation (“R&R”) finding O’Grady’s testimony “clear,” “unequivocal,” “credible,” and consistent with other evidence. Specifically, the magistrate judge noted O’Grady’s familiarity with the area, her observations of Kendrick’s vehicle—with its headlights on—through her side-view mirror, and the recollection of the events she communicated to her commanding officer that evening, which was captured on her body camera and “entirely consistent” with her testimony. In contrast, the magistrate judge found that the investigator’s testimony did “not rebut O’Grady’s clear and direct testimony” about the basis for the traffic stop. Notably, the investigator testified that she was not familiar with the area and that the car she used to test O’Grady’s vantage point was a different car with a different side-view mirror. Additionally, the investigator conceded that she did not attempt to recreate what O’Grady actually observed at 1:30 a.m., that being a vehicle with its headlights on approaching a stop sign. The R&R concluded that O’Grady lawfully stopped Kendrick based on probable cause that a traffic violation had occurred, and

the magistrate judge recommended denying the motion to suppress as to the traffic stop.

Addressing the *Miranda* issue, the magistrate judge concluded that Kendrick did not unambiguously invoke his right to remain silent and that he knowingly and voluntarily waived his rights before speaking with the officers. The magistrate judge relied on Kendrick's signed written *Miranda* waiver and credited the testimony of the TFO, supported by an audio recording of the events. The court further rejected Kendrick's argument that being arrested at a state courthouse and read his *Miranda* rights outside, in the heat of day, invalidated the waiver of his *Miranda* rights. Thus, the magistrate judge recommended denying Kendrick's motion to suppress his post-arrest statements as well. Kendrick filed written objections to the R&R, but the district court overruled those objections, adopted the report in full, and denied the motion to suppress.

The case proceeded to a three-day jury trial beginning on March 9, 2021. The government presented eight witnesses—including O'Grady, forensic specialists, and ATF agents—and introduced physical and video evidence of the traffic stop, the seized contraband, the DNA results, and the interstate travel of the firearm.

Following the government's case-in-chief, Kendrick moved for a judgment of acquittal on all three counts. As to Count 2 (unlawful possession of a firearm in furtherance of a drug trafficking crime), he argued that the evidence was insufficient to prove unlawful possession of the firearm or a nexus between the firearm

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and the alleged drug trafficking offense. The district court denied the motion as to Counts 1 and 3, but reserved ruling on the motion as to Count 2.

The defense called four witnesses: Kendrick's cousin, who testified that others had been in the vehicle; a forensic DNA consultant who raised cross-contamination concerns; Kendrick's girlfriend, who testified that the seized cash came from legitimate sources; and an investigator, who recorded after-the-fact footage of the route O'Grady drove while circling the block. After the close of evidence, Kendrick renewed his motion for judgment of acquittal. This time the district court denied the motion as to Count 2, relying on this Court's decisions in *United States v. Dixon*, 901 F.3d 1322 (11th Cir. 2018), and *United States v. Timmons*, 283 F.3d 1246 (11th Cir. 2002), which both discuss the meaning of "in furtherance" as it relates to 18 U.S.C. § 924(c)(1)(A)(i).

The court then delivered its charge to the jury. When the court was instructing the jury as to Count 2, it noted: "Possessing a firearm in furtherance of a crime means that the firearm helped, promoted, or advanced the crime in some way." During deliberations, the jury requested clarification on the term "in furtherance." Drawing from this Court's decision in *Timmons*, the court provided the following supplemental instruction over Kendrick's counsel's objection:

Earlier, I instructed you that possessing a firearm in furtherance of a crime means that the firearm helped, promoted, or advanced the crime in some way.

Factors relevant to determining whether the Government established in -- quote, “in furtherance of,” end quote, element, include, but are not limited to:

One, the type of drug activity that is being conducted; two, accessibility of the firearm; three, the type of weapon; four, whether the weapon is stolen; five, the status of the possession, legitimate or illegal; six, whether the gun is loaded; seven, proximity to the drugs or drug profits; and, eight, the time and circumstances under which the gun is found.

The court then excused the jury for further deliberations. The jury returned shortly thereafter, finding Kendrick guilty on all three counts.

In preparation for sentencing, a Presentence Investigation Report (“PSI”) was prepared. For Counts 1 and 3, the PSI calculated a total offense level of 14 and a criminal history category of VI, resulting in a guidelines range of 37 to 46 months’ imprisonment. In addition, Kendrick was subject to a mandatory minimum imprisonment sentence of 60 months for Count 2, to be served consecutively. The government filed an objection seeking a base offense level of 20, pursuant to U.S.S.G. § 2K2.1(a)(4)(A), based on Kendrick’s prior conviction for possession of a controlled substance in 2015. The district court sustained the government’s objection, recalculated the guidelines range for Counts 1 and 3 as 70 to 87 months, with the mandatory minimum consecutive 60 months on Count 2. It imposed an aggregate sentence of 144 months’ imprisonment—84 months each as to Counts 1 and 3, to run

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concurrently, and 60 months as to Count 2, to run consecutively. Kendrick timely appealed.

## II. STANDARDS OF REVIEW

We review the denial of a motion to suppress as a mixed question of law and fact: factual findings are reviewed for clear error and legal conclusions *de novo*. See *United States v. Pierre*, 825 F.3d 1183, 1191 (11th Cir. 2016); *United States v. McCullough*, 851 F.3d 1194, 1199 (11th Cir. 2017).

We review the denial of a motion for a judgment of acquittal *de novo* based on sufficiency of the evidence, viewing the evidence in the light most favorable to the verdict. See *United States v. Peters*, 403 F.3d 1263, 1268 (11th Cir. 2005).

We review challenges to jury instructions for abuse of discretion when properly preserved. See *United States v. Alli*, 184 F.4th 1280, 1288 (11th Cir. 2026).

We review challenges to the “district court’s application of the Sentencing Guidelines *de novo*, but we review the reasonableness of a sentence for abuse of discretion.” *United States v. Grushko*, 50 F.4th 1, 10 (11th Cir. 2022).

## III. DISCUSSION

On appeal, Kendrick challenges the district court’s rulings on the motion to suppress, the sufficiency of the evidence against him, the issuance of the supplemental jury instruction, and his sentence. We discuss each argument in turn.

### ***A. Motion to Suppress***

Kendrick argues that the district court erred in denying his motion to suppress (i) the evidence obtained after the traffic stop; and (ii) the statements he made to the ATF agent and TFO after his arrest. Specifically, he challenges the legality of the traffic stop, as well as the knowing, intelligent, and voluntary nature of his statements. We first address the traffic stop before turning to the statements Kendrick made after his arrest.

#### *i. Traffic Stop*

Kendrick argues that the traffic stop was illegal and, as such, all evidence obtained as a result was “fruit of the poisonous tree” that the district court should have suppressed. The Fourth Amendment provides that “[t]he right of the people to be secure in their persons . . . and effects, against unreasonable searches and seizures, shall not be violated . . . .” U.S. CONST. amend. IV; *see Whren v. United States*, 517 U.S. 806, 809 (1996). A traffic stop constitutes a “seizure” of both the driver and any passengers. *See Delaware v. Prouse*, 440 U.S. 648, 653 (1979); *West v. Davis*, 767 F.3d 1063, 1072 (11th Cir. 2014). To justify a stop, an officer must have reasonable suspicion that “the particular person stopped [was] breaking the law.” *Heien v. North Carolina*, 574 U.S. 54, 60 (2014) (citation modified); *see also United States v. Campbell*, 26 F.4th 860, 880 (11th Cir. 2022) (*en banc*).

In this case, the district court found that O’Grady had probable cause to initiate the traffic stop. While a traffic stop only requires reasonable suspicion, meeting the higher standard of

probable cause nonetheless satisfies the Fourth Amendment’s reasonableness requirement. *Campbell*, 26 F.4th at 880 n.15. Because the officers had probable cause, we need only review the reasonableness of the traffic stop under that standard. *See United States v. Clark*, 32 F.4th 1080, 1087 n.1 (11th Cir. 2022) (declining to address whether there was reasonable suspicion for a traffic stop because the higher standard of probable cause was satisfied).

A traffic stop is supported by probable cause “where the facts and circumstances within the collective knowledge of the law enforcement officials . . . are sufficient to cause a person of reasonable caution to believe an offense has been or is being committed.” *Pierre*, 825 F.3d at 1192 (alteration in original) (quotation marks and citations omitted). “A law enforcement officer’s subjective motive in making a stop does not invalidate objectively justifiable grounds for making the stop.” *United States v. Andres*, 960 F.3d 1310, 1317 (11th Cir. 2020) (citing *United States v. Harris*, 526 F.3d 1334, 1337–38 (11th Cir. 2008)).

As noted above, under Florida law, when approaching a stop sign, it is unlawful to stop in a crosswalk. If there is a “stop line” on the pavement, the driver is to stop at that line, and if there is not a “stop line,” the driver is to stop before the crosswalk. *See* FLA. STAT. § 316.123(2)(a). Kendrick does not dispute the validity of the state law, but instead argues that, from O’Grady’s vantage point, it would have been impossible to see whether Kendrick committed a traffic infraction. The district court disagreed, finding O’Grady’s testimony more credible than the investigator’s testimony. The

court emphasized O’Grady’s familiarity with the area, continuous observations of Kendrick’s vehicle and its moving headlights, and recollection of events being “clear,” “unequivocal,” “credible,” and consistent with other evidence. Therefore, the district court credited O’Grady’s testimony and found she had probable cause to stop Kendrick for a traffic violation.

We afford substantial deference to credibility determinations made by the trier of fact at suppression hearings, reversing only if the findings are “contrary to the laws of nature, or [are] so inconsistent or improbable on [their] face that no reasonable factfinder could accept [them].” *United States v. Ramirez-Chilel*, 289 F.3d 744, 749 (11th Cir. 2002) (quotation marks and citation omitted). Nothing in this record compels us to reject the district court’s finding that O’Grady observed a traffic violation. Because the officer observed a traffic violation, the stop was supported by probable cause, and the seizure was lawful. *See Harris*, 526 F.3d at 1338 (finding an officer had probable cause to initiate a traffic stop because he observed the car commit a traffic violation). The district court, therefore, correctly denied Kendrick’s motion to suppress the evidence the officers discovered on the scene.<sup>3</sup>

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<sup>3</sup> To be clear, we reject the crux of Kendrick’s argument on appeal—that the traffic stop was illegal and, therefore, all the evidence seized from it was “fruit of the poisonous tree.” However, to the extent Kendrick argues that the drug evidence recovered on the ground by the driver’s door and inside his vehicle were not supported by probable cause, that argument, too, is unavailing. First, because Officer O’Grady had probable cause to stop his vehicle, she also had probable cause thereafter. *See Scott v. City of Miami*, 139 F.4th 1267, 1274

*ii. Statements Kendrick Made After His Arrest*

Next, we consider Kendrick's argument that his custodial statements to the ATF agent and TFO should have been suppressed. He argues that, even though he signed a *Miranda* waiver form, he did not do so voluntarily, knowingly, and intelligently.

The Fifth Amendment provides that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself . . . ." U.S. CONST. amend. V. To safeguard this right, *Miranda* requires that suspects in custody be informed of it before questioning. *United States v. Bernal-Benitez*, 594 F.3d 1303, 1318 (11th Cir. 2010) ("*Miranda* protects a person's Fifth Amendment privilege against self-incrimination by requiring law enforcement authorities to advise a person subject to custodial interrogation of certain rights and to respect the person's invocation of those rights."). A statement made after warnings is admissible only if the suspect voluntarily, knowingly, and intelligently waives his privilege against

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(11th Cir. 2025). In any event, under the "plain view" doctrine, officers are allowed "to seize any contraband in plain view if the officers have a right of access to the place where the contraband is located." *United States v. Smith*, 459 F.3d 1276, 1290 (11th Cir. 2006) (quotation marks and citation omitted). Here, officers found a bag of drugs on the ground outside of the car door from which Kendrick exited and fled. Officers lawfully seized the bag. Additionally, we have "long recognized that 'probable cause arises when a drug-trained canine alerts to drugs.'" *United States v. Tamari*, 454 F.3d 1259, 1265 (11th Cir. 2006) (quoting *United States v. Banks*, 3 F.3d 399, 402 (11th Cir. 1993)). Here, a police dog alerted officers to the presence of drugs in each car door. This alone was enough to establish probable cause for the officers to search the vehicle and seize the paraphernalia and firearm they found inside.

self-incrimination. See *Colorado v. Spring*, 479 U.S. 564, 572–73 (1987).

In determining whether a defendant has waived his *Miranda* rights, courts rely on a two-part test, *Bernal-Benitez*, 594 F.3d at 1318 (citing *Moran v. Burbine*, 475 U.S. 412, 421 (1986)), and the government must prove the waiver was lawful by a preponderance of the evidence. *Colorado v. Connelly*, 479 U.S. 157, 168 (1986).

First, the waiver must be “voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception.” *Moran*, 475 U.S. at 421. For this inquiry, courts consider the totality of the circumstances, including the defendant’s “lack of education, or his low intelligence, the lack of any advice to the accused of his constitutional rights, the length of detention, the repeated and prolonged nature of the questioning, and the use of physical punishment such as the deprivation of food or sleep.” *Bernal-Benitez*, 594 F.3d at 1319 (quotation marks and citations omitted).

Second, the waiver must be “made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.” *Moran*, 475 U.S. at 421. “Even if a defendant’s statement is voluntary and not coerced, the prosecution must make the additional showing that the accused understood these [*Miranda*] rights.” *Hall v. Thomas*, 611 F.3d 1259, 1285 (11th Cir. 2010) (alteration in original) (quotation marks and citation omitted). A court may conclude that the defendant waived his *Miranda* rights “[o]nly if the ‘totality of the circumstances

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surrounding the interrogation’ reveals both an uncoerced choice and the requisite level of comprehension . . . .” *Moran*, 475 U.S. at 421 (quoting *Fare v. Michael C.*, 442 U.S. 707, 725 (1979)).

The district court did not err in finding that Kendrick voluntarily waived his *Miranda* rights. As the record shows, the TFO read Kendrick his *Miranda* rights, Kendrick verbally acknowledged that he understood his rights, and then he signed a written *Miranda* waiver form before the questioning commenced. Furthermore, the questioning took place inside of a car for a relatively short period of time while transporting Kendrick from the state courthouse to the federal courthouse. There is no evidence that Kendrick was physically abused during questioning, or that he lacked the education and intelligence to understand the nature of his rights and the impact of any waiver of those rights. Given the totality of the circumstances, there is nothing in the record which suggests the ATF agent or TFO used intimidation, coercion, or deception in obtaining the waiver or in their line of questioning.

The district court similarly did not err in finding that Kendrick waived his *Miranda* rights knowingly and intelligently. We mention once more that the TFO read Kendrick his rights, Kendrick verbally acknowledged he understood them, and then he signed a written waiver. This signed waiver is strong objective evidence that Kendrick understood his rights. *Bernal-Benitez*, 594 at 1319 (“A signed *Miranda* waiver is usually strong evidence that the defendant waived his rights, but it is not necessary.”); *North Carolina v. Butler*, 441 U.S. 369, 373 (1979) (“An express written or oral

statement of waiver of the right to remain silent or of the right to counsel is usually strong proof of the validity of that waiver, but is not inevitably either necessary or sufficient to establish waiver.”). After signing the waiver, Kendrick engaged in conversation with the ATF agent and TFO where he discussed the DNA evidence found on the gun, among other things. There is nothing in the record to suggest that the written *Miranda* waiver was taken unknowingly or unintelligently.

Kendrick also argues that he subsequently invoked his *Miranda* rights during questioning when he said, “I know you read me my rights and stuff I really don’t know.” He asserts that this statement was an unambiguous invocation of his *Miranda* rights that should have ceased all questioning. A suspect’s invocation of the right to counsel or the right to remain silent must be unambiguous. *Davis v. United States*, 512 U.S. 452, 459 (1994) (right to counsel); *Berghuis v. Thompkins*, 560 U.S. 370, 381–82 (2010) (extending *Davis* to a suspect’s right to remain silent). Ambiguous or equivocal references do not require officers to stop questioning. *Berghuis*, 560 U.S. at 381–82. Although Kendrick argues that his statement was unambiguous, he fails to account for the context in which it was made. Kendrick actively engaged in conversation with the ATF agent and TFO after signing the *Miranda* waiver. It was not until he was questioned about his relative Lamar, who Kendrick had claimed was in the car at the time of his traffic stop, that he expressed some hesitation. However, Kendrick then continued to engage with the officers, indicating that he did not have anything “to hide,” and he further answered questions about the DNA on

the gun and the drugs found on the ground. Kendrick did not signal a desire to terminate the conversation and, under *Berghuis* and *Davis*, his statement did not obligate the ATF agent or TFO to cease questioning.

Accordingly, we find that Kendrick waived his *Miranda* rights voluntarily, knowingly, and intelligently. The district court, therefore, did not err in denying Kendrick's motion to suppress his post-arrest statements.

### ***B. Sufficiency of the Evidence***

We next address Kendrick's argument that the evidence was insufficient to sustain his convictions. The standard for sufficiency review is a high one: we must view the evidence in the light most favorable to the government and ask whether "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (emphasis in original). We will not overturn a jury's verdict "unless no rational trier of fact could have reached the same conclusion based upon the evidence in the record." *Mamani v. Sanchez Bustamante*, 968 F.3d 1216, 1230 (11th Cir. 2020) (quotation marks and citation omitted).

To prove possession with intent to distribute a controlled substance, the government had to establish that Kendrick knowingly possessed the narcotics and intended to distribute them. See 21 U.S.C. § 841(a)(1); *United States v. Poole*, 878 F.2d 1389, 1391 (11th Cir. 1989). Dashcam footage captured a baggie of drugs falling from Kendrick's person as he exited his vehicle. Two cell phones

and \$1,844 in cash also were discovered. Additionally, a search of the car revealed drug paraphernalia. A government expert further testified that the quantity and packaging were consistent with distribution rather than personal use. These facts, considered together, provided a rational basis for the jury to conclude that Kendrick possessed the drugs with the intent to distribute them.

The jury also convicted Kendrick for being a felon in possession of a firearm under 18 U.S.C. § 922(g)(1). To sustain such a conviction, the government was required to prove that Kendrick was a felon, knowingly possessed a firearm, and that the firearm traveled in interstate commerce. *See United States v. Palma*, 511 F.3d 1311, 1315 (11th Cir. 2008), *abrogated on other grounds by Rehaif v. United States*, 588 U.S. 225, 229–32 (2019). Kendrick stipulated to his felony status and that the firearm traveled in interstate commerce. The firearm was recovered from under the passenger seat of the car he was driving, and DNA testing linked him to the weapon. Based on this evidence, a rational jury could reasonably infer actual or constructive possession, finding that Kendrick both knew of and had access to the firearm.

Finally, Kendrick was convicted of possessing a firearm in furtherance of a drug trafficking crime under 18 U.S.C. § 924(c)(1)(A). This statute requires more than mere possession; the government must establish a nexus between the firearm and the drug trafficking activity. *See Timmons*, 283 F.3d at 1253 (explaining that “there must be a showing of some nexus between the

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firearm and the drug selling operation” (quotation marks and citation omitted)). Relevant factors include, but are not limited to:

the type of drug activity that is being conducted, accessibility of the firearm, the type of the weapon, whether the weapon is stolen, the status of the possession (legitimate or illegal), whether the gun is loaded, proximity to the drugs or drug profits, and the time and circumstances under which the gun is found.

*Id.* (quotation marks and citations omitted). Here, the record shows that Kendrick’s gun was loaded, readily accessible, and stored alongside narcotics, paraphernalia, and cash. A rational jury could reasonably infer from these facts that the firearm was possessed in furtherance of the drug trafficking activity.

In sum, the evidence, viewed in the light most favorable to the government, supports each element of Kendrick’s convictions. The dashcam footage, the physical evidence recovered from Kendrick’s person and the vehicle he was driving, the expert testimony, and the DNA analysis together provided a rational basis for the jury to find Kendrick guilty beyond a reasonable doubt. Accordingly, the district court properly denied his motion for acquittal.

### ***C. The Supplemental Instruction***

We turn next to Kendrick’s argument that the district court erred by giving a supplemental jury instruction regarding 18 U.S.C. § 924(c)(1)(A). When a jury expresses confusion, the trial court

“should clear [such confusion] away with concrete accuracy.” *Bollenbach v. United States*, 326 U.S. 607, 612–13 (1946); *see also United States v. Rodriguez*, 765 F.2d 1546, 1553 (11th Cir. 1985) (“A trial judge has some obligation to make reasonable efforts to answer a question from the jury.”). “While the district court has considerable discretion regarding the extent and character of supplemental jury instructions, it does not have discretion to misstate the law or confuse the jury.” *United States v. Lopez*, 590 F.3d 1238, 1247–48 (11th Cir. 2009). We have clarified that challenged supplemental jury instructions are “reviewed as part of the entire jury charge, in light of the indictment, evidence presented[,] and argument of counsel to determine whether the jury was misled and whether the jury understood the issues.” *Id.* at 1248 (quotation marks and citation omitted).

Here, during deliberations, the jury asked the court to “define ‘furtherance’ in more detail.” This was in relation to a necessary element the government needed to prove for Count 2—possession of a firearm in furtherance of a drug trafficking crime. In response, the court outlined two options for addressing the inquiry: it could either instruct the jury to rely solely on the original instructions or provide a definition with illustrative factors derived from *Timmons*. The government agreed with the *Timmons* approach, but Kendrick’s counsel objected, requesting that the jury instead rely on the instructions as originally given. Counsel argued that Kendrick would be prejudiced if the court read the supplemental factors because her closing arguments had been tailored to the Eleventh Circuit pattern instruction, which she asserted was

sufficient. After discussion, the court decided to issue the supplemental instruction. The instruction outlined the eight factors articulated in *Timmons* to assist the jury in determining whether the firearm was possessed “in furtherance” of the crime, explicitly advising them that their consideration was not limited to those specific factors.

Kendrick does not argue that the district court misstated the law or confused the jury; rather, he argues that the instruction prejudiced his defense because counsel had not addressed these specific factors in closing. However, the district court’s duty was to clarify the law accurately. The supplemental instruction did just that by tracking our precedent and providing a neutral framework for the jury’s consideration. It did not comment on the evidence or suggest how the jury should resolve factual disputes. If we were to adopt Kendrick’s argument, every supplemental instruction could be challenged as prejudicial. We decline to open that floodgate. Accordingly, the district court acted well within its discretion in providing the supplemental instruction, and Kendrick has not shown any prejudice resulting from the court’s clarification.

#### ***D. Sentencing***

Finally, we address Kendrick’s challenges relating to his sentence. First, he argues that the district court erred by calculating a base offense level of 20, contending that it should have been 14. Next, Kendrick argues that, assuming an offense level of 14, his sentence represents a substantively unreasonable upward variance. Lastly, he argues that, even assuming his offense level calculation

of 20 was correct, his sentence was substantively unreasonable because the district court failed to weigh the mitigating factors.

The court need not address the dispute related to the guidelines calculation because the district court explicitly stated it would have imposed the same sentence regardless of the guideline determination. *United States v. Keene*, 470 F.3d 1347, 1348–49 (11th Cir. 2006) (declining to address guideline-calculation dispute because the district court made clear that the disputed enhancement made no difference to the sentence imposed and therefore would not affect the outcome of the case). Therefore, we turn to Kendrick’s remaining two arguments which center on the substantive reasonableness of his sentence.

In determining whether a sentence is substantively reasonable where a defendant challenges his guidelines range, “we must assume that there was guidelines error—that the guidelines issue should have been decided in the way the defendant argued and the advisory range reduced accordingly—and then ask whether the final sentence resulting from consideration of the [18 U.S.C.] § 3553(a) factors would still be reasonable.” *Id.* at 1349. In this case, we assess the reasonableness of Kendrick’s sentence from a criminal offense level of 14 and criminal history category of VI, which would have resulted in a guidelines range of 37 to 46 months’ imprisonment for grouped Counts 1 and 3, and a mandatory minimum imprisonment sentence of 60 months for Count 2, to be served consecutively.

When reviewing the substantive reasonableness of a sentence imposed outside of the guidelines range, we “may consider the extent of the deviation, but must give due deference to the district court’s decision that the [18 U.S.C.] § 3553(a) factors, on a whole, justify the extent of the variance.” *United States v. Butler*, 39 F.4th 1349, 1355 (11th Cir. 2022) (alterations in original) (quotation marks and citation omitted). Our judgment will not be substituted for that of the district court. *Id.* The sentence will be affirmed “so long as the court’s decision was ‘in the ballpark of permissible outcomes.’” *Id.* (quoting *United States v. Rosales-Bruno*, 789 F.3d 1249, 1257 (11th Cir. 2015)).

A sentencing court “abuses its discretion when it (1) fails to afford consideration to relevant factors that were due significant weight, (2) gives significant weight to an improper or irrelevant factor, or (3) commits a clear error of judgment in considering the proper factors.” *United States v. Irej*, 612 F.3d 1160, 1189 (11th Cir. 2010) (*en banc*) (quotation marks and citation omitted). Ultimately, we will vacate a sentence on reasonableness grounds “only if[] we are left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the [18 U.S.C.] § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case.” *Id.* at 1190 (quotation marks and citations omitted).

Here, the district court imposed 84 months on Counts 1 and 3, to be served concurrently, plus the mandatory 60 months for Count 2 to be served consecutively, resulting in a total sentence of

144 months' imprisonment. In explaining the sentence, the court provided a detailed discussion of the Section 3553(a) factors. It emphasized Kendrick's extensive criminal history, repeated failures on supervision, his flight from police, and the need for deterrence and public protection. Although the court acknowledged mitigating factors—such as Kendrick's upbringing and having never committed a violent crime—it found those factors were outweighed by the seriousness of the offense and his recidivism.

The district court's reasoning fully satisfies the requirements of *Irey*. The court thoroughly considered the Section 3553(a) factors, articulated its rationale for the sentence, and imposed a term well below the statutory maximums.<sup>4</sup> On this record, we cannot say that the district court committed a clear error of judgment or imposed a sentence outside the range of reasonable choices. Accordingly, the district court did not abuse its discretion in imposing Kendrick's sentence.

#### IV. CONCLUSION

Accordingly, we **AFFIRM** Kendrick's convictions and sentence.

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<sup>4</sup> The statutory maximum penalties were as follows: 20 years' imprisonment for Count 1, life imprisonment for Count 2, and 10 years' imprisonment for Count 3.