**NOT FOR PUBLICATION**

In the
# United States Court of Appeals
For the Eleventh Circuit

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No. 25-12773
Non-Argument Calendar

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UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

*versus*

ERIC PERSON,

*Defendant-Appellant.*

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Appeal from the United States District Court
for the Middle District of Georgia
D.C. Docket No. 4:24-cr-00029-CDL-AGH-1

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Before JILL PRYOR, BRANCH, and KIDD, Circuit Judges.

PER CURIAM:

Eric Person pleaded guilty to possessing a firearm as a convicted felon and was sentenced to 180 months of imprisonment. He now appeals, challenging the constitutionality of his statute of

conviction and the calculation of his advisory imprisonment range under the United States Sentencing Guidelines. After careful review, we affirm.

## I. BACKGROUND

In April 2024, police in Columbus, Georgia, stopped a U-Haul van for failing to use a turn signal. Person, the van's passenger, had an active warrant for his arrest, so the police arrested him. The driver, who had plastic bags containing suspected crack cocaine and methamphetamine hidden on her body, admitted to concealing drugs for Person and informed police that there was a firearm in the vehicle. Officers searched the U-Haul and recovered a backpack between the driver and passenger seats containing two "glass smoking devices," a digital scale, and a Ruger LCP .380 semiautomatic pistol with an eleven-round magazine. While it was never confirmed whether one of the recovered substances contained cocaine, laboratory tests indicated that the suspected methamphetamine was 17.310 grams of a methamphetamine mixture.

Person thereafter pleaded guilty to possessing a firearm as a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8).

Person's presentence investigation report ("PSI") calculated an advisory guideline range of 110 to 137 months of imprisonment. This calculation was based, in part, on the PSI's assessment of a four-level enhancement to Person's offense level because he "possessed a firearm in connection with another felony offense"—

namely, possessing methamphetamine with the intent to distribute. United States Sentencing Guidelines Manual § 2K2.1(b)(6)(B) (Nov. 2024).

Person objected to the assessment of this enhancement, and, at sentencing, the government presented the testimony of two witnesses to support the theory that Person possessed the gun "in connection with another felony offense." We will recount the relevant testimony.

Special Agent Paul Culp with the Bureau of Alcohol Tobacco and Firearms testified that the U-Haul's driver, who was Person's girlfriend, told officers that Person had advised her to flee when the police car activated its emergency lights, and when she refused, Person gave her the narcotics to conceal on her body. Agent Culp also explained that Person told police that there was a firearm in the backpack found in the van prior to it being searched.

Drug Enforcement Administration Special Agent Cortny Barkesdale was qualified to testify as an expert in the field of drug distribution. Agent Barkesdale opined that, "[t]ypically, if you are going to use meth or . . . crack you're not going [to use] both at the same time." It therefore "stood out to [him] . . . that there [were] two different types of drugs in the vehicle." Agent Barkesdale further stated that he had seen a "pattern" among drug distributors called "suitcasing," where a distributor would "use a female to carry the product while they [were] driving around." He explained that this practice "started mainly because there wasn't a lot of female officers initially in the early years to search these females

so . . . people got in the habit of letting these females carry [narcotics] because they knew they wouldn't be searched." Agent Barkesdale also noted that scales were "common for users and dealers" so that they could "weigh their product when they receive it . . . [a]nd when they sell it." He elaborated that it was "not uncommon" for drug dealers to "carry firearms to protect their product" so "if you . . . choose the path of selling drugs . . . you are going to have a gun with you to protect yourself and others." In Agent Barkesdale's opinion, the facts of this case were "consistent with distribution."

Following additional argument from the parties, the court found by a preponderance of the evidence that Person possessed the firearm in connection with another felony offense—possessing drugs with the intent to distribute. To support its conclusion, the district court noted the evidence showed that (1) the drugs were found on the body of Person's girlfriend, who was driving the vehicle; (2) Person "informed the girlfriend to take the drugs and to hide them on her person"; and (3) Person "admitted to knowing the contents of the backpack; which included the gun and also included other drug paraphernalia; including the scales and the pipes."

The court then sentenced Person to 180 months of imprisonment, an upward variance from the calculated guideline range. This appeal followed.

## II. STANDARD OF REVIEW

When, as is the case here, "a defendant raises a constitutional challenge for the first time on appeal, we review only for plain error." *United States v. Alfonso*, 104 F.4th 815, 820 (11th Cir. 2024), *cert. denied*, 145 S. Ct. 2706 (2025). We review a district court's legal interpretation of the Guidelines de novo and its factual findings for clear error. *United States v. Bishop*, 940 F.3d 1242, 1250 (11th Cir. 2019).

## III. DISCUSSION

We divide our discussion into two parts. We first explain why Person cannot succeed in his constitutional challenge to his statute of conviction. We then outline why the district court did not reversibly err in assessing Person the § 2K2.1(b) enhancement.

A. *Second Amendment Challenge*

Person argues that § 922(g) is facially unconstitutional under the Second Amendment, considering *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), and *United States v. Rahimi*, 144 S. Ct. 1889 (2024). However, as Person concedes, we recently confirmed that neither *Rahimi* nor *Bruen* abrogated our previous decision in *United States v. Rozier*, 598 F.3d 768, 770–71 (11th Cir. 2010), which held that § 922(g)(1) is constitutional under the Second Amendment. *United States v. Dubois*, 139 F.4th 887, 890–94 (11th Cir. 2025), *cert. denied*, (U.S. Jan. 20, 2026) (No. 25-6281). Because "we are bound to follow a prior binding precedent unless and until it is overruled by this Court en banc or by the Supreme Court," Person's Second Amendment challenge must fail.

*United States v. White*, 837 F.3d 1225, 1228 (11th Cir. 2016) (citation modified).

B. *Section 2K2.1(b) Enhancement*

The Sentencing Guidelines provide for a four-level enhancement if a defendant "used or possessed any firearm or ammunition in connection with another felony offense." U.S.S.G. § 2K2.1(b)(6)(B) (Nov. 2024). One of the application notes for this subsection indicates that the enhancement applies "in the case of a drug trafficking offense in which a firearm is found in close proximity to drugs, drug manufacturing materials, or drug paraphernalia . . . because the presence of the firearm has the potential of facilitating another felony offense." *Id.* § 2K2.1, cmt. n.14(B).

Sitting en banc, we recently held that courts "may not defer" to the commentary "if uncertainty does not exist" in the guideline text itself. *United States v. Dupree*, 57 F.4th 1269, 1275 (11th Cir. 2023) (en banc) (citation modified). And we have concluded that the "in connection with" language of § 2K2.1(b)(6)(B), while "quite broad," is unambiguous, so there was "no need to consider, let alone defer to, the Application Notes to subsection (b)(6)(B)." *United States v. James*, 135 F.4th 1329, 1334, 1336 (11th Cir. 2025), *cert. denied*, 146 S. Ct. 2159 (2026).

Person argues that, in applying the § 2K2.1(b)(6)(B) enhancement in his case, the district court erroneously relied solely upon Application Note 14(B)'s emphasis on the firearm's proximity to drugs, which is contrary to this Court's precedent. Specifically, he points to *United States v. Bishop*, a pre-*Dupree* decision.

At the time *Bishop* was decided, Application Note 14 had been construed as providing that the § 2K2.1(b)(6)(B) enhancement "automatically" applied when the underlying offense concerned drug trafficking and the firearm was found in close proximity to drugs, drug-manufacturing materials, or drug paraphernalia. 940 F.3d at 1250. In *Bishop*, our Court noted the distinction between the commentary's discussion of drug-trafficking offenses and drug-possession offenses and concluded that the district court erred in applying the § 2K2.1(b)(6)(B) enhancement solely based upon the proximity between the defendant's firearm and the single hydromorphone pill he possessed. *Id.* at 1250–52. We remanded the case so that the district court could consider in the first instance whether the appropriate "facilitation" standard had been met. *Id.* at 1252–53.

Person argues that our subsequent decision in *James* that § 2K2.1(b)(6)(B)'s commentary need not be referenced implicitly expanded the rule articulated in *Bishop* to cases in which the underlying offense is drug trafficking. However, even accepting Person's theory as to the applicability of *Bishop*'s holding post-*James*, we cannot say the district court erred in assessing Person the § 2K2.1(b)(6)(B) enhancement.

In this case, there is no indication that the district court merely made a finding of proximity without considering facilitation, nor is there any indication that it impermissibly relied upon the guideline commentary to conclude that the firearm enhancement was appropriate. Rather, the record reflects that the court

reached its conclusion based upon the collective evidence that (1) drugs were found on the U-Haul's driver; (2) the driver had indicated that Person instructed her to take the drugs and hide them on her person; (3) a backpack was found in the U-Haul containing a firearm, scale, and other drug paraphernalia; and (4) Person admitted to knowing the contents of the backpack.

Person notes that these findings by the district court do not explain how the firearm facilitated or potentially facilitated the drug offense. But this argument does not give us a basis to vacate Person's sentence. Indeed, even in the absence of perfect clarity in the district court's reasoning, "we may affirm a sentencing enhancement for any reason supported by the record." *United States v. Matchett*, 802 F.3d 1185, 1191 (11th Cir. 2015) (citation modified).

"The ways in which the government can satisfy [the 'in connection with'] requirement are 'expansive.'" *United States v. Irons*, 176 F.4th 1275, 1283–84 (11th Cir. 2026) (quoting *James*, 135 F.4th at 1335). "For example, the government can establish that the firearm potentially emboldened the defendant to commit the offense, the defendant could have used the firearm to complete the offense, or the firearm was available for use as a weapon if law enforcement attempted to thwart the offense." *Id.* at 1284 (citation modified).

To assist in meeting its burden in this case, the government presented testimony from an expert in drug distribution. *See United States v. Perez-Oliveros*, 479 F.3d 779, 783 (11th Cir. 2007). Agent Barkesdale stated that everything about the scene of the traffic stop—including the presence of two different types of suspected

narcotics, the method of concealment, and the presence of a gun—was consistent with drug distribution. Agent Barkesdale also explained how firearms play an important role in drug trafficking. This was sufficient evidence from which the district court could conclude that Person's firearm possession was "contextually, causally, or logically related" to a felony drug offense. *James*, 135 F.4th at 1334. We therefore find no reversible error in the application of the § 2K2.1(b)(6)(B) enhancement to Person's case.

## IV. CONCLUSION

We **AFFIRM** Person's conviction and sentence.