STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0474

State of Minnesota,
Respondent,

vs.

Weheliye Abdulcadir Abucar Gaal,
Appellant.

Filed April 14, 2025
Affirmed
Johnson, Judge

Kandiyohi County District Court
File No. 34-CR-23-351

Keith Ellison, Attorney General, Thomas R. Ragatz, Assistant Attorney General, St. Paul, Minnesota; and

Megan M. Walsh, Special Assistant Attorney General, Meghan Zula, (certified law student practitioner), University of Minnesota Law School, Minneapolis, Minnesota; and

Shane Baker, Kandiyohi County Attorney, Willmar, Minnesota (for respondent)

Daniel L. Gerdts, Minneapolis, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Larkin, Judge; and Schmidt, Judge.

SYLLABUS

Minnesota Statutes section 624.713, subdivision 1(2) (2022), which prohibits the possession of a firearm or ammunition by a person who has been convicted of a crime of violence, and Minnesota Statutes section 609.667(1) (2022), which prohibits the

obliteration, removal, change, or alteration of the serial number of a firearm, do not on their face violate the Second Amendment to the United States Constitution.

OPINION

JOHNSON, Judge

Weheliye Abdulcadir Abucar Gaal was convicted of possession of a firearm by an ineligible person and the obliteration, removal, change, or alteration of a firearm's serial number. On appeal, Gaal challenges the district court's denial of his motion to dismiss and to suppress evidence. We conclude that the statutes under which he was convicted do not on their face violate the Second Amendment to the United States Constitution. We also conclude that police officers reasonably seized Gaal because the facts and circumstances provided them with a reasonable suspicion that he might be engaged in criminal activity and might have been involved in a completed felony. Therefore, we affirm.

FACTS

During the evening of May 23, 2023, a man in the city of Willmar called 911 to report that, while driving in town, a man in a red or maroon Toyota had shot at him or his vehicle. The caller provided a first name but was reluctant to disclose a last name and eventually, after being pressed, provided a common last name in a manner that raised doubt about whether it was his actual last name. The caller said that he had followed the red Toyota to read the car's license plate, which he provided to the dispatcher. The caller agreed to meet a police officer at a nearby school.

Officer Lueders went to the school but was unable to find the caller or his vehicle. Officer Lueders contacted the caller at the same telephone number from which he had

called 911. The caller answered and told Officer Lueders that there were two persons in the Toyota and that the person with the firearm was known as Deq. Shortly thereafter, the caller hung up. Officer Lueders tried to contact the caller two more times, but he did not answer. The dispatcher was unable to find a person with the name provided by the caller and the telephone number used by the caller.

Officer Lueders was familiar with Gaal and knew that he used the nickname Deq and drove a red Toyota. But the dispatcher determined that the license-plate number that the caller had provided was assigned to a red Mazda owned by a person other than Gaal. Officer Maschino, who also was familiar with Gaal, drove to Gaal's home but did not see the red Toyota. Officer Maschino then drove to Gaal's father's place of business and spoke with him. Gaal's father agreed to call Gaal and ask him to meet him at his place of business. Officer Anderson joined Officers Lueders and Maschino there. All three officers were present when Gaal arrived, alone, in a red Toyota Camry.

Officer Anderson activated his squad's emergency lights as Gaal exited his car. Officer Anderson began questioning Gaal about the reported shooting. Meanwhile, Officer Maschino looked through the windows of Gaal's car and saw a handgun below the driver's seat. The officers, who were aware of Gaal's prior conviction, for which he had been sentenced only four days earlier, arrested Gaal for unlawful possession of a firearm. The officers later obtained a warrant to search Gaal's car. The search revealed a nine-millimeter handgun with a scratched-off serial number and eight rounds of ammunition in the magazine and an ammunition box containing five additional rounds.

The state charged Gaal with (1) second-degree assault, in violation of Minn. Stat. § 609.222, subd. 1 (2022); (2) possession of a firearm and ammunition by a person convicted of a crime of violence, in violation of Minn. Stat. § 624.713, subd. 1(2) (2022); (3) obliteration, removal, change, or alteration of the serial number of a firearm, in violation of Minn. Stat. § 609.667(1) (2022); and (4) possession of a pistol without a permit to carry the pistol, in violation of Minn. Stat. § 624.714, subd. 1a (2022). The complaint alleged that Gaal has a prior felony conviction of threats of violence and that the prior offense is a crime of violence.

Gaal moved to suppress the evidence of the firearm and to dismiss all four charges. He argued that the police officers did not have a reasonable suspicion of criminal activity when they seized him and that all evidence obtained after the seizure should be suppressed. He also argued that count 1 should be dismissed for lack of probable cause that he shot at the 911 caller or his vehicle. Gaal argued further that counts 2, 3, and 4 should be dismissed on the ground that the statutes on which the charges are based are facially unconstitutional under the Second Amendment to the United States Constitution.

The district court granted Gaal's motion to dismiss count 1 for lack of probable cause. The district court denied his motion to dismiss counts 2, 3, and 4 after concluding that the challenged statutes are not facially unconstitutional. The district court denied the motion to suppress evidence after concluding that the officers who seized Gaal had a reasonable suspicion of criminal activity.

In November 2023, the parties agreed to a stipulated-evidence court trial. *See* Minn. R. Crim. P. 26.01, subd. 4. The district court adopted the facts to which the parties had

stipulated and made a few additional findings. The district court found Gaal guilty of counts 2, 3, and 4 and imposed concurrent prison sentences of 60 months and 13 months on counts 2 and 3 but did not adjudicate guilt on count 4. Gaal appeals.

ISSUES

I. Does Minnesota Statutes section 624.713, subdivision 1(2), which prohibits the possession of a firearm or ammunition by a person who has been convicted of a crime of violence, or Minnesota Statutes section 609.667(1), which prohibits the obliteration, removal, change, or alteration of the serial number of a firearm, violate on its face the Second Amendment to the United States Constitution?

II. Did the district court err by denying Gaal's motion to suppress evidence on the ground that police officers had a reasonable suspicion of criminal activity to justify the investigative seizure of Gaal?

ANALYSIS

I.

Gaal argues that the district court erred by denying his motion to dismiss counts 2 and 3.[1] He argues that a criminal conviction of either offense violates a person's right to keep and bear arms, as guaranteed by the Second Amendment to the United States Constitution.

The Second Amendment provides, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be

[1]Gaal does not challenge the third firearms-related statute, which is the legal basis of count 4, for which the district court did not adjudicate guilt.

infringed." U.S. Const. amend. II. The Second Amendment right to keep and bear arms "is among the 'fundamental rights necessary to our system of ordered liberty.'" *United States v. Rahimi*, 602 U.S. 680, 690 (2024) (quoting *McDonald v. Chicago*, 561 U.S. 742, 778 (2010)). The right to keep and bear arms "secures for Americans a means of self-defense." *Id.* (citing *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 17 (2022)). But "'the right secured by the Second Amendment is not unlimited.'" *Id.* (quoting *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008)).

Recent opinions of the United States Supreme Court prescribe the analysis for determining whether a firearm regulation is consistent with or in violation of the Second Amendment. A court first must ask whether "the Second Amendment's plain text covers an individual's conduct." *Bruen*, 597 U.S. at 17. If so, "the Constitution presumptively protects that conduct." *Id.* In that event, a court must ask a second question: whether the government can "justify its regulation" by "demonstrat[ing] that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id.*; *see also Rahimi*, 602 U.S. at 691. But if the answer to the first question is in the negative, there is no violation of a Second Amendment right, and further analysis is unnecessary. *Bruen*, 597 U.S. at 17.

Before considering Gaal's constitutional arguments, we must clarify whether he is making a facial or an as-applied challenge. The district court construed his argument to be a facial challenge, and the state asserts that he is making a facial challenge. Gaal does not dispute that characterization, though he does not expressly invoke either type of challenge. Consistent with the views of the district court and the state, we construe Gaal's briefs to assert a facial challenge to the constitutionality of the statutes at issue.

The differences between a facial challenge and an as-applied challenge are significant. A facial challenge to the constitutionality of a statute "is the 'most difficult challenge to mount successfully,' because it requires a defendant to 'establish that no set of circumstances exists under which the Act would be valid.'" *Rahimi*, 602 U.S. at 693 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). In responding to a facial challenge, the state "need only demonstrate that [the challenged statute] is constitutional in some of its applications." *Id.*; *see also McCaughtry v. City of Red Wing*, 831 N.W.2d 518, 522 (Minn. 2013). Consequently, to resolve Gaal's arguments, we need not consider the particular facts underlying Gaal's prior conviction or his particular circumstances. Rather, we consider more generally the persons and conduct that might be prosecuted under the challenged statutes and seek to determine whether, "in at least some of its applications, the challenged law 'impose[s] a comparable burden on the right of armed self-defense' to that imposed by a historically recognized regulation." *Rahimi*, 602 U.S. at 709 (Gorsuch, J., concurring) (quoting *Bruen*, 597 U.S. at 29).

We separately analyze the constitutionality of the two statutes under which Gaal was convicted.

A.

Gaal first challenges a statute that provides that "a person who has been convicted of . . . a crime of violence" "shall not be entitled to possess ammunition or a pistol or semiautomatic military-style assault weapon or [with one exception] any other firearm." Minn. Stat. § 624.713, subd. 1, 1(2) (2022). For purposes of this statute, the term "crime of violence" is defined to mean any one of 39 listed offenses, including various forms of

homicide, criminal sexual conduct, assault, robbery, burglary, terroristic threats (also known as threats of violence), and theft, among others. *See* Minn. Stat. § 624.712, subd. 5 (2022).

Gaal contends that the plain text of the Second Amendment covers his conduct because he was "bearing" the handgun that was found in his car. He contends that the district court erred by reasoning that the Second Amendment does not protect felons because they are not "law-abiding." He also contends that the restrictions on firearms that existed at the time of the adoption of the Second Amendment in 1791 "did not include a prohibition on the possession of a firearm merely for having a felony conviction." Accordingly, he contends that the district court erred by not conducting the historical analysis required by Supreme Court opinions.

In response, the state contends primarily that this court is bound by *State v. Craig*, 826 N.W.2d 789 (Minn. 2013), in which the Minnesota Supreme Court held, in resolving an as-applied challenge, that section 624.713, subdivision 1(2), did not violate the appellant's Second Amendment right to keep and bear arms. *Id.* at 791-99.

1.

As a preliminary matter, we must determine whether *Craig* governs Gaal's challenge to section 624.713, subdivision 1(2), as argued by the state, or whether the *Craig* opinion has been effectively overruled by subsequent opinions of the United States Supreme Court, as argued by Gaal. It is an elementary principle that this court is bound by the opinions of the Minnesota Supreme Court on questions of both state and federal law. *See State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018) (collecting cases). But the United

States Supreme Court is the "final authority" concerning the interpretation of the United States Constitution. *See Arizona v. Evans*, 514 U.S. 1, 8-9 (1995). Thus, an opinion of the United States Supreme Court may overrule an opinion of the Minnesota Supreme Court on an issue of federal constitutional law. *See, e.g.*, *State v. Lindquist*, 869 N.W.2d 863, 866 (Minn. 2015) (recognizing that 2008 and 2009 supreme court opinions were abrogated by *Missouri v. McNeely*, 569 U.S. 141 (2013)); *Campos v. State*, 816 N.W.2d 480, 485 (Minn. 2012) (recognizing that 1998 supreme court opinion was abrogated by *Padilla v. Kentucky*, 559 U.S. 356 (2010)).

Some federal circuit courts have expressly considered whether *Bruen* changed the analytical framework for Second Amendment challenges to the federal felon-dispossession statute and, if so, whether opinions issued before the 2022 *Bruen* opinion remain valid. At least three federal circuit courts have determined that their pre-*Bruen* opinions are still good law. *See United States v. Hunt*, 123 F.4th 697, 702-04 (4th Cir. 2024), *petition for cert. filed* (U.S. Mar. 17, 2025) (No. 24-6818); *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024), *petition for cert. filed* (U.S. Feb. 3, 2025) (No. 24-6517); *Vincent v. Bondi*, 127 F.4th 1263, 1265 (10th Cir. 2025). Meanwhile, at least three other circuit courts have determined that their pre-*Bruen* opinions have been rendered obsolete by *Bruen* and *Rahimi*. *See Range v. Attorney Gen.*, 124 F.4th 218, 224-25 (3d Cir. 2024) (*en banc*); *United States v. Diaz*, 116 F.4th 458, 465-67 (5th Cir. 2024), *petition for cert. filed* (U.S.

Feb. 18, 2025) (No. 24-6625); *United States v. Williams*, 113 F.4th 637, 645-48 (6th Cir. 2024).[2]

The question is somewhat different for this court because we must determine the vitality of an opinion of a superior court, not our own court. We are mindful that an opinion of the Minnesota Supreme Court is "a definitive statement of the law of Minnesota," *Willis v. County of Sherburne*, 555 N.W.2d 277, 282 (Minn. 1996), and that this court should not encroach on the supreme court's authority, *see Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987), *rev. denied* (Minn. Dec. 18, 1987). In this situation, given the lack of clarity and a federal circuit split, we see no reason to depart from our usual practice of applying supreme court precedent and leaving to the supreme court "'the prerogative of overruling its own decisions.'" *See State v. Brist*, 812 N.W.2d 51, 57 (Minn. 2012) (quoting *Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989)).

Thus, we will apply the holding in *Craig*. The *Craig* court held that, as applied to the appellant in that case, section 624.713, subdivision 1(2), did not violate the Second Amendment right to keep and bear arms. *Craig*, 826 N.W.2d at 799. *Craig*'s holding is a sufficient legal basis for the conclusion that Gaal cannot succeed on his facial challenge to

[2]We are not bound by opinions of the lower federal courts, but we may follow them to the extent that they are persuasive. *See Citizens for Balanced City v. Plymouth Congregational Church*, 672 N.W.2d 13, 20 (Minn. App. 2003); *Jendro v. Honeywell, Inc.*, 392 N.W.2d 688, 691 n.1 (Minn. App. 1986); *see also Craig*, 826 N.W.2d at 793-98 (discussing and following federal circuit court opinions interpreting Second Amendment).

the same statute, which requires him to "establish that no set of circumstances exists under which [section 624.713, subdivision 1(2)] would be valid." *Rahimi*, 602 U.S. at 693.

2.

Even if we were to conclude that the holding in *Craig* was implicitly overruled by *Bruen* and *Rahimi*, we would reach the same result.

Consistent with *Bruen* and *Rahimi*, we would first ask whether "the Second Amendment's plain text covers [Gaal's] conduct" or, given his facial challenge, the conduct of any person previously convicted of a crime of violence. *See Bruen*, 597 U.S. at 17. In *Bruen*, the Court stated that the petitioners were "two ordinary, law-abiding, adult citizens" and, thus, "part of 'the people' whom the Second Amendment protects." *Id.* at 31-32. In this case, the question is whether Gaal, who has not always been law-abiding, is among "the people" who are protected by the Second Amendment. *See id.*

On this point, *Craig* is instructive, even if not controlling. The *Craig* court reasoned that "felon-dispossession statutes, like the ineligible-person statute [in section 624.713, subdivision 1(2)], are presumptively lawful." 826 N.W.2d at 793. For this principle, the *Craig* court relied on *Heller*'s statement that "'*nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons* and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.'" *Id.* at 792-93 (quoting *Heller*, 554 U.S. at 626-27). The *Craig* court noted that *Heller* had "described the above-quoted statement as a list of 'presumptively lawful regulatory measures.'" *Id.* at 793 (quoting *Heller*, 554 U.S. at 627

n.26). The *Craig* court also noted that "[a]ll federal circuit courts that have considered facial challenges have rejected them, concluding that a felon retains no Second Amendment right to possess a firearm." *Id.* at 794 (citing cases). The *Craig* court reasoned that, "because felons are included on *Heller*'s list of exceptions, they are categorically unprotected by the Second Amendment against a statute that restricts their right to possess a firearm."[3] *Id.*

In effect, the *Craig* opinion supplies the answer to the question whether Gaal is "part of 'the people' whom the Second Amendment protects." *See Bruen*, 597 U.S. at 31-32. The *Craig* court plainly stated that, as a category, felons are not protected by the Second Amendment because they "retain[] no Second Amendment right to possess a firearm." *Craig*, 826 N.W.2d at 794. Because our supreme court has determined, as a matter of federal constitutional law, that felons do not have a Second Amendment right to possess a firearm, we would answer *Bruen*'s first question—whether the plain text of the Second

[3]The *Craig* opinion states that "the Second Amendment protects the rights of 'law-abiding, *responsible* citizens to use arms in defense of hearth and home'" and that "a crime of violence renders the felon the opposite of the law-abiding, *responsible* citizen who can assert a Second Amendment right." 826 N.W.2d at 792, 798 (emphasis added) (quoting *Heller*, 554 U.S. at 635). After *Craig*, the United States Supreme Court revisited *Heller*'s use of the word "responsible." In *Rahimi*, the Court acknowledged that the word is "a vague term," that "[i]t is unclear what such a rule would entail," and that a "responsible" requirement is not part of the Court's caselaw. 602 U.S. at 701. The *Rahimi* Court elaborated by saying that the Court previously had "used the term 'responsible' to describe the class of ordinary citizens who undoubtedly enjoy the Second Amendment right" but that "those decisions did not define the term and said nothing about the status of citizens who were not 'responsible.'" *Id.* at 701-02 (citing *Heller*, 554 U.S. at 635, and *Bruen*, 597 U.S. at 70).

Amendment covers Gaal's conduct or the conduct of other persons previously convicted of a crime of violence—in the negative.[4]

Thus, if it were necessary to analyze Gaal's facial challenge to section 624.713, subdivision 1(2), pursuant to *Bruen* and *Rahimi*, we would conclude that, in light of our supreme court's prior reasoning, Gaal and other persons with a prior conviction of a crime of violence are not protected by the Second Amendment, which means that the Second Amendment's plain text does not cover Gaal's conduct or the conduct of any person previously convicted of a crime of violence. *See Bruen*, 597 U.S. at 17. This rationale is an alternative legal basis for the conclusion that Gaal has failed to "establish that no set of circumstances exists under which [section 624.713, subdivision 1(2)] would be valid." *See Rahimi*, 602 U.S. at 693.

3.

Even if we were to conclude that the Second Amendment's plain text covers Gaal's conduct and the conduct of all other persons previously convicted of a crime of violence, we nonetheless would conclude that section 624.713, subdivision 1(2), does not facially violate the Second Amendment. Consistent with *Bruen* and *Rahimi*, we would proceed to

[4]This conclusion appears to be consistent with an opinion of the United States Court of Appeals for the Eighth Circuit, which used similar reasoning in holding, after *Bruen*, that felons are categorically excluded from the protections of the Second Amendment. *Jackson*, 110 F.4th at 1125. But at least three other federal circuit courts have answered the first *Bruen* question in the affirmative and have proceeded to the second *Bruen* question. *See United States v. Moore*, 111 F.4th 266, 268-69 (3d Cir. 2024), *petition for cert. filed* (U.S. Mar. 11, 2025) (No. 24-968); *Diaz*, 116 F.4th at 467-71; *Williams*, 113 F.4th at 648-50; *see also United States v. Jackson*, 121 F.4th 656 (8th Cir. 2025) (Stras, J., dissenting from denial of reh'g *en banc*).

ask whether the government can "justify its regulation" by "demonstrat[ing] that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 17; *see also Rahimi*, 602 U.S. at 691.

On this point, federal circuit courts applying the Second Amendment to the federal felon-dispossession statute, 18 U.S.C. § 922(g) (2018), after *Bruen* are fairly uniform with respect to prior felonies that are considered violent. Two federal circuit courts have held that the federal statute prohibiting violent felons from possessing firearms is consistent with the nation's historical tradition of firearm regulation. *See Diaz*, 116 F.4th at 467-72 (holding 18 U.S.C. § 922(g)(1) not unconstitutional as applied to defendant with prior convictions of car theft, evading arrest, and felon in possession of firearm); *Williams*, 113 F.4th at 650-62 (holding 18 U.S.C. § 922(g)(1) not unconstitutional as applied to defendant with prior conviction of aggravated robbery).[5] The United States Court of Appeals for the Sixth Circuit reviewed numerous historical materials and determined that the federal felon-dispossession statute is consistent with the nation's historical tradition of firearm regulation because "governments in England and colonial America long disarmed groups that they

[5]To our knowledge, the only contrary opinion of a federal circuit court was issued in response to an as-applied challenge by a person who previously committed a *non-violent* felony. *See Range*, 124 F.4th at 228-32 (holding 18 U.S.C. § 922(g)(1) unconstitutional as applied to defendant with prior conviction of making false statement to obtain food stamps); *cf. Vincent*, 127 F.4th at 1265 (holding 18 U.S.C. § 922(g)(1) not unconstitutional as applied to defendant with prior conviction of bank fraud); *see also United States v. Daniels*, 124 F.4th 967, 973-79 (5th Cir. 2025) (holding 18 U.S.C. § 922(g)(3), which criminalizes possession of firearm by person who is "unlawful user of or addicted to any controlled substance," unconstitutional as applied to defendant); *United States v. Cooper*, 127 F.4th 1092, 1094-99 (8th Cir. 2025) (remanding for determination of as-applied challenge to 18 U.S.C. § 922(g)(3) by person who uses marijuana three or four times per week).

deemed to be dangerous" and that the commission of a violent crime is "at least strong evidence that an individual is dangerous, if not totally dispositive on the question." *Williams*, 113 F.4th at 657, 658. The United States Court of Appeals for the Eighth Circuit reviewed other historical materials showing that, around the time of the ratification of the Second Amendment, some colonies punished non-hunting offenses with the forfeiture of the offender's firearms. *Jackson*, 110 F.4th at 1127 (citing Act of Oct. 9, 1652, *Laws and Ordinances of New Netherland* 138 (1868); Act of Apr. 20, 1745, ch. III, 23 *The State Records of North Carolina* 218-19 (1904)). The Eighth Circuit also noted that the colonies punished other criminal offenses by the forfeiture of a person's entire estate, which naturally would include the offender's firearms. *Id.* (citing numerous sources).

In light of the historical sources cited in the *Williams* and *Jackson* opinions, as well as the absence of any federal caselaw supporting Gaal's argument, we conclude, as an alternative ground, that section 624.713, subdivision 1(2), is "consistent with this Nation's historical tradition of firearm regulation." *See Bruen*, 597 U.S. at 17. This rationale is an additional alternative legal basis for the conclusion that Gaal has failed to "establish that no set of circumstances exists under which [section 624.713, subdivision 1(2)] would be valid." *Rahimi*, 602 U.S. at 693.

B.

The second statute challenged by Gaal provides that a person commits a crime if he or she

> (1) obliterates, removes, changes, or alters the serial number or other identification of a firearm;

> (2) receives or possesses a firearm, the serial number or other identification of which has been obliterated, removed, changed, or altered; or
>
> (3) receives or possesses a firearm that is not identified by a serial number.

Minn. Stat. § 609.667 (2022). Gaal was charged and convicted of violating the first paragraph of this statute. Neither the supreme court nor this court has previously considered the constitutionality of section 609.667(1).

Gaal contends that the plain text of the Second Amendment covers his conduct because he was bearing "a historically common handgun." He also contends that the restrictions on firearms that existed at the time of the adoption of the Second Amendment in 1791 "did not include any laws outlawing the possession of firearms without serial numbers." He further contends, again, that the district court erred by not conducting the historical analysis required by Supreme Court opinions.

In response, the state first contends that the plain text of the Second Amendment does not protect the possession of firearms without serial numbers. The state next contends, in the alternative, that criminal prohibitions concerning a firearm's serial number are consistent with the nation's history and tradition of firearm regulation.

1.

We first ask whether "the Second Amendment's plain text covers [Gaal's] conduct" or, given his facial challenge, the conduct of any person who obliterates, removes, changes, or alters the serial number or other identification of a firearm. *See Bruen*, 597 U.S. at 17.

In doing so, we focus on whether a firearm with an obliterated, removed, changed, or altered serial number is within the meaning of the word "arms" in the Second Amendment.

In *Heller*, the Supreme Court considered the types of arms that are protected by the Second Amendment. 554 U.S. at 624-25. The Court noted that, in the colonial era, men who were called for militia service "'were expected to appear bearing arms supplied by themselves and of the kind in common use at the time,'" which included arms used "for lawful purposes like self-defense." *Heller*, 554 U.S. at 624 (quoting *United States v. Miller*, 307 U.S. 174, 179 (1939)). The *Heller* Court interpreted the earlier *Miller* opinion to say that "the *type of weapon at issue* was not eligible for Second Amendment protection" because of "'the absence of any evidence tending to show that the possession or use of a [short-barreled shotgun] . . . has some reasonable relationship to the preservation or efficiency of a well regulated militia.'" *Id.* at 622 (quoting *Miller*, 307 U.S. at 178) (alteration in original). Accordingly, the *Heller* Court concluded that "the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns." *Id.* at 625. The *Bruen* Court reiterated that "the Second Amendment protects only the carrying of weapons that are those 'in common use at the time,' as opposed to those that 'are highly unusual in society at large.'" *Bruen*, 597 U.S. at 47 (quoting *Heller*, 554 U.S. at 627).

In this case, the key question is whether firearms with obliterated, removed, changed, or altered serial numbers are typically possessed or commonly used by law-abiding citizens for lawful purposes, such as self-defense. *See Bruen*, 597 U.S. at 31-32; *Heller*, 554 U.S. at 627. Federal courts that have considered the constitutionality of the

equivalent federal statute, 18 U.S.C. § 922(k) (2018), have concluded that such firearms are *not* typically possessed or commonly used by law-abiding citizens for lawful purposes. The United States Court of Appeals for the Fourth Circuit reasoned that "'there is no compelling reason why a law-abiding citizen' would use a firearm with an obliterated serial number and that such weapons would be preferable only to those seeking to use them for illicit activities" and, furthermore, that "there is no evidence before us that law-abiding citizens nonetheless choose these weapons for lawful purposes like self-defense." *United States v. Price*, 111 F.4th 392, 406 (4th Cir. 2024) (*en banc*), *cert. denied*, No. 24-5937, 2025 WL 951173 (U.S. Mar. 31, 2025). The *Price* court thus concluded "that § 922(k)'s regulation of such arms does not implicate the Second Amendment." 111F.4th at 407.

It appears that all federal district courts that have issued published opinions since *Bruen* addressing this specific issue—whether firearms with an obliterated serial number are typically possessed or commonly used by law-abiding citizens for lawful purposes—also have concluded that they are not. *See United States v. Sing-Ledezma*, 706 F. Supp. 3d 650, 656-57 (W.D. Tex. 2023); *United States v. Avila*, 672 F. Supp. 3d 1137, 1143-44 (D. Colo. 2023); *United States v. Trujillo*, 670 F. Supp. 3d 1235, 1240-41 (D.N.M. 2023); *United States v. Serrano*, 651 F. Supp. 3d 1192, 1210-11 (S.D. Cal. 2023); *United States v. Holton*, 639 F. Supp. 3d 704, 710-11 (N.D. Tex. 2022).

In this case, Gaal has not attempted to identify a lawful purpose for a firearm with an obliterated serial number and has not attempted to argue that such firearms are typically possessed or commonly used by law-abiding citizens. "If no common-sense reasons exist for a law-abiding citizen to prefer a particular type of weapon for a lawful purpose like

self-defense, and no evidence suggests that law-abiding citizens nonetheless commonly choose the weapon for lawful uses, then courts can conclude that the weapon is not in common use for lawful purposes." *Price*, 111 F.4th at 405.

Thus, because firearms with obliterated, removed, changed, or altered serial numbers are not typically possessed or commonly used by law-abiding citizens for lawful purposes, such firearms are not eligible for Second Amendment protection. This rationale is a sufficient legal basis for the conclusion that Gaal has failed to "establish that no set of circumstances exists under which [section 609.667(1)] would be valid." *Rahimi*, 602 U.S. at 693.

2.

Even if we were to conclude that firearms with obliterated, removed, changed, or altered serial numbers *are* eligible for Second Amendment protection, we nonetheless would conclude that section 609.667(1) does not facially violate the Second Amendment.

In that event, the state would be required to "justify its regulation" by "demonstrat[ing] that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 17. Upon such a showing, the court would be required to "assess whether modern firearms regulations are consistent with the Second Amendment's text and historical understanding." *Id.* at 26. The Supreme Court has noted that "the reach of the Second Amendment is not limited only to those arms that were in existence at the founding." *Rahimi*, 602 U.S. at 692. Rather, the "historical inquiry" that courts must undertake "will often involve reasoning by analogy—a commonplace task for any lawyer or judge." *Bruen*, 597 U.S. at 28. "Like all analogical reasoning, determining

whether a historical regulation is a proper analogue for a distinctly modern firearm regulation requires a determination of whether the two regulations are 'relevantly similar.'" *Id.* at 28-29 (quoting Cass Sunstein, *On Analogical Reasoning*, 106 Harv. L. Rev. 741, 773 (1993)). "Why and how the regulation burdens the right are central to this inquiry." *Rahimi*, 602 U.S. at 681. A challenged firearm regulation "must comport with the principles underlying the Second Amendment, but it need not be a 'dead ringer' or a 'historical twin.'" *Id.* at 692 (quoting *Bruen*, 597 U.S. at 30).

Federal courts have identified various historical practices that indicate a tradition of regulating firearms in a manner that is similar to the modern practice of requiring serial numbers and prohibiting their obliteration. For example, an 1805 Massachusetts law required newly manufactured firearm barrels to be inspected and permanently marked by an inspector, and, more importantly, made it a crime for a person to buy or sell firearms without proper proofing or to "falsely forg[e] or alter[]" such proofing. *United States v. Sharkey*, 693 F. Supp. 3d 1004, 1007-08 (S.D. Iowa 2023) (citing *Laws of the Commonwealth of Massachusetts from November 28, 1780, to February 28, 1807*, at 259 (1807)). Similarly, an 1830 Maine law required that newly manufactured firearm barrels be tested, marked, numbered, and certified; penalized the sale of firearms without proper proof, marking, or certification; and imposed fines on persons "who falsely altered the stamps, marks, or certificates of any prover of firearms." *Sharkey*, 693 F. Supp. 3d at 1008 (citing *Laws of the State of Maine* 546 (1830)).

Federal courts have recognized that these historical practices were intended to, among other things, "provid[e] a means to trace hazardous barrels . . . back to the original

inspector who affixed the markings" and that modern statutes criminalizing the possession of firearms with obliterated serial numbers promote "similar objectives by granting authorities the capacity to recover stolen firearms and trace those that have been implicated in criminal activities." *Sharkey*, 693 F. Supp. 3d at 1008; *see also Sing-Ledezma*, 706 F. Supp. 3d at 658. We agree that the historical information available to the court indicates that, both before and after the ratification of the Second Amendment, states used markings to identify firearms and prohibited the erasure or obscuring of such markings. Such regulations satisfy the requirement of a "historical analogue," even if "not a historical twin." *Bruen*, 597 U.S. at 30 (emphasis omitted).

Thus, we conclude that section 609.667(1), which makes it a crime to obliterate, remove, change, or alter a firearm's serial number, is "consistent with this Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 17. This rationale is an additional legal basis for the conclusion that Gaal has failed to "establish that no set of circumstances exists under which [section 609.667(1)] would be valid." *Rahimi*, 602 U.S. at 693.

In sum, the district court did not err by denying Gaal's motion to dismiss counts 2 and 3 because section 624.713, subdivision 1(2), and section 609.667(1) do not on their face violate the right to keep and bear arms that is protected by the Second Amendment to the United States Constitution.

II.

Gaal also argues that the district court erred by denying his motion to suppress evidence. Specifically, he argues that the officers who temporarily seized him did not have a reasonable suspicion of criminal activity to justify the investigative seizure.

The Fourth Amendment to the United States Constitution guarantees the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV; *see also* Minn. Const. art. I, § 10. The Fourth Amendment also protects the right of the people to be secure in their motor vehicles. *Delaware v. Prouse*, 440 U.S. 648, 653-55 (1979); *State v. Britton*, 604 N.W.2d 84, 87 (Minn. 2000). But a law-enforcement officer may, consistent with the Fourth Amendment, conduct a brief investigatory stop of a person in a motor vehicle if the officer has a reasonable, articulable suspicion that the person might be engaged in criminal activity. *State v. Diede*, 795 N.W.2d 836, 842-43 (Minn. 2011) (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). In addition, an investigative stop is appropriate if a law-enforcement officer has a reasonable, articulable suspicion that a person "was involved in or is wanted in connection with a completed felony." *United States v. Hensley*, 469 U.S. 221, 229 (1985); *see also State v. Blacksten*, 507 N.W.2d 842, 846 (Minn. 1993).

A reasonable, articulable suspicion exists if "the police officer [is] able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Terry*, 392 U.S. at 21. The reasonable-suspicion standard is not high, but the suspicion must be more than a "mere hunch" and must be based on "specific and articulable facts." *State v. Taylor*, 965 N.W.2d 747, 752 (Minn.

2021) (quotation omitted). A court must consider the totality of the circumstances in determining whether reasonable suspicion exists. *Id.* at 752. If the relevant facts are undisputed, this court applies a *de novo* standard of review to a district court's ruling that an investigatory stop is valid. *State v. Yang*, 774 N.W.2d 539, 551 (Minn. 2009).

"The information necessary to support an investigative stop need not be based on the officer's personal observations." *In re Welfare of G.M.*, 560 N.W.2d 687, 691 (Minn. 1997). An investigative stop may be based on an anonymous tip if the totality of the circumstances indicates a reasonable suspicion of criminal activity, "taking into account the facts known to the officers from personal observation, and giving the anonymous tip the weight it deserved in light of its indicia of reliability as established through independent police work." *Alabama v. White*, 496 U.S. 325, 330 (1990). The value of an anonymous tip depends on "both the content of information possessed by police and its degree of reliability." *Id.* "Thus, if a tip has a relatively low degree of reliability, more information will be required to establish the requisite quantum of suspicion than would be required if the tip were more reliable." *Id.* In analyzing an anonymous tip, a court should consider factors such as the informant's veracity, reliability, and basis of knowledge. *Id.* at 328-29 (citing *Illinois v. Gates*, 462 U.S. 213, 230 (1983)).

In this case, the district court reasoned that the 911 caller appeared to have a basis of knowledge because his report concerned an incident to which he was an eyewitness. *See Navarette v. California*, 572 U.S. 393, 399 (2014) (reasoning that anonymous 911 caller's "eyewitness knowledge" of dangerous driving gave "significant support to the tip's reliability"). The district court also reasoned that the reliability of the caller's report was

enhanced because it was "at least minimally corroborated" by the officers' knowledge that Gaal was known by the nickname Deq and drove a red Toyota. The district court further reasoned that the caller's veracity was supported by his use of the 911 telephone system, which has been recognized as an "indicator of veracity" because the system has "features that allow for identifying and tracing callers, and thus provide some safeguards against making false reports with immunity." *See Navarette*, 572 U.S. at 400. The district court concluded that the totality of the circumstances indicated a reasonable, articulable suspicion of criminal activity sufficient to justify the officers' seizure of Gaal.

Gaal challenges the district court's ruling primarily by attacking the veracity of the 911 caller. He contends that the caller was generally "untruthful" because the caller likely did not provide his actual name and was otherwise evasive. The district court specifically addressed this issue in its order. The district court stated that "it is highly likely the complainant provided a false name" and that he "was hesitant to provide any identifying information, . . . acted evasive when speaking with Officer Lueders, and ultimately hung up on the officer and refused to answer the officer's return calls." But the district court did not consider those facts to be determinative of the veracity of the caller's report of a shooting. Rather, the district court considered other factors, including the caller's first-hand knowledge of the reported incident and the officers' corroboration of some aspects of the caller's information. It was appropriate for the district court to treat the 911 caller in the same or similar manner as other anonymous informants, without completely discrediting the caller's information, because the caller's hesitance to provide his actual name makes him similar to anonymous tipsters who decline to identify themselves but are

not pressed to do so. It also was appropriate for the district court to consider other factors relevant to anonymous tips. *See id.* at 328-29 (citing *Gates*, 462 U.S. at 230).

Our *de novo* review of the record confirms the district court's analysis. The caller's basis of knowledge is demonstrated by his report of a personal experience as the target of a shooting. The caller's basis of knowledge is enhanced by the fact that he identified a specific location where the shooting reportedly occurred: "on highway 71 . . . by the police station." Also, the caller identified one of the persons in the other vehicle by a unique nickname. An informant's "statement that the event was observed firsthand, entitles his tip to greater weight than might otherwise be the case." *Gates*, 462 U.S. at 234.

In addition, the reliability of the caller's report is enhanced by the officers' knowledge of corroborating information concerning Gaal's nickname and the brand and color of Gaal's car. "'[C]orroboration through other sources of information reduce[s] the chances of a reckless or prevaricating tale.'" *Id.* at 244-45 (quoting *Jones v. United States*, 362 U.S. 257, 269 (1960)). Also, "there is no mandate that every fact in the [informant's report] be corroborated, that a certain number of facts be corroborated, or that certain types of facts must be corroborated." *State v. Holiday*, 749 N.W.2d 833, 841 (Minn. App. 2008) (emphasis omitted).

Furthermore, it is significant that the 911 caller's report suggested that a person had committed a serious offense, which later was charged as felony second-degree assault. In investigating a completed crime, the reasonableness standard that is "embodied in the Fourth Amendment" requires courts to "balance[] the nature and quality of the intrusion on personal security against the importance of the governmental interests alleged to justify

the intrusion." *Hensley*, 469 U.S. at 228. The nature of those governmental interests has been expressed by the United States Supreme Court as follows:

> [W]here police have been unable to locate a person suspected of involvement in a past crime, the ability to briefly stop that person, ask questions, or check identification in the absence of probable cause promotes the strong government interest in solving crimes and bringing offenders to justice. Restraining police action until after probable cause is obtained would not only hinder the investigation, but might also enable the suspect to flee in the interim and to remain at large. Particularly in the context of felonies or crimes involving a threat to public safety, it is in the public interest that the crime be solved and the suspect detained as promptly as possible. The law enforcement interests at stake in these circumstances outweigh the individual's interest to be free of a stop and detention that is no more extensive than permissible in the investigation of imminent or ongoing crimes.

Id. at 229.

Our supreme court has recognized that a report of a completed crime may provide law-enforcement officers with the reasonable suspicion necessary to justify an investigative detention. *State v. Waddell*, 655 N.W.2d 803, 806-10 (Minn. 2003) (concluding that officers had reasonable suspicion to stop vehicle within three hours of murder based on information concerning type and color of vehicle and descriptions of persons suspected of murder). This court has recognized that even uncorroborated information provided by an anonymous informant may provide law-enforcement officers with the reasonable suspicion necessary to justify an investigative stop if there is an "element of imminent danger," on the ground that "officers receiving an anonymous tip that a person is armed are almost invariably justified in conducting an investigative stop." *State v. Balenger*, 667 N.W.2d 133, 136, 138 (Minn. App. 2003) (concluding that officer

had reasonable suspicion to stop pedestrian in crowd based on unidentified informant's tip that pedestrian had pointed gun at another person), *rev. denied* (Minn. Oct. 21, 2003).

In this case, the officers promoted proper government interests by continuing their investigation into the reported shooting by temporarily detaining Gaal less than one hour after the report, even though the 911 caller no longer was cooperating. Their efforts to do so were reasonably calculated to elicit evidence that might not have been available at a later time or date. Moreover, the circumstances of this case suggest the possibility of ongoing conflict or additional criminal activity, which implicates the general interests of "effective crime prevention." *See Terry*, 392 U.S. at 22. The caller reported that the shooter had driven away, presumably while still armed. The caller hung up on Officer Lueders without an explanation. Given various uncertainties and a potentially dangerous situation, the officers reasonably decided to pursue an investigation with the information available to them.

For these reasons, the totality of the circumstances allowed law-enforcement officers to form a reasonable, articulable suspicion that Gaal had committed a serious crime and might be engaged in ongoing criminal activity, thereby justifying an investigative detention of Gaal. Thus, the district court did not err by denying Gaal's motion to suppress evidence.

DECISION

The district court did not err by denying Gaal's motion to dismiss counts 2 and 3 or by denying Gaal's motion to suppress evidence.

Affirmed.