

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

v.

MICHAEL SUMLIN,

Defendant.

CRIMINAL ACTION FILE NO.:

1:25-CR-223-ELR-JKL

FINAL REPORT AND RECOMMENDATION

On March 5, 2025, MARTA police officers arrested Defendant Michael Sumlin on outstanding state warrants after encountering him at the Oakland City transit station. During his arrest, the officers seized a firearm hidden in his waistband. He is presently charged with unlawful possession of a firearm as a felon under 18 U.S.C. § 922(g)(1). [Doc. 1.]

Mr. Sumlin moves to suppress the firearm on the grounds that the arresting officer, MARTA Police Officer Elontavious White, lacked reasonable suspicion to detain him and then unlawfully prolonged the stop by conducting a search for outstanding warrants. [Doc. 11.] On August 11, 2025, the undersigned held an evidentiary hearing, at which Officer White appeared and testified. [Doc. 16; *see also* Doc. 22 (“Hr’g Tr.”).] After the hearing, Mr. Sumlin filed a brief in support of his motion. [Doc. 24.] The government filed a response [Doc. 26], and

Mr. Sumlin has filed a reply [Doc. 34.] For the reasons that follow, it is **RECOMMENDED** that the motion to suppress be **DENIED**.¹

I. BACKGROUND

On the evening of March 5, 2025, Officer White was on patrol at the Oakland City MARTA station. (Hr'g Tr. at 5.) At around 8:30 p.m., he observed an individual, later identified as Mr. Sumlin, standing next to a Breeze ticket machine, just outside the fare gates used to enter and exit the station platform. (*Id.* at 21; *see also* Gov't Ex. 1 [Doc. 18] at 1:32.²) Mr. Sumlin was holding a canned beverage wrapped in a white plastic bag. (Hr'g Tr. at 6) From his vantage point a short distance away,³ Officer White could only see the top portion of the can.

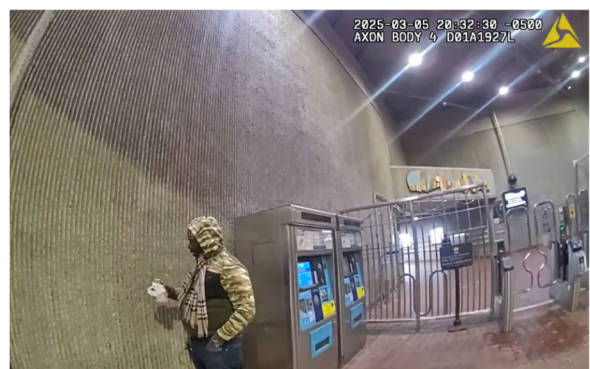
¹ Mr. Sumlin has also filed a "Motion To Dismiss The Indictment Under The Second Amendment," in which he challenges the constitutionality of 18 U.S.C. § 922(g)(1), both facially and as applied to him. [Doc. 32.] Mr. Sumlin admits that the motion must be denied in light of binding Eleventh Circuit precedent, *see generally United States v. Dubois*, 139 F.4th 887 (11th Cir. 2025), and explains that he filed the motion to preserve these issues for appeal. [*Id.* at 1.] As a result, the Court also **RECOMMENDS** that the motion to dismiss be **DENIED**. [Doc. 32.]

² Government Exhibit 1 is a composite exhibit, containing the footage from (1) Officer White's bodycam, and (2) the bodycam another MARTA Police Officer, Officer Melay. [Doc. 18.]

³ Mr. Sumlin estimates in his brief that Officer White was around "20 paces" away. [See Doc. 24 at 7.] (*See also* Gov't Ex. 1 at 1:00-2:00.) While that seems generally accurate during Officer White's initial approach, it also appears that he approached Mr. Sumlin more closely very soon thereafter:

(*Id.* at 8.) Even so, experience told him it was likely an alcoholic beverage, particularly given plastic bag wrapper and the “color coordinations and the patterns on the [top of] the container.” (*Id.* at 6-7, 12.) According to Officer White, during his ten-plus years as a MARTA police officer, he has written 50 alcohol citations per month. (*Id.* at 7.) He was also familiar with the appearance of cans, including, as relevant here, canned margaritas. (*Id.* at 12.)

Officer White watched Mr. Sumlin, waiting for him to take a drink. (Hr’g Tr. at 19.) Meanwhile, another MARTA police officer, Officer Melay, approached the area where Mr. Sumlin was standing from inside the station, on other side of the fare gates. (*Id.*; Gov’t Ex. 1 at 1:36-:41.) Officer White signaled to Officer Melay to step back because Officer White had observed “something in his hands.” (Hr’g Tr. at 19-20.) Once Officer White saw Mr. Sumlin take a drink, he saw more of the container, confirming his suspicions that it was an alcoholic



(See Gov’t Ex. 1 at 1:32-2:12.)

beverage. (*Id.* at 8, 22, 26; *see also* Gov't Ex. 1 at 1:53.) At that point, he walked toward Mr. Sumlin and activated his bodycam.⁴ (Hr'g Tr. at 22.)

As Officer White approached Mr. Sumlin, he said, "What's going on bro, you know you can't be drinking alcohol out here, right? You got any ID on you? Turn around and face me." (Gov't Ex. 1 at 2:07-:12.) Mr. Sumlin placed the bag containing the can on the ground and handed his identification card to Officer White. (*Id.* at 2:18-28.) Officer White also asked Mr. Sumlin for the bag containing the can, which Mr. Sumlin also handed over. (Hr'g Tr. at 12, 24; Gov't Ex. 1 at 3:00-:02.] Inside was a 16-ounce can of "Ritas Mang-O-Rita," an alcoholic margarita beverage. (Hr'g Tr. at 12, 26; Gov't Ex. 1 at 3:04.)

According to Officer White, during the encounter, Mr. Sumlin was agitated and "blading" his body – that is, turning sideways away from Officer White as though "trying to hide something." (Hr'g Tr. at 8, 13, 24.) Officer White also observed, as Mr. Sumlin handed him the bag and can, a bulge in Mr. Sumlin's right side hip area, which he recognized as a butt of a gun. (*Id.* at 8, 25-26.)

⁴ The bodycam activation includes the prior two minutes of buffered video footage in the recording, meaning Officer's White footage starts two minutes prior to his activation of the camera. (Tr. 22-23.)

Officer White radioed in Mr. Sumlin's name and date of birth to dispatch. (Hr'g Tr. at 13-14; Gov't Ex. 1 at 3:49-4:00.) Officer White then began to write out a citation for alcohol, along with a MARTA suspension.⁵ (Hr'g Tr. at 9, 13; Gov't Ex. 1 at 4:26-9:15.) While writing the tickets, a man walked by, and Officer White greeted him, "What up big time, you good?" (Gov't Ex. 1 at 9:25-:28.) The man responded, and Officer White continued, "Eh, you doing alright? Alright. Be safe fam." (*Id.* at 9:30-:33.) Then, appearing to agree with something the man said, Officer White responded said, "Mos def." [*Id.* at 9:36.] Seconds after exchanging greetings with the man, Officer White concluded writing Mr. Sumlin's tickets. (Gov. Ex. 1 at 9:36-:49.)

After Officer White appeared to have completed filling out the tickets and signing them, he told Mr. Sumlin, "Alright brother, I am almost finished . . . only thing that we ask is if you do come back with a warrant, turn around and put your hands behind your back." (Hr'g Tr. at 33; Gov't Ex. 1 at 9:50-:57.) According to Officer White, if Mr. Sumlin was not wanted on outstanding warrants, then he would finalize the tickets by adding case numbers, the call-out time, and a court date. (Hr'g Tr. at 33.) Within a minute, dispatch responded that there were active

⁵ For the sake of simplicity, the Court refers to these collectively as "tickets."

warrants for Mr. Sumlin's arrest. (*Id.* at 13, 16.) Officer Melay then put Mr. Sumlin in handcuffs, placing him under arrest. (Gov't Ex. 1 at 10:44.) During the arrest, Officer White discovered a firearm was indeed concealed in Mr. Sumlin's waistband. (Hr'g Tr. at 43-44.) The entire encounter—that is, between (1) when Officer White first observed Mr. Sumlin and (2) his subsequent arrest—lasted around ten minutes. (*See* Gov't Ex. 1.)

Additional facts are discussed, as necessary, below.

II. DISCUSSION

A. The Parties' Arguments

Mr. Sumlin argues that his encounter with law enforcement was an “investigatory detention” from its inception because Officer White immediately blocked his path, retained his identification, commanded him to turn towards him. [Doc. 24 at 5.] Mr. Sumlin further maintains that Officer White lacked reasonable suspicion to conduct an investigatory detention because his observations amounted to a mere “hunch” that Mr. Sumlin had an open container of alcohol. [*Id.* at 6.] Mr. Sumlin posits that Officer White's interest in him was likely due to loitering, not because of any visible alcohol container. [*Id.* at 7.] Alternatively, Mr. Sumlin argues that even if Officer White saw him drink from the white bag, it did not justify his detention, as no other suspicious

circumstances were present. [*Id.*] Along similar lines, Mr. Sumlin contends that Officer White's claim of identifying a margarita can "from some 20 paces away" was not credible, that his confidence was unfounded, and that officer judgment is not infallible. [*Id.* at 7-9.] Finally, Mr. Sumlin argues that even if the initial encounter had been lawful, Officer White unlawfully prolonged the seizure by engaging in unrelated activities of greeting an acquaintance and checking for warrants. [*Id.* at 9-10.]

In response, the government argues that Officer White's initial encounter with Mr. Sumlin was consensual and did not require any suspicion, as officers are allowed to approach individuals in public places and ask questions without implicating the Fourth Amendment. [Doc. 26 at 3-5.] In the government's view, the encounter was consensual because Officer White and Officer Melay did not block Mr. Sumlin's path, did not display weapons, and used a non-coercive tone. [*Id.* at 4.] Alternatively, the government argues, even if the encounter was not consensual, it was a brief investigatory stop justified by reasonable suspicion that Mr. Sumlin was drinking alcohol in public, which is a violation of Atlanta Code of Ordinances § 10-8.⁶ [*Id.* at 5-6.] The government contends that the warrant

⁶ Atlanta Code of Ordinances § 10-8 prohibits the consumption of "vinous, malt or other alcoholic beverage while on any streets, sidewalks, alleyways, parking areas or other open areas operated and controlled by the city, or while

check did not unlawfully prolong the stop, as it is permissibly part of an officer's ordinary mission during a *Terry* stop, similar to traffic stops. [*Id.* at 6-10.] Finally, the government contends that even if the stop was deemed unlawful, the evidence should not be suppressed under the attenuation doctrine, as there were valid warrants for Mr. Sumlin's arrest. [*Id.* at 10-11 (citing *Utah v. Strieff*, 579 U.S. 232 (2016)).]

On reply, Mr. Sumlin devotes most of his brief to arguing that traffic stops should be treated differently than pedestrian stops for Fourth Amendment purposes. [*See* Doc. 34 at 8-12.] He argues the purpose of a traffic stop is to ensure that vehicles are operated safely and responsibly – considerations, he maintains, that are not present in the context of a pedestrian encounter. [*Id.* at 4-6.] Traffic stops, he contends, present different dangers; unlike pedestrians, a driver could make unobserved movements, there could be multiple passengers in the vehicle to worry about, or an officer may be exposed to accidental injury by passing traffic. [*Id.* at 6.] He further argues that driving is a highly-regulated activity, and in contrast, “the Constitution does not permit the government to heavily

in or on the grounds of any MARTA station.” *See* Atlanta Code of Ordinances § 10-8, “Drinking in public,” (Code 1977), *available at* https://library.municode.com/ga/atlanta/codes/code_of_ordinances?nodeId=PTIICOORENOR_CH10ALBE_ARTIINGE_S10-8DRPU (last visited Nov. 24, 2025).

regulate people who are just standing around in public, which people have been doing forever and *is* a constitutional right.” [*Id.* at 7 (citations omitted).] Somewhat relatedly, Mr. Sumlin argues from an “Originalist” approach that when the Fourth Amendment was ratified in the late 1700’s, “outstanding warrants were affirmatively enforced by the use of a group of citizens specifically recruited by the sheriff to find those who remained at large”; and there is “no evidence that in early America, law enforcement officers carried around lists of people with outstanding warrants and checked them whenever a pedestrian was stopped for unrelated reasons.” [*Id.* at 12-13.] The argument on this point is supported by just “one historian,” whose June 2025 online article from Brewminate.com Mr. Sumlin cites. [*Id.* (citing Matthew A. McIntosh, *Medieval Roots to Modern Doctrine: The History of ‘Posse Comitatus’ in the United States*, brewminate.com (June 16, 2025), available at: <https://brewminate.com/medieval-roots-to-modern-doctrine-the-history-of-posse-comitatus-in-the-united-states/> (last visited Nov. 24, 2025).]

Mr. Sumlin also argues (1) that it is not credible that the “bulge” in Mr. Sumlin’s pocket justified the warrant check, as a bulge can be many innocent things; and (2) in any event, Georgia law allows people to carry weapons openly without a permit, and there was no reason for Officer White to believe Mr. Sumlin

was a prohibited person. [Doc. 34 at 13-14.] Likewise, Mr. Sumlin contends that the government's reference to nervous behavior does not justify further Fourth Amendment intrusion because nervousness is a common reaction to an encounter with law enforcement, regardless of whether the suspect is innocent or guilty. [*Id.* at 14.]

Finally, Mr. Sumlin argues that the attenuation doctrine is inapplicable because Officer White acted flagrantly; Mr. Sumlin asserts that it is unbelievable that he could tell just from the top of a can that it was an alcoholic beverage. [Doc. 34 at 15.]

In the discussion that follows, the Court begins with whether the stop was lawful, and then takes up the question of whether Officer White unlawfully prolonged the stop. Finally, the Court addresses whether, even if the stop were unlawful, the attenuation doctrine exception to the exclusionary rule applies under these circumstances.

B. Whether the Stop Was Lawful

"The Fourth Amendment protects individuals from unreasonable searches and seizures." *United States v. Braddy*, 11 F.4th 1298, 1307-08 (11th Cir. 2021). "Evidence obtained in violation of the Fourth Amendment must be suppressed." *United States v. Jordan*, 635 F.3d 1181, 1185 (11th Cir. 2011). But not all interactions

between law enforcement and citizens implicate the Fourth Amendment. *Id.* “Only when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen may a court conclude that a seizure has occurred.” *Id.* (cleaned up) (quoting *Terry v. Ohio*, 392 U.S. 1, 19 n. 16 (1968)). Encounters with law enforcement generally fall within one of three tiers, each with varying levels of Fourth Amendment scrutiny: “(1) police-citizen exchanges involving no coercion or detention; (2) brief seizures or investigatory detentions; and (3) full-scale arrests.” *Id.* (quoting *United States v. Perez*, 443 F.3d 772, 777 (11th Cir. 2006)).

The first type of encounter—the “consensual encounter”—does not implicate the Fourth Amendment. *Jordan*, 635 F.3d at 1186. “If a reasonable person would feel free to terminate the encounter, then he or she has not been seized.” *Id.* (quoting *Perez*, 443 F.3d at 777–78). But if the person’s cooperation is induced by coercive means or if a reasonable person would not feel free to terminate the encounter, “then the encounter is no longer consensual, a seizure has occurred, and the citizen’s Fourth Amendment rights are implicated.” *Id.* (citing *United States v. Drayton*, 536 U.S. 194, 201 (2002)). Courts in this Circuit consider the following factors in determining whether a seizure occurred:

whether a citizen’s path is blocked or impeded; whether identification is retained; the suspect’s age, education and

intelligence; the length of the suspect's detention and questioning; the number of police officers present; the display of weapons; any physical touching of the suspect, and the language and tone of voice of the police.

Id. (quoting *Perez*, 443 F.3d at 778). The Court does not apply these factors "rigidly"; rather, they provide "guidance" to be considered along with the totality of the circumstances. *Id.* "The ultimate inquiry remains whether a person's freedom of movement was restrained by physical force or by submission to a show of authority." *Id.* (citing *California v. Hodari D.*, 499 U.S. 621, 626-28 (1991) ("[T]he test for existence of a 'show of authority' is an objective one: not whether the citizen perceived that he was being ordered to restrict his movement, but whether the officer's words and actions would have conveyed that to a reasonable person.")).

The second type of encounter – an "investigatory detention" – permits law enforcement to seize and detain an individual "where (1) the officers have a reasonable suspicion that the suspect was involved in, or is about to be involved in, criminal activity, and (2) the stop was reasonably related in scope to the circumstances which justified the interference in the first place." *Jordan*, 635 F.3d at 1186 (citing *Terry*, 392 U.S. at 19-20). "While reasonable suspicion is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence, the Fourth Amendment requires at least

a minimal level of objective justification for making the stop.” *Id.* (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000)). In deciding whether detaining officers had reasonable suspicion, the Court must consider the totality of the circumstances known to the detaining officers at the time of the detention. *Id.* These circumstances must be viewed “in the light of the officers’ special training and experience,” even if the individual’s behavior is “seemingly innocuous to the ordinary citizen.” *United States v. Smith*, 201 F.3d 1317, 1323 (11th Cir. 2000). A mere hunch, however, is not sufficient. *See Terry*, 392 U.S. at 27.

Here, the Court need not belabor the issue of whether Mr. Sumlin’s encounter was consensual (or at what point it may have become non-consensual), because it is clear that from the moment Officer White approached Mr. Sumlin, he had reasonable suspicion to believe that Mr. Sumlin was consuming alcohol in public, in violation of Atlanta’s public consumption ordinance. The bodycam video shows and Officer White’s testimony supports that even before engaging Mr. Sumlin, Officer White (1) saw him drink from a partially-obscured can in a white plastic bag and (2) recognized that the beverage was alcoholic; and Officer White explained that his suspicion about Mr. Sumlin’s alcohol consumption was reasonably based on, among other things, the plastic bag obscuring the can, the color coordination on the exposed portion of the can, the patterns on the can, Mr.

Sumlin acting agitated and blading his body, and Officer White's years of experience with alcohol citations, including citations involving margaritas such as the one Ms. Sumlin was consuming. Contrary to Mr. Sumlin's contention otherwise, Officer White's testimony is credible in this regard, and the bodycam footage supports his testimony. Thus, Officer White's initial encounter with Mr. Sumlin did not violate the Fourth Amendment.

C. Whether the Officers Unlawfully Prolonged the Stop

Having determined that Officer White had reasonable suspicion to detain Mr. Sumlin, Court next turns to whether the officers unlawfully prolonged the stop. Even when the police have reasonable suspicion to make a stop, "they do not have unfettered authority to detain a person indefinitely." *United States v. Campbell*, 26 F.4th 860, 881 (11th Cir. 2022) (en banc). In the context of traffic stop, the Supreme Court has explained that the "tolerable duration" of a stop "is determined by the seizure's 'mission'—to address the traffic violation that warranted the stop, and attend to related safety concerns." *Rodriguez v. United States*, 575 U.S. 348, 354 (2015) (internal citation omitted). Generally, this includes "ordinary inquiries incident to the traffic stop," such as "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance," because

those checks “serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly.” *Id.* at 355 (cleaned up, citation omitted). In contrast, “tasks and inquiries that are unrelated to a stop’s purpose,” include “measures aimed at detecting criminal activity more generally,” such as asking about a passenger’s gang affiliation, using a dog to detect contraband, or asking a driver whether there are illegal drugs, counterfeit goods, or “dead bodies” in the car. *Campbell*, 26 F.4th at 882, 885 (internal quotation marks omitted). “The proper standard for addressing an unlawfully prolonged stop, then, is this: a stop is unlawfully prolonged when an officer, without reasonable suspicion, diverts from the stop’s purpose and adds time to the stop in order to investigate other crimes.” *Campbell*, 26 F.4th at 884. “In other words, to unlawfully prolong, the officer must (1) conduct an unrelated inquiry aimed at investigating other crimes (2) that adds time to the stop (3) without reasonable suspicion.” *Id.*

Mr. Sumlin does not contest that under *Rodriguez*, conducting a warrant check “may be a routine part of traffic stops.” [Doc. 34 at 1 (emphasis deleted).] He also appears to be correct that the Eleventh Circuit has not held, one way or the other, that the authority regarding warrant checks in the context of traffic stops applies with equal force to warrants checks conducting during pedestrian

stops. But as Mr. Sumlin sees it, pedestrian stops should be treated differently because the concerns about officer safety and ensuring that traffic laws are enforced simply are not present. [*Id.* at 3-8.] He further argues that the Eleventh Circuit has never created a categorical rule allowing criminal history checks during all traffic stops; thus, “this Court should be all the more unwilling to create a new categorical rule about warrant checks during all pedestrian stops.” [*Id.* at 11.] Unfortunately for Mr. Sumlin’s argument, the Court disagrees.

The Tenth Circuit squarely addressed this issue in *United States v. Villagrana-Flores*, 467 F.3d 1269, 1277 (10th Cir. 2006), extending the reasoning for allowing warrant checks during traffic stops to those conducted during pedestrian stops. In that case, an officer stopped Villagrana-Flores, who was on foot, based on reports that he had been banging his head against the side of a building. *Id.* at 1272. Around seven minutes into the stop, the officer ran a warrant check, which confirmed that Villagrana-Flores had outstanding warrants and prior deportation; Villagrana-Flores was then arrested and ultimately charged with illegal reentry. *Id.* He moved to suppress the fruits of the warrant check, arguing that running a warrant check for criminal purposes exceeded the scope of a *Terry* stop. *Id.* at 1273. The district court denied the motion, and on appeal, the Tenth Circuit affirmed. The Court of Appeals held

that the encounter began as a valid *Terry* stop because the officer had reasonable suspicion to detain Villagrana-Flores for criminal trespass and disorderly conduct. *Id.* at 1274. Having determined the stop was valid, the court then analyzed whether the officer was justified in checking for outstanding warrants during the course of the stop – that is, “whether running the warrants check was ‘reasonably related in scope to the circumstances which justified the interference in the first place.’” *Id.* at 1275 (quoting *Terry*, 392 U.S. at 20-21). The court concluded that it was, finding that the same concerns about officer safety that allow an officer to run a warrant check as part of a traffic stop also apply to a pedestrian stop. *Id.* at 1276-77. The court explained:

Officer safety . . . is just as strongly implicated where the individual being detained for a short period of time is on foot, rather than in an automobile. An officer detaining a pedestrian has an equally strong interest in knowing whether that individual has a violent past or is currently wanted on outstanding warrants. The citizen’s interest, on the other hand, is no more robust merely because a short detention occurs while traversing on foot.

Id. at 1277 (10th Cir. 2006). The court further reasoned that “permitting a warrants check during a *Terry* stop on the street also ‘promotes the strong government interest in solving crimes and bringing offenders to justice.’” *Id.* (quoting *United States v. Hensley*, 469 U.S. 221, 229 (1985)). Quoting the Supreme Court’s decision in *Hiibel v. Sixth Judicial Dist. Court*, 542 U.S. 177, 186 (2004), the

Tenth Circuit explained that “an identity’s utility in ‘informing an officer that a suspect is wanted for another offense, or has a record of violence or mental disorder,’ would be non-existent without the ability to use the [person’s] identity to run a criminal background check.” *Id.* (alteration adopted, internal citation omitted))⁷; accord *Hall v. City of Chicago*, 953 F.3d 945, 953 (7th Cir. 2020) (following *Villagrana-Flores* and holding “an officer’s completion of a warrant check during a street stop where the officer has reasonable suspicion of criminal activity is not *per se* unreasonable under the Fourth Amendment”). In other words, what good is the ability to check identification during a stop, if an officer cannot do anything with that identity information.

Around five years after *Villagrana-Flores* came down, the Tenth Circuit considered another pedestrian stop in *United States v. Burleson*, 657 F.3d 1040 (10th Cir. 2011). In that case, an officer encountered a group of men walking in the middle of a street carrying a dog. *Id.* at 1042-43. The officer told the men that they were not permitted to walk in the middle of the street, and then asked them what they were doing, about the dog, and for their names. *Id.* at 1043. After

⁷ In *Hiibel*, the Supreme Court explained that “[o]btaining a suspect’s name in the course of a *Terry* stop serves important government interests. Knowledge of identity may inform an officer that a suspect is wanted for another offense, or has a record of violence or mental disorder.” *Hiibel*, 542 U.S. at 186.

obtaining their names, the officer requested a warrant check, and dispatch responded that one of the men, Burleson, was wanted on an outstanding warrant.

Id. After confirming the warrant, the officer arrested Burleson and found two handguns and ammunition in his pants. *Id.* Burlson moved to suppress the guns and ammunition, which the district court granted, concluding that the officer exceeded the permissible scope of the detention when he ran the warrant check, since the purpose of the stop had ended and there was no objective basis for the officer to fear for his safety under the circumstances. *Id.*

On appeal, the Tenth Circuit reversed, reiterating its prior holding that “*Villagrana-Flores* . . . establishes that an officer, during the course of a lawful *Terry* stop of a pedestrian, may obtain that pedestrian’s identification and request a warrants check.” *Burleson*, 657 F.3d at 1047. The court explained that, contrary to the district court’s decision, the stop had not been completed before the officer ran the warrant check because the officer’s decision about whether to issue “a citation, a warning, an arrest, or some other action will depend in part on what transpires during the detention, including the results of the computer check.” *Id.* at 1048. At the time the officer called in the warrant check, the court wrote, “the risk of an uneven, dangerous confrontation remained, and thus his actions were justified on officer-safety grounds.” *Id.* at 1052. The court also said that officer

safety was not the only consideration at play; the officer was also “entitled to determine whether any of the detainees were evading justice.” *Id.* at 1051.

The Court agrees with the reasoning of *Villagrana-Flores* and *Burlson*. Contrary to Mr. Sumlin’s arguments otherwise, a pedestrian stop certainly does implicate many of the same safety concerns as in a traffic stop, particularly so when the stop occurs in or adjacent to public transportation like MARTA. What’s more, in this case, beyond his alcohol consumption, Mr. Sumlin was blading his body, and Officer White also noticed the outline of the butt of a gun during his encounter, which provides an additional objective basis for Officer White to fear for his safety. And officer-safety concerns are just part of the picture; important too is “the strong government interest in solving crimes and bringing offenders to justice.” *Villagrana-Flores*, 467 F.3d at 1277 (quoting *Hensley*, 469 U.S. at 229). Thus, Officer White “was justified in performing a warrants check even in the absence of objective safety concerns because he was entitled to determine whether [Mr. Sumlin was] evading justice.” *Burleson*, 657 F.3d at 1051. “Indeed, his action accomplished this purpose, and Mr. [Sumlin] was apprehended on an outstanding warrant.” *Id.*

Mr. Sumlin’s arguments to the contrary are not persuasive. First, he takes aim at *United States v. Purcell*, 236 F.3d 1274 (11th Cir. 2001), which the

government cites to support its contention that criminal record checks can fall within the mission of a *Terry* stop. In *Purcell*, the defendants, Shon and Albert Purcell, were stopped on I-95 for a traffic violation. *Purcell*, 236 F.3d at 1276. The officer ran a criminal history check on both the driver, Shon Purcell, as well as the passenger, Albert Purcell, while concurrently filling out a traffic citation. *Id.* While waiting for a response, the officer asked Shon Purcell if he had been arrested before, and in response, he admitted to past drug-related arrests. *Id.* The officer then asked if there were any narcotics, weapons, or contraband in the car, and Shon Purcell consented to a search, stating he had nothing to hide. *Id.* A search of the vehicle revealed cocaine. *Id.* The Purcells moved to suppress the cocaine, which the district court denied.

On appeal, the Purcells argued that the duration of a permissible traffic stop was exceeded when the officer prolonged the detention to wait for information on the criminal histories. *Purcell*, 236 F.3d at 1277. They also argued that the scope of the stop was also impermissibly enlarged when the officer asked Shon Purcell whether he had contraband in the car. *Id.* The Court of Appeals disagreed. The Eleventh Circuit found that performing a background check as part of running a routine computer check does not render the check unconstitutional, because it is “justified for officer safety” and “is both reasonable

and minimally intrusive.” *Id.* at 1278. The court added that because the officer had not received the computer check results by the time Shon Purcell consented to the search, the traffic stop had not concluded “and the detention continued to be supported by the facts that justified its initiation.” *Id.* Even so, the court declined to hold that a criminal history check is always a reasonable, constitutional part in every traffic stop. *See Purcell*, 236 F.3d at 1278. The court left open the possibility that in “some circumstances a criminal record request might lengthen a traffic stop beyond what is reasonable in a particular case” and that “[a]fter a certain point, this might constitute an unreasonable detention.” *Id.* at 1279. But in *Purcell*, the Eleventh Circuit concluded that because the “request for the criminal histories prolonged the traffic stop, at most, by approximately three minutes,” the “delay was de minimis in the context of the totality of the circumstances of this traffic stop.” *Id.*

Mr. Sumlin argues that the reasoning of *Purcell* does not apply to pedestrian stops because police interactions with MARTA patrons are less dangerous than stopping a motorist. [Doc. 34 at 8-9.] Seizing on the fact that in *Purcell*, the government presented evidence that traffic stops on I-95 were highly risky, Mr. Sumlin, argues that here there is “nothing” that “shows the ‘tragedy’ of ‘many officers’ being ‘shot’ during routine, pedestrian stops at MARTA

stations each year.” [Doc. 34 at 9 (quoting *Purcell*, 236 F.3d at 1279).] Maybe so, but the Court cannot agree that there must be evidence of MARTA officers actually being shot at while detaining patrons for petty offenses to conclude that officers may be reasonably concerned for their safety during pedestrian encounters. While the nature of the danger may not be exactly the same, common sense tells us that there still a risk to officer safety, if not to other MARTA patrons who may be innocent bystanders.⁸ Again, the undersigned believes that the Tenth Circuit’s recognition that pedestrian encounters pose some measure of risk is the more reasonable approach, and if presented with this issue, the Eleventh Circuit would agree.

⁸ Also, Mr. Sumlin is reminded in August 2025, two MARTA police officers actually were shot at the Five Points MARTA Station, allegedly by a man they confronted urinating on the station platform. See MARTA Shooting Suspect Arrest in Alabama, Officers Recovering, located at <https://www.fox5atlanta.com/news/marta-officers-shot-five-point-station-suspect-run> (last visited Nov. 24, 2025); cf. Person Stabbed Overnight Near Midtown Station, located at <https://www.atlantaneewsfirst.com/2025/10/08/person-stabbed-overnight-near-midtown-station-marta-says/> (last visited Nov. 24, 2025); Suspect in Custody after Man Stabbed to Death at Five Points MARTA Station, located at <https://www.11alive.com/article/news/crime/deadly-stabbing-at-five-points-marta-station/85-9a4af66e-67ff-43e1-b7c1-ae37c254ae26> (last visited Nov. 24, 2025). The Court does not rely on these real-world examples to reach its conclusion that the risk of officer safety is present even in pedestrian encounters, but uses them merely to show that the safety of officers and other patrons using MARTA is not merely an academic issue.

Mr. Sumlin also argues that *Purcell* was decided before *Rodriguez* and therefore “relies on outdated reasoning” that centered on the reasonableness of the duration of the criminal history check. [Doc. 34 at 9 (citing *Purcell*, 236 F.3d at 1278).] In doing so, however, Mr. Sumlin conflates two issues—first, whether an officer’s action is part of the mission of the stop and, second, whether a deviation from the mission prolongs the stop. He is correct that *Purcell* used the “reasonable time” standard previously applicable in this Circuit. See *Campbell*, 26 F.4th at 883-85. But *Rodriguez* and *Campbell* “did not reject or undermine any part of *Purcell*’s officer safety rationale.” See *United States v. Morgan*, No. 7:24-CR-00230-AMM-JHE-1, 2025 WL 1665759, at *6 (N.D. Ala. Apr. 1, 2025), *report and recommendation adopted*, 2025 WL 1319427 (N.D. Ala. May 7, 2025). Instead, as *Rodriguez* instructs, an officer who conducts a check for outstanding warrants does not actually deviate from the “mission” of the stop, since the mission is, among other things, to address the criminal violation and attend to related safety concerns. 575 U.S. at 355.

Mr. Sumlin also submits that under *Purcell*, warrant checks should not automatically be part of all pedestrian stops because the court declined to say that, as a categorical matter, criminal history checks are always a reasonable, constitutional part of a traffic stop. [Doc. 34 at 10.] But *Purcell* was concerned

that “[u]nder some circumstances a criminal record request might lengthen a traffic stop beyond what is reasonable in a particular case” and that “[a]fter a certain point, this might constitute an unreasonable detention.” *Purcell*, 236 F.3d at 1279. “This is congruent with the *Rodriguez* standard because *Rodriguez* ends the authority for a traffic stop ‘when tasks tied to the traffic infraction are—or reasonably should have been—completed.’” *See Morgan*, 2025 WL 1665759, at *6 (quoting *Rodriguez*, 575 U.S. at 354). “In other words, an unreasonably long records check would be invalid under both *Purcell*’s application of the pre-*Rodriguez* standard and under *Rodriguez* itself. *Id.*

Likewise, in the present context, the undersigned acknowledges that it is possible that there could be circumstances where officers take such an unreasonably long time to run a background check that the check itself prolongs the stop to the point of unconstitutionality. But this is not such a case. The warrant check—which, to reiterate, was part of the mission of the stop according to *Rodriguez*—lasted no more than 8 minutes, during which time Office White acted diligently, immediately calling in Mr. Sumlin’s information to dispatch and completing the tickets while awaiting a response. (*See Gov’t Ex. 1 at 3:48-10:44.*)

Mr. Sumlin also directs the Court to *United States v. Luckett*, 484 F.2d 89 (9th Cir. 1973), where the Ninth Circuit held that a warrant check on a pedestrian

violated the Fourth Amendment. [See Doc. 34 at n.4.] In that case, two police officers saw Luckett jaywalking, called him over to their patrol car, and requested identification. *Luckett*, 484 F.2d at 90. He produced five pieces of identification, and the officers issued him a citation. *Id.* But the officers still continued to detain him to run a warrant check, which revealed an outstanding warrant. *Id.* Luckett was then arrested, at which point the police found counterfeit money orders in his pocket. *Id.* The district court granted Luckett's motion to suppress the evidence, and the Ninth Circuit affirmed, reasoning that by the time the officers had verified Luckett's identity and issued the citation, the officers had completed the purpose of the stop. *Id.* at 91. And because the officers lacked any reasonable basis to be suspicious that Luckett might have an outstanding a warrant, the Ninth Circuit found his continued detention for the warrant check to be unreasonable under *Terry*. *Id.*

Luckett is not persuasive here. The *Luckett* court did not evaluate the reasonableness of the detention in light of officer safety or the public interest in ensuring that fugitives are brought to justice, as the Tenth Circuit did in *Villagrana-Flores* and *Burleson*, and as the Eleventh Circuit explained in *Purcell* (at least as to safety concerns). Moreover, although it is not entirely clear from the *Luckett* opinion, the sequence of events appears to be different than here. In

Luckett, the officers conducted the warrant check *after* the defendant's identify had been confirmed and the ticket had been issued. *Id.* at 91. Here, by contrast, the warrant check was completed *before* Officer White issued the tickets. Indeed, Officer White testified credibly that he would not have issued the tickets until he knew if Mr. Sumlin was wanted. (Hr'g Tr. at 33 ("So I had to get the return back from radio, and they'll tell me if he's wanted or not. If he wasn't wanted, then I had to get out the case numbers, call-out time, and put all that on the ticket, and put a court date on there for him"). Thus, here, the mission of the stop had not concluded. *See Burleson*, 657 F.3d at 1048 ("Whether an officer opts for a citation, a warning, an arrest, or some other action will depend in part on what transpires during the detention, including the results of the computer check.").

Mr. Sumlin next argues that being a pedestrian is not "heavily regulated" as driving, and thus, the state has a less compelling interest in making sure individuals who are on foot do not have outstanding warrants. [Doc. 34 at 7-8.] He also contends, "properly interpreting the Fourth Amendment now requires an examination of early American history." [*Id.* (citing *United States v. Jones*, 565 U.S. 400, 406 (2012)).] Pointing to a single internet article, he contends that the time the Fourth Amendment was ratified, sheriffs recruited local civilians into a group called a "posse comitatus" to help arrest fugitives. [*Id.* at 12-13.] He argues

that there is no evidence that back then, law enforcement officers conducted warrant checks whenever a pedestrian was stopped, as they did not carry lists of warrants around with them. [*Id.* at 13.] He urges that advances in modern technology that allow law enforcement to check a database for warrant results should not “erode the Fourth Amendment’s fixed sphere of protection.” [*Id.* at 13 n.10.]

The Court is not aware of any court that has considered, much less followed, these arguments. Nor does this Court find them persuasive. To start, the Court does not believe that the mere fact that driving a car is more regulated than walking in a public transit station means that pedestrian encounters should be treated differently than traffic stops. As discussed above and as the Tenth Circuit has explained, the same concerns about safety and ensuring fugitive are brought to justice — which are, of course, the concerns justifying warrant checks — apply regardless of whether a suspect is encountered in a vehicle or on foot. And as for Ms. Sumlin’s internet article, he provides no information about the author’s qualifications. But regardless, the piece simply recounts the history of *posse comitatus* from Colonial America to the present; it never suggests that at the time of ratification of the Fourth Amendment law enforcement did not or could not check whether someone was wanted during an investigatory stop, nor does it

provide any useful information whatsoever about the distinction between traffic stops and pedestrian stops. And finally, it does not matter that law enforcement can perform a warrant check out in the field using modern communications and databases (as happened here), because an individual has no reasonable expectation of privacy in records relating to his criminal history. (See Tr. 13-14, 41.) See *Jones v. Buckner*, 963 F. Supp. 2d 1267, 1277 (N.D. Ala. 2013) (“A person does not have a reasonable expectation of privacy in public records such as those accessed through the NCIC database, and searching Plaintiff’s records through any such database does not violate the federal constitution.”) (citing *United States v. Ellison*, 462 F.3d 557, 562 (6th Cir. 2006) and *Eagle v. Morgan*, 88 F.3d 620, 628 (8th Cir. 1996)); see also *Purcell*, 236 F.3d at 1278 (characterizing computer checks as minimally invasive in the context of a traffic stop because, “in most cases, the occupants of the car will not even know what information has been requested as part of the computer check”). So, the mere fact that nowadays law enforcement can more readily check pull a suspect’s criminal and warrant history is not something that implicates the Fourth Amendment.

Separate and apart from the warrant check, Mr. Sumlin also argues that Officer White unlawfully prolonged the stop by exchanging brief pleasantries with a passerby. [Doc. 24 at 10.] As Mr. Sumlin correctly notes, even a *de minimis*

prolongation of a traffic stop violates the Fourth Amendment. *See Campbell*, 26 F.4th at 883-84. But here, Officer White's banter with the passing man did not add time to the stop, because at the time he had not received a response from dispatch on the warrant check he was still waiting for. As such, he did not lengthen the stop with his exchange. *See United States v. Gilbert*, No. 7:24-CR-157-LSC-GMB, 2024 WL 4468828, at *6 (N.D. Ala. Sept. 16, 2024) (holding that officer did not prolong stop by asking for permission to search the defendant's car because the "questions came after he radioed her driver's license information to the dispatch officer but before he received confirmation of her outstanding arrest warrant"), *report and recommendation adopted*, 2024 WL 4466737 (N.D. Ala. Oct. 10, 2024).

In sum, the Court finds that running a warrant check was within the mission of the stop and that Officer White did not prolong the stop beyond what was necessary to effectuate the purpose of the stop. *See Rodriguez*, 575 U.S. at 354. Thus, the motion to suppress should be **DENIED**.

D. The Attenuation Doctrine

The Court's analysis can stop here. But because of the advisory nature of this report and recommendation, the Court addresses whether, assuming Officer White lacked reasonable suspicion to detain Mr. Sumlin and the stop was in fact

unconstitutional, the attenuation doctrine exception to the exclusionary rules applies. For the reasons that follow, the undersigned concludes that it does.

In *Utah v. Strieff*, the Supreme Court held on facts very similar to the case at bar that evidence seized incident to arrest following an unlawful stop was admissible because the officer discovered an active arrest warrant, which “attenuated the connection between the unlawful stop and the evidence seized incident to arrest.” 579 U.S. at 235. In that case, a police officer who lacked reasonable suspicion unlawfully detained Strieff, and as part of the stop, the officer obtained his information and relayed it to dispatch, which confirmed an outstanding warrant. *Id.* The officer arrested Strieff, and during a search incident to arrest, discovered a baggie of methamphetamine and drug paraphernalia. *Id.* at 235-36.

Applying the attenuation doctrine, the Court identified three factors relevant to whether such evidence should be suppressed: (1) the temporal proximity between the unconstitutional conduct and the discovery of the evidence; (2) whether intervening circumstances are present; and (3) the purpose and flagrancy of the officer’s misconduct. *Strieff*, 579 U.S. at 239. The Court found that the first factor favored suppression because the initiation of the stop was very close in time to the discovery of the contraband. But the Court then found

that the other two factors counseled against suppression. *Id.* at 239-40. As for the second factor, the Court concluded that the outstanding warrant dissipated the taint associated with the unconstitutional stop because it was valid, predated the stop, and was entirely unconnected to the stop. *Id.* at 240-41. Indeed, the Court explained, once an officer discovers a warrant, he or she must make an arrest or conduct a search. *Id.* at 240 (characterizing an arrest on an outstanding warrant as “ministerial act”). And with regard to the third factor, the Court found that the officer was at most negligent in stopping Strieff, and that after the stop was initiated, his conduct—including running a warrant check—was lawful and nothing suggested that the stop was part of any systemic or recurrent police misconduct. *Id.* at 241-42.

Even assuming that Officer White’s stop was unconstitutional, applying the foregoing factors here still leads to the same result. The first factor – temporal proximity – weighs in favor of exclusion because Officer White discovered the gun within ten minutes of initially encountering Mr. Sumlin. The second factor – intervening circumstances – weighs heavily against exclusion, however, because “the warrant was valid, it predated Officer [White’s] investigation, and it was entirely unconnected with the stop.” *Strieff*, 579 U.S. at 240. Thus, like the officer in *Strieff*, Officer White was required, upon discovery of the valid warrants, to

arrest Mr. Sumlin. And because he was authorized to arrest Mr. Sumlin, “it was undisputedly lawful to search [him] as an incident of his arrest to protect Officer [White’s] safety.” [*Id.*]

The third factor – the purpose and flagrancy of the officer’s misconduct – also counsels against exclusion because there was nothing about Officer White’s interaction with Mr. Sumlin that could possibly be characterized as purposefully wrong or flagrantly so. While Mr. Sumlin believes it is incredible that Officer White recognized that he was drinking an alcoholic beverage, the Court disagrees. The bodycam shows that Mr. Sumlin was drinking out of a plastic bag, obviously attempting to conceal its contents. Officer White also testified credibly that, based on his more-than-a-decade of experience with alcohol violations, he could tell from the top of the can – along with its design and colors – that it was an alcoholic beverage. And nothing prevented Officer White from approaching Mr. Sumlin and asking him questions about what he was drinking or for his identification. *See Hiibel*, 542 U.S. at 185 (“In the ordinary course a police officer is free to ask a person for identification without implicating the Fourth Amendment.”); *see also Strieff*, 579 U.S. at 242 (“A seizure does not occur simply because a police officer approaches an individual and asks a few questions.” (quoting *Florida v. Bostick*, 501 U.S. 429, 434 (1991) (alteration

adopted)). Nor is there any suggestion that this encounter “was part of any systemic or recurrent police misconduct.” *Strieff*, 579 U.S. at 242. Rather, the evidence before the Court shows that the stop was based on Officer White’s bona fide belief that Mr. Sumlin was unlawfully consuming an alcoholic beverage. Finally, Officer White’s conduct during the encounter itself—including running the warrant check—was lawful. As the Supreme Court explained in *Strieff*, running the warrant check was not itself unlawful and, indeed, the “decision to run the warrant check was a negligibly burdensome precaution for officer safety.” *Id.* at 241 (alteration adopted) (*quoting Rodriguez*, 575 U.S. at 356).⁹

Accordingly, even if the initial stop was an investigatory stop that was not supported by reasonable suspicion, the evidence seized incident should not be suppressed because the discovery of the warrants attenuated the connection between the stop and the seizure.

III. CONCLUSION

In sum, it is **RECOMMENDED** that Mr. Sumlin’s motion to suppress [Doc. 11] and his motion to dismiss [Doc. 32] be **DENIED**.

⁹ This observation is noteworthy because *Strieff* recognized that even in a pedestrian encounter, a warrants check helped protect officer safety. 579 U.S. at 241. This further supports the reasoning of the Tenth Circuit cases (and *Purcell*) discussed above.

I have now addressed all pretrial matters referred to me and have not been advised of any impediments to the scheduling of a trial. Accordingly, this case is **CERTIFIED READY FOR TRIAL**.

IT IS SO RECOMMENDED this 25th day of November, 2025.



JOHN K. LARKINS III
United States Magistrate Judge