**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 25-4440**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

AUSTIN GWYNN STARNER,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas D. Schroeder, District Judge. (1:24-cr-00264-TDS-1)

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Submitted: August 27, 2026 Decided: August 31, 2026

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Before KING, HEYTENS, and BENJAMIN, Circuit Judges.

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Dismissed in part, affirmed in part by unpublished per curiam opinion.

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**ON BRIEF:** Eric D. Placke, Interim Federal Public Defender, Stacey D. Rubain, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Greensboro, North Carolina, for Appellant. Julie Carol Niemeier, Assistant United States Attorney, Karla E. Painter, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Austin Gwynn Starner pleaded guilty, pursuant to a written plea agreement, to possession with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B), and possession of a firearm by a felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(8). Prior to pleading guilty, Starner moved to suppress the firearm, controlled substances, and drug paraphernalia obtained, and statements he made, following his detention, a frisk of his person, and a warrantless search of the vehicle in which Starner was located. The district court denied the motion. Starner subsequently entered a conditional plea, preserving his right to appeal the denial of his motion to suppress. The district court sentenced Starner below the advisory Sentencing Guidelines range to 120 months' imprisonment and three years of supervised release.

On appeal, Starner's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), asserting that there are no meritorious grounds for appeal, but questioning whether the district court erred by denying Starner's motion to suppress. Specifically, counsel questions whether the district court erred in finding that Starner lacked a reasonable expectation of privacy in the stolen vehicle, that the officer's detention and frisk of Starner were supported by reasonable suspicion, and that the warrantless search of the vehicle was supported by probable cause or, alternatively, the inevitable discovery doctrine. Counsel also questions the procedural and substantive reasonableness of Starner's sentence. Starner

has also filed pro se supplemental brief raising additional issues.[*] The Government has moved to dismiss the sentencing challenge based on the appeal waiver in Starner's plea agreement. We dismiss in part and affirm in part.

"We review an appellate waiver de novo to determine its enforceability" and "will enforce the waiver if it is valid and if the issue being appealed falls within its scope." *United States v. Carter*, 87 F.4th 217, 223-24 (4th Cir. 2023) (internal quotation marks omitted). "[A]n appellate waiver is valid if the defendant knowingly and voluntarily agreed to it." *Id.* at 224. To determine whether a waiver is knowing and voluntary, "we look to the totality of the circumstances, including the defendant's experience, conduct, educational background and knowledge of his plea agreement and its terms." *Id.* "When a district court questions a defendant during a [Federal] Rule [of Criminal Procedure] 11 hearing regarding an appeal waiver and the record shows that the defendant understood the import of his concessions, we generally will hold that the waiver is valid." *United States v. Boutcher*, 998 F.3d 603, 608 (4th Cir. 2021).

We conclude that the district court did not err, plainly or otherwise, in accepting Starner's plea. The district court fully complied with Rule 11 and properly found that Starner's plea was knowing, voluntary, and supported by an independent factual basis. *See United States v. Taylor-Sanders*, 88 F.4th 516, 522-23 (4th Cir. 2023). Moreover, our review of the record confirms that Starner knowingly and intelligently waived his right to

[*] We have considered the issues raised in the pro se brief and conclude that they lack merit.

appeal his conviction and sentence on any ground, except if the sentence exceeded the statutory maximum, was based on an unconstitutional factor, or if the Government appealed. We therefore conclude that the appellate waiver is valid and enforceable and that any challenge to the calculation or reasonableness of Starner's sentence, including the procedural and substantive reasonableness challenge raised by counsel, falls squarely within the waiver's broad scope.

Starner's appeal waiver, however, does not bar review of the denial of his suppression motion, which Starner expressly preserved in his plea agreement. We review "the legal conclusions underlying the denial of a motion to suppress" de novo, and any "factual findings relating thereto" for clear error. *United States v. Sanders*, 107 F.4th 234, 250 (4th Cir. 2024). In doing so, we view the evidence in the light most favorable to the Government. *Id.* We "particularly defer to a district court's credibility determinations" because "it is the role of the district court to observe witnesses and weigh their credibility during a pre-trial motion to suppress." *United States v. Purks*, 139 F.4th 388, 396 (4th Cir. 2025) (internal quotation marks omitted).

Starner's counsel first questions the district court's conclusion that the responding officer had reasonable suspicion to detain and frisk Starner. An officer may briefly detain a person for investigative purposes when there is reasonable suspicion, based on articulable facts, that criminal activity is afoot. *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000).

At the hearing, the district court credited the testimony of the responding officer regarding the circumstances leading up to the encounter, which was consistent with the video from his body-worn camera. We see no basis to disturb that credibility

determination. Here, the officer responded to a report that two individuals were unresponsive in a running vehicle in a store parking lot for hours, despite store employees attempting to wake them. When the officer arrived, he likewise was unable to rouse Starner despite repeated attempts. The officer further observed drug paraphernalia in plain view inside the vehicle, including a bong and a pipe.

The district court properly concluded that these combined circumstances supported a reasonable inference that Starner and his passenger were impaired or involved in drug activity. *See United States v. Arvizu*, 534 U.S. 266, 273-74 (2002) (requiring consideration of the totality of the circumstances). And because the officer reasonably suspected that the vehicle contained illegal drugs, he was permitted to remove Starner from the vehicle to conduct a protective frisk for weapons, which revealed a concealed firearm and methamphetamine on Starner's person. *See United States v. Rooks*, 596 F.3d 204, 210 (4th Cir. 2010).

Counsel for Starner also questions the warrantless search of the vehicle. The district court properly concluded, however, that Starner lacked a reasonable expectation of privacy in the vehicle. The Government established that Starner had no legitimate claim to the vehicle, which had been reported stolen and bore fictitious license plates. Moreover, Starner did not carry his burden to demonstrate that he had innocently acquired the stolen vehicle. *See United States v. Hargrove*, 647 F.2d 411, 412 (4th Cir. 1981) (holding that, where the government establishes that a vehicle is stolen and defendant does not show that he acquired the vehicle innocently, defendant lacks a reasonable expectation of privacy in the car and lacks standing to object to its search).

Even assuming that Starner had standing to challenge the search of the vehicle, the district court properly concluded that the search was supported by probable cause. The discovery of drug paraphernalia in plain view, Starner's visible impairment, and the firearm and methamphetamine discovered during the frisk provided a substantial basis for the officer to conclude that the vehicle contained evidence of drug activity. *See United States v. Runner*, 43 F.4th 417, 421 (4th Cir. 2022) ("Probable cause is a flexible, common-sense standard that merely requires that the facts available to the officer would warrant a man of reasonable caution in the belief . . . that certain items may be contraband or stolen property or useful as evidence of a crime" (internal quotation marks omitted)).

In accordance with our obligations under *Anders*, we have reviewed the entire record for any potentially meritorious issues that do not fall within the scope of the appeal waiver and have found none. We therefore grant the Government's motion to dismiss and dismiss the appeal as to all issues falling within the scope of the broad appeal waiver in Starner's plea agreement. We affirm the remainder of the criminal judgment.

This court requires that counsel inform Starner, in writing, of the right to petition the Supreme Court of the United States for further review. If Starner requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Starner. We dispense with oral argument because the

facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED IN PART,*
*AFFIRMED IN PART*