

Case Summaries: Fourth Circuit Court of Appeals (Nov. 12 & 18, 2025)

While the officer acted reasonably in stopping the defendant at gunpoint under the circumstances, court rejects officer's suggestion that a firearm may be used during any encounter for any crime; defendant's Second Amendment challenge to firearm by felon was foreclosed by circuit precedent

[U.S. v. Coe](#), 159 F.4th 202 (Nov. 12, 2025). In this case from the Eastern District of Virginia, an officer noticed the defendant sitting in a car in front of a convenience store. The defendant was in the driver's seat of the car, another person was sitting in the front passenger seat, and other people were mingling about. The officer knew that illegal drug activity frequently occurred inside and outside of the store. The officer noticed the defendant was holding plastic bags with apparent cocaine inside. The officer approached the car, drew his gun, and opened the driver's side door. The officer pinned the defendant to the side of the car as the defendant exited. At this point, the officer lowered his gun and pulled out his taser. The defendant resisted the officer and threw the bags containing suspected cocaine towards the front of the car. During the encounter, the officer noticed a gun in the defendant's waistband, leading to a federal prosecution for possession of firearm by a felon.

The defendant moved to dismiss the indictment as violative of the Second Amendment. He also moved to suppress, arguing that the officer used excessive force during the encounter. The district court denied both motions. Under *U.S. v. Hunt*, 123 F.4th 697, 700 (4th Cir. 2024), the federal prohibition on possession of firearms by felons is constitutional under the Second Amendment unless the crime of conviction has been deemed illegal or the defendant has been pardoned, and neither of those exceptions applied here. The district court assumed that the officer violated the Fourth Amendment but denied the motion to suppress for other reasons not articulated in the opinion. On appeal, a unanimous panel of the Fourth Circuit affirmed on both fronts.

The defendant contended that the officer approached him with his finger on the trigger of his firearm, with the safety off, and pointed the gun into the defendant's side and back. However, the district court declined to find that the officer's finger was on the trigger or that the officer pointed the gun into the defendant's body. The Fourth Circuit determined that the defendant did not argue (much less prove) that the district court clearly erred by failing to so find, and it is not the role of the appellate court to second guess the district court's factual determinations. Further, the appellate court also may affirm the district court on any grounds apparent from the record, and the court chose to do so here. Under the circumstances, the officer's brief use of his firearm during the encounter was reasonable. "[The officer] was outnumbered, had probable cause to believe Coe was brazenly committing a serious drug offense in public, and drew his firearm for less than 30 seconds." *Coe* Slip op. at 4. This was not unreasonable under the circumstances and did not violate the Fourth Amendment. However, the officer testified at suppression that "regardless of what type of crime it is, if you're going to encounter a person . . . obviously best to go with the firearm first because you never know what the person has." *Id.* As to those remarks, the court made the following observation:

[The officer's] declared philosophy about when to draw a weapon is not the law, and we denounce such views in the strongest possible terms. As this Court has explained, 'unwarranted threats of deadly force can violate the Fourth Amendment'. . . [W]e

emphasize that officers have no constitutional carte blanche to draw firearms ‘whenever there’s any type of crime that’s committed.’” *Id.* (internal citation omitted).

Defendant could not show prejudice resulting from pre-accusation delay; district court correctly refused to consider a collateral attack to state conviction; while the district court improperly limited the defense expert’s testimony, the error was harmless

[U.S. v. Palmer](#), 159 F.4th 221 (Nov. 18, 2025). As a part of the process of becoming a United States citizen, applicants are asked whether they have ever committed a crime for which they were not charged or arrested. During that process, the defendant indicated “no” to that question once in writing and again orally during an interview with an immigration officer. The defendant became a citizen in 2011. In 2013, the defendant was charged in North Carolina state court with multiple sexual crimes involving a minor stemming from conduct that occurred in 2008. He ultimately pleaded guilty to attempted statutory rape in exchange for dismissal of his other charges. In 2021, the defendant was charged in federal court with naturalization fraud in the Western District of North Carolina based on his apparent misrepresentation of his prior uncharged criminal history. He moved to dismiss for improper pre-accusation delay. He also moved to suppress evidence relating to his state court guilty plea and conviction. The district court denied both motions and the defendant elected to go to trial.

The defense obtained an expert in speech-language pathology. That expert offered opinions that the defendant “had a low IQ and a language-literacy developmental disorder.” *Palmer* Slip op. at 4. She further opined that the defendant could not have knowingly lied about his prior uncharged offenses because he would not have understood the question. The district court disallowed the expert from offering the second opinion—that the defendant could not have understood the question—at trial. The jury ultimately convicted the defendant. He was sentenced to six months in prison, and his citizenship was revoked pursuant to 8 U.S.C. 1451 (“Revocation of naturalization”). The defendant appealed, renewing his arguments about pre-accusation delay, the evidence of his state court guilty plea, and the limits placed on the testimony of his expert.

Although statutes of limitation are the primary protection against “overly stale criminal charges,” pre-accusation delay, even within the statute of limitations, can violate due process where the defendant can show actual prejudice resulting from the delay and where that prejudice outweighs the government’s justifications for the delay. *Palmer* Slip op. at 6 (citing *U.S. v. Lovasco*, 431 U.S. 783, 789 (1977)). Under circuit precedent, if the prejudice claimed relates to a now-unavailable witness, the defendant must “identify the witness; demonstrate, with specificity, the expected content of that witness’ testimony; establish to the court’s satisfaction that he has made a serious attempt to locate the witness; and . . . show that the information the witness would have provided was not available from other sources.” *Jones v. Angelone*, 94 F.3d 900, 908 (4th Cir. 1996). Even then, the defendant still must show that the prejudice resulting from the missing witness is “substantial.”

Here, the defendant claimed prejudice in that he was indicted just before the ten-year statute of limitations would have run. Between the time of his state court guilty plea and his present indictment, his mother had died. According to the defendant, his mother would have testified favorably on his behalf. The district court found this argument speculative and rejected it. The Fourth Circuit agreed. “Although Palmer claims that he’s presented credible evidence to corroborate his assertions, we find none in the record. He’s thus failed to demonstrate the expected content of his mother’s testimony with specificity.” *Palmer* Slip op. at 7. Even if his mother had testified as predicted, other witnesses presented

the same information regarding the defendant's intellectual challenges, and other family members of the defendant could have been called to testify about his background and limitations. Because he failed to demonstrate prejudice arising from the delayed charging decision, his pre-accusation delay claim necessarily failed.

The defendant's challenge to the admission of evidence relating to his state court conviction and guilty plea similarly failed. The district court properly deemed these arguments collateral attacks on the plea and refused to consider them. State convictions and guilty pleas are presumptively valid. While a denial of the right to counsel can render a state guilty plea invalid, the defendant here was represented by counsel in state court. Even if his state court lawyer failed to properly advise him on the collateral consequences of the plea, it was not the place of the district court (or the Fourth Circuit) to address the validity of that plea in this proceeding.

As to the district court's limiting of the defendant's expert testimony, the court found that the expert should have been permitted to testify about the defendant's grade-level reading ability and the readability of the question on the naturalization form, but this error was harmless under the facts of the case. "Palmer fails to distinguish the excluded testimony from the plethora of other evidence the jury heard about his language-processing challenges." *Id.* at 11.

The judgment of the district court was therefore affirmed in all respects.