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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-0557**

State of Minnesota,
Respondent,

vs.

Ronald Ezel Scott,
Appellant.

**Filed February 5, 2018
Affirmed
Halbrooks, Judge**

Hennepin County District Court
File No. 27-CR-15-1803

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Halbrooks, Judge; and Reyes, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant challenges his convictions of controlled-substance crimes on the ground that the district court abused its discretion by (1) making several evidentiary rulings,

(2) admitting an unavailable witness's jail-call statements, (3) excluding defense-witness testimony, (4) admitting impeachment evidence, and (5) denying a pretrial motion to suppress evidence seized from an allegedly unlawful traffic stop. In his pro se supplemental and reply briefs, appellant also asserts claims of ineffective assistance of counsel, prosecutorial misconduct, judicial bias, and that the district court erred in its evidentiary rulings. We affirm.

FACTS

In January 2015, two Minneapolis police officers were patrolling a high-crime neighborhood when they observed a slow-moving vehicle approach a woman standing on the street. When the vehicle turned into an alley, the woman followed. After the officers also turned into the alley, they observed the woman get into the backseat of the vehicle.

The driver of the vehicle drove down the alley at an above-average speed and turned right onto a street, at which point the officers observed that none of the occupants was wearing a seatbelt. The officers signaled the vehicle to pull over. The driver stopped but then started driving away. Moments later, the driver pulled over again and stopped. The officers approached the vehicle in a parallel fashion with their guns drawn but pointed toward the ground. The officers holstered their guns upon reaching the passenger- and driver-side windows.

One officer saw marijuana sitting on passenger D.P.'s lap, so the officer ordered D.P. out of the vehicle, put him in handcuffs, and brought him around the back of the vehicle. Meanwhile, appellant Ronald Ezel Scott threw something between the driver seat and driver door. The officers ordered Scott out of the vehicle and conducted a pat-down

search, recovering more than \$4,500 in cash from inside Scott's jacket. When an officer tried to handcuff Scott, Scott broke free and ran from the scene. After giving chase, the officers found Scott hiding underneath a vehicle parked on a different street and arrested him. The officers seized more than 9 grams of methamphetamine, 5 grams of powder cocaine, 13 grams of cooked cocaine, latex rubber gloves, a scale, and clear plastic baggies from the vehicle.

The state charged Scott with first-degree cocaine sale in violation of Minn. Stat. § 152.021, subd. 1(1) (2014); second-degree cocaine possession in violation of Minn. Stat. § 152.022, subd. 2(a)(1) (2014); second-degree methamphetamine possession in violation of Minn. Stat. § 152.022, subd. 2(a)(1); and second-degree methamphetamine sale in violation of Minn. Stat. § 152.022, subd. 1(1) (2014).

Before trial, Scott moved to suppress all evidence, arguing that the officers used excessive force by drawing their guns for a seatbelt violation. The district court denied Scott's motion. The state noticed its intent to impeach Scott with three prior felony drug convictions and Scott's parole status. The district court excluded two of the convictions but admitted the third in addition to Scott's parole status.

R.F., an acquaintance of Scott's who was not present at the scene on the night of his arrest, filed an affidavit through Scott's counsel admitting liability for the drugs:

On Monday, January 19, 2015, at approximately 7:15-7:35 PM I went to drop my vehicle off to my friend, Ronald Scott, so that he could go and work out. I then had another individual pick me up and give me a ride home. The car was parked on the 35th block of Portland Ave in South Minneapolis, I left my keys in the visor for [Scott] to retrieve in order to use the vehicle. As time went by (I would say 30-45 minutes) I

checked my purse for a black “blood pressure” pouch which contained cocaine and methamphetamine inside. When I noticed that I didn’t have the pouch on me I immediately phoned [Scott] and received no answer. I remember calling him numerous times to let him know I had left those contents, so he could quickly return my car. I never got a response. I then used one of my friend’s cars to drive back over to South Minneapolis in hopes that he didn’t already pick the vehicle up and he did, I also went to the gym where he generally works out and he was not there either. The next morning I learned that he had been pulled over in my vehicle which contained my drugs in it.

At trial, Scott maintained that the drugs belonged to R.F., introduced R.F.’s affidavit as evidence, and called J.A., D.P., and R.F in support. J.A. testified that Scott was carrying a large amount of cash because he was buying a used vehicle from J.A. that day. D.P. attempted to offer an explanation as to why Scott fled from the police. But the prosecutor objected on relevancy grounds, and the district court sustained the objection. R.F. testified consistent with her affidavit. But as soon as R.F. finished testifying, the state arrested her for aiding an offender. Both sides rested, and R.F. spent the weekend in jail.

Before closing arguments on Monday, the prosecutor moved to reopen the state’s case in order to rebut R.F.’s testimony. The prosecutor advised the district court and appellant’s counsel that, during two jail calls recorded the same day that R.F. testified, she said on the phone to someone familiar with Scott’s trial, “[W]e had an agreement,” “I kept my end of the bargain,” and “[H]e said [he] was not going to hang [me] like Cookie.” The prosecutor argued that these statements established that R.F. lied about owning the drugs so as to take the fall for Scott. Scott moved for a continuance in order to listen to the tapes, which the district court granted.

The following morning, the district court granted the state's motion to re-open its case. Scott again requested a continuance, but the district court denied the motion.

When the prosecutor called R.F. in rebuttal, she invoked her Fifth Amendment privilege against self-incrimination. The prosecutor offered the jail calls as statements against R.F.'s penal interest. Scott's counsel objected, arguing that R.F.'s unavailability violated Scott's confrontation rights. After concluding that the jail calls were not testimonial, the district court admitted them into evidence. The prosecutor subsequently distributed copies of the transcripts, played the calls in their entirety, and argued during closing that R.F. took the fall for Scott. The jury convicted Scott on all four counts. This appeal follows.

D E C I S I O N

I.

A. Admission of R.F.'s Jail Calls

Scott first argues that the district court deprived him of a fair trial and abused its discretion by admitting the jail calls as statements against R.F.'s penal interest, reasoning R.F.'s statements were "an attempt at self-exculpation." "Evidentiary rulings rest within the sound discretion of the [district] court and will not be reversed absent a clear abuse of discretion. On appeal, the appellant has the burden of establishing that the [district] court abused its discretion and that appellant was thereby prejudiced." *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003) (citation omitted).

In two jail calls recorded the same day that R.F. testified, she made several statements to another person who was familiar with Scott's trial. R.F. said in one call,

“Like we had an agreement man,” and in another call, “I kept my end of the bargain,” “I don’t think he gonna get mad, cause I swear to God . . . he said, you know I’m . . . not going to hang you like Cookie right?” and “[Y]ou watch Empire, right?” R.F. also expressed overall discontent with her attorney, Scott’s attorney, and Scott, complaining about the need to testify on a Friday, getting arrested after stepping down from the witness stand, and being held in jail over the weekend. Over Scott’s objection, the district court admitted the jail calls as statements against R.F.’s penal interest.

Hearsay, which is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted,” Minn. R. Evid. 801(c), is inadmissible unless an exception applies, Minn. R. Evid. 802. One exception is for statements made against a declarant’s penal or pecuniary interest. Minn. R. Evid. 804(b)(3).

The rule states that if a declarant is unavailable, a statement is admissible if, at the time of its making, it “so far tended to subject the declarant to civil or criminal liability . . . that a reasonable person in the declarant’s position would not have made the statement unless believing it to be true.”

State v. Morales, 788 N.W.2d 737, 762 (Minn. 2010) (quoting Minn. R. Evid. 804(b)(3)).

Before admitting a statement under Minn. R. Evid. 804(b)(3), a district court must (1) determine that the declarant is unavailable to testify; (2) conclude that the statement, at the time of its making, so far tended to subject the declarant to civil or criminal liability that a reasonable person in the declarant’s position would not have made the statement

unless believing it to be true; and (3) scrutinize the statement so as to avoid violating the Confrontation Clause.¹ *Id.*

As to the second step, the supreme court concluded in *Morales* that a declarant's self-incriminating statements are admissible if, "in light of all the surrounding circumstances, they are sufficiently against the declarant's penal interest that a reasonable person in the declarant's position would not have made the statement unless believing it to be true," even if the statements also incriminate the accused. *Id.* at 763 (quotations omitted). The supreme court reasoned that the declarant's statements, although implicating the defendant in the crime, were truly inculpatory and not attempts to "shift blame or curry favor," *Williamson v. United States*, 512 U.S. 594, 603, 114 S. Ct. 2431, 2436 (1994), "secure a plea bargain in exchange for informing on accomplices" or "lessen his culpability," *Morales*, 788 N.W.2d at 765. "Instead, [the declarant] was conversing with a friend, without any expectation that his statements could be used to 'curry favor' with law enforcement." *Morales*, 788 N.W.2d at 765.

¹ At the time of Scott's trial in 2015, Minn. R. Evid. 804(b)(3) provided that a statement offered to exculpate the accused was "not admissible unless corroborating circumstances clearly indicate [its] trustworthiness." *Ferguson v. State*, 826 N.W.2d 808, 813 (Minn. 2013) (quotation omitted). Minn. R. Evid. 804(b)(3) was amended, effective 2016, to provide that a statement offered in a criminal case is not admissible unless corroborating circumstances clearly indicate its trustworthiness. See Minn. R. Evid. 804 2016 advisory comm. cmt. Rules of evidence are "applicable to any trial held after the effective date of the amendment." *State v. Friend*, 385 N.W.2d 313, 319 (Minn. App. 1986), review denied (Minn. May 22, 1986). Because Scott's trial was in 2015, we apply the pre-2016-amendments version of Minn. R. Evid. 804(b)(3). And because the statement was not offered to exculpate the accused—Scott—the corroborating circumstances requirement does not apply.

Here, R.F. said, “We had an agreement,” discussed holding up her end of a “bargain,” and told the person on the phone that Scott was not going to “hang [her] like Cookie,” referencing the television show *Empire*. In *Empire*, “the audience learns that Lucious and Cookie were both involved in drug dealing, and that Cookie pled guilty so that Lucious could pursue his music career and take care of their children.” See *Tanksley v. Daniels*, No. 16-CV-0081, 2017 WL 1735257, at *9 (E.D. Pa. Apr. 28, 2017) (describing the plot for *Empire* within copyright-infringement context). Scott maintains that R.F. made these statements as a way to lessen her culpability. We disagree.

The district court determined that R.F. did not make those statements as a way to minimize her culpability. Rather, R.F. was “conversing with a friend, without any expectation that [her] statements could be used to ‘curry favor’ with law enforcement.” *Morales*, 788 N.W.2d at 765. R.F.’s statements are self-incriminating as evidence of perjury or aiding an offender. See Minn. Stat. §§ 609.48, subd. 1 (criminalizing the making of a false material statement “in or for an action, hearing or proceeding of any kind in which the statement is required or authorized by law to be made under oath or affirmation”), .495, subd. 3(a) (criminalizing “intentionally aid[ing] another person whom the actor knows or has reason to know has committed a criminal act, by . . . providing false or misleading information about that crime . . . or otherwise obstructing the investigation or prosecution”), subd. 4(a) (criminalizing “assum[ing] responsibility for a criminal act with the intent to obstruct, impede, or prevent a criminal investigation”) (2014). In light of all surrounding circumstances, the statements, at the time of their making, so far tended to subject R.F. to criminal penalty such that a reasonable person in her position would not

have made those statements had they not been true. *Morales*, 788 N.W.2d at 767; *see State v. Usee*, 800 N.W.2d 192, 199 (Minn. App. 2011) (concluding that the district court did not err in admitting statement subjecting declarant to criminal liability equally with the defendant); *see also* Fed. R. Evid. 804 1972 advisory comm. cmt. (“[A] statement admitting guilt and implicating another person, made while in custody, may well be motivated by a desire to curry favor with the authorities and hence fail to qualify as [a statement] against interest. . . . On the other hand, the same words spoken . . . to an acquaintance[] would have no difficulty in qualifying.”).

But instead of analyzing each individual statement in the jail calls, the district court admitted the jail calls in their entirety. In *State v. Ford*, the Minnesota Supreme Court adopted the United States Supreme Court’s rule from *Williamson* for determining which statements meet the Minn. R. Evid. 804(b)(3) hearsay exception. 539 N.W.2d 214, 227 (Minn. 1995). “In *Williamson v. United States*, the Supreme Court concluded that the word ‘statement,’ as used in the statement-against-interest exception . . . should be narrowly construed as ‘a single declaration or remark’ rather than an entire confession narrative.” *Morales*, 788 N.W.2d at 763. “*Williamson* provides that the appropriate analysis under Rule 804(b)(3) does not consider whether an entire confession is, on balance, against the declarant’s interest. . . . Rather, courts must analyze whether individual declarations or remarks within a confession or conversation are each against the declarant’s interest.” *Id.* (citations omitted). The supreme court concluded in *Ford* that the district court abused its discretion for failing to conduct a *Williamson* analysis on the record but determined that the error was harmless. 539 N.W.2d at 227.

The supreme court has at least twice concluded that a district court erred for failing to parse out non-self-incriminating statements before admitting a statement under Minn. R. Evid. 804(b)(3). See *State v. Keeton*, 589 N.W.2d 85, 89 (Minn. 1998); *Ford*, 539 N.W.2d at 227; see also *State v. Jones*, 556 N.W.2d 903, 909 n.4 (Minn. 1996) (“Prior to [the Minnesota Supreme Court’s] adoption, in *Ford*, of the *Williamson* reasoning, a Minnesota trial court was under no obligation to attempt to parse out a witness’ or co-defendant’s statement to separate inculpatory from noninculpatory portions of the statement.”). As in *Keeton*, “nothing in the record indicates that the trial court applied the *Williamson* analysis in determining that the entire statements were admissible.” 589 N.W.2d at 89; see also *Ford*, 539 N.W.2d at 227 (concluding same). The district court therefore plainly erred by failing to conduct a *Williamson* analysis and not analyzing each individual statement in the jail calls.

Having concluded the district court erred, we must determine if that error was harmless. Scott maintains that admission of the jail calls undermined his most compelling defense evidence because the jail calls gave the jury “a reason to discount [R.F.’s] testimony” and gave the prosecutor “ammunition to argue there was an agreement between [R.F.] and Scott, she was taking the fall for him, and they had a scheme or plan.”

“An error is harmless if there is no reasonable possibility that it substantially influence[d] the jury’s decision.” *State v. Taylor*, 869 N.W.2d 1, 14 (Minn. 2015) (alteration in original) (quotation omitted). The prosecutor introduced evidence that Scott was the driver, exhibited furtive movements, and threw something between the door and seat which later turned out to be the drug bag. Minnesota law provides that the “presence

of a controlled substance in a passenger automobile permits the fact finder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile.” Minn. Stat. § 152.028, subd. 2 (2014). Scott also evaded handcuffs, broke free from the officers, and fled from the scene, all of which is “evidence of consciousness of guilt.” *State v. Caine*, 746 N.W.2d 339, 356 (Minn. 2008). In addition, a person may also “constructively possess contraband jointly with another person.” *State v. Ortega*, 770 N.W.2d 145, 150 (Minn. 2009). Even if the jury believed R.F.’s testimony, the jury could still have convicted Scott of the controlled-substance sale and possession crimes. Where the “weight of the evidence is so great that it justifies the verdict regardless of the erroneous admission, [the Minnesota Supreme Court has] concluded the erroneous admission was harmless.” *Ford*, 539 N.W.2d at 227. Because there is no reasonable probability that the district court’s failure to parse the jail call statements substantially influenced the jury’s decision, the district court’s error is at most harmless.

B. Scott’s Mid-Trial Motion for a Continuance

Scott also argues that the district court abused its discretion by denying his mid-trial motion for a continuance. A ruling on a request for a continuance is within the district court’s discretion, and a conviction will not be reversed for denial of a motion for a continuance unless the denial is a clear abuse of discretion. *State v. Rainer*, 411 N.W.2d 490, 495 (Minn. 1987). On appeal, we consider “the circumstances before the [district] court at the time the motion [for a continuance] was made to determine whether the

[district] court's decision prejudiced [the] defendant by materially affecting the outcome of the trial." *State v. Turnipseed*, 297 N.W.2d 308, 311 (Minn. 1980).

In response to the prosecutor's motion to reopen the state's case, the district court continued the trial for one day. That evening, the district court emailed counsel:

To expedite things for tomorrow, I intend to allow the state to reopen but they will not be able to impeach [R.F.] with jail calls pursuant to the Rules of Evidence 613 because a witness cannot be impeached by extrinsic evidence. She is not a party opponent which is the exception. If the state wants to further impeach the witness she must be present on the witness stand and have an opportunity to explain before she is impeached with a prior inconsistent statement. Her lawyer should be there to advise her. See you all at 8:45 in the morning.

The following morning, Scott's counsel requested a one-day continuance because he had not listened to or investigated the calls. The district court denied the motion. Scott now argues that the district court's email can reasonably be interpreted as the district court ruling that the jail calls were inadmissible for any reason and, as a result, his counsel did not listen to the calls. We disagree. Considering the circumstances, including that the district court had already continued the trial in response to this issue, the district court did not abuse its discretion by denying Scott's additional request for a continuance.

II.

Scott argues that the district court deprived him of his constitutional right to put forth a complete defense and abused its discretion by excluding D.P.'s testimony. We review the district court's decision to exclude D.P.'s testimony for abuse of discretion. *Amos*, 658 N.W.2d at 203. Although a "defendant has the constitutional right to present a complete defense," that right is not absolute. *State v. Atkinson*, 774 N.W.2d 584, 589

(Minn. 2009). The accused “must comply with established rules of procedure and evidence,” *State v. Richards*, 495 N.W.2d 187, 195 (Minn. 1992) (quotation omitted), and courts may “limit the scope of a defendant’s arguments to ensure that the defendant does not confuse the jury with misleading inferences,” *Atkinson*, 774 N.W.2d at 589.

At trial, D.P. testified at length concerning the traffic stop, the events leading to it, and the officers’ actions toward him and Scott. On direct-examination, Scott’s counsel asked D.P. what concerned him during the traffic stop. D.P. began to testify that he feared for his safety because of recent police shootings of unarmed black men. The prosecutor objected. Scott argued that D.P.’s response explained why Scott fled from the police. The district court concluded that D.P. could testify as to “what he did, to what he saw and to what he observed” but could not testify as to “what was going on in the world” because it was “not relevant to whether . . . or not [Scott] was guilty of anything.”

We agree with the district court. D.P.’s frame of mind on police shootings of unarmed black men is irrelevant to proving or disproving Scott’s frame of mind. See Minn. R. Evid. 401 (defining relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence”); see also *State v. Lee*, 282 N.W.2d 896, 901 (Minn. 1979) (“Whether evidence of past events and practices objected to on the ground of relevancy is admissible is a decision within the discretion of the trial court.”). We, therefore, conclude that the district court acted within its discretion by excluding D.P.’s testimony on recent police shootings.

III.

Scott argues that the district court abused its discretion by admitting evidence of his 2012 felony drug-possession conviction and his parole status as impeachment. “We will not reverse a district court’s ruling on the impeachment of a witness by prior conviction absent a clear abuse of discretion.” *State v. Hill*, 801 N.W.2d 646, 651 (Minn. 2011) (quotation omitted). Prior-conviction evidence is admissible under Minn. R. Evid. 609(a)(1) if the crime is a felony “and the court determines that the probative value of admitting this evidence outweighs its prejudicial effect” by considering five factors: (1) the impeachment value of the prior crime, (2) the date of conviction and defendant’s subsequent history, (3) the similarity of past crime and charged crime, (4) the importance of defendant’s testimony, and (5) the centrality of the credibility issue. *State v. Jones*, 271 N.W.2d 534, 537-38 (Minn. 1978). “[A] district court should demonstrate on the record that it has considered and weighed the *Jones* factors.” *State v. Swanson*, 707 N.W.2d 645, 654 (Minn. 2006). But because the district court is in “a unique position” to assess and weigh the *Jones* factors, “it must be accorded broad discretion.” *State v. Hochstein*, 623 N.W.2d 617, 625 (Minn. App. 2001). Whether the probative value of the prior conviction outweighs its prejudicial effect is a matter within the discretion of the district court. *State v. Graham*, 371 N.W.2d 204, 208 (Minn. 1985).

Here, the district court engaged in a thorough *Jones* analysis, concluding that the prosecutor could not impeach Scott with a 2002 third-degree controlled-substance possession conviction because it was too old or a 2012 first-degree controlled-substance sale because it was too similar, but could impeach Scott with a 2012 third-degree

controlled-substance possession conviction because of the importance of Scott's testimony, the centrality of credibility, and its recency.

The supreme court has held that "any felony conviction is probative of a witness's credibility, and the mere fact that a witness is a convicted felon holds impeachment value." *Hill*, 801 N.W.2d at 652. Even if the third factor weighed against admitting the conviction, "[d]epending on the particular facts of the case, the trial court may assign different weights to different factors." See *Hochstein*, 623 N.W.2d at 625. And if "credibility is a central issue in the case, the fourth and fifth *Jones* factors weigh in favor of admission of the prior convictions." *Swanson*, 707 N.W.2d at 655. The district court therefore did not abuse its broad discretion by admitting Scott's 2012 drug possession crime as impeachment evidence.

Scott also argues that the district court prevented him from testifying and erred by admitting impeachment evidence on Scott's parole status. We disagree. Scott chose not to testify. See *State v. Ihnot*, 575 N.W.2d 581, 587 (Minn. 1998) (concluding that defendant was not kept from testifying but instead chose not to testify based on impeachment evidence). And a defendant's probationary status is admissible as impeachment evidence to show a motive to lie. *State v. Johnson*, 699 N.W.2d 335, 338-39 (Minn. App. 2005), review denied (Minn. Sept. 28, 2005). The district court did not abuse its discretion by these rulings.

IV.

Scott contends that the district court abused its discretion by denying his motion to suppress all evidence seized during the traffic stop. We review the factual findings

underlying a district court's pretrial order on a motion to suppress evidence for clear error and the district court's legal determinations de novo. *Ortega*, 770 N.W.2d at 149. When a defendant challenges a police officer's use of force, we determine if the officer's actions were "objectively unreasonable." *Graham v. Connor*, 490 U.S. 386, 397, 109 S. Ct. 1865, 1872 (1989). The analysis requires "careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect pose[d] an immediate threat to the safety of the officers or others, and whether he [was] actively resisting arrest or attempting to evade arrest by flight." *Id.* at 396, 109 S. Ct. at 1872. "[T]he use of force reasonable under the circumstances will be permitted without a showing of probable cause when force is necessary for the protection of the investigating officers and the degree of force used [was] reasonable." *State v. Balenger*, 667 N.W.2d 133, 139 (Minn. App. 2003), *review denied* (Minn. Oct. 21, 2003). On review, we will not "engage in second-guessing." *Id.* at 141.

Scott argues that the officers "had no reason to suspect the occupants were armed or presented a threat." In its order denying Scott's motion to suppress evidence, the district court stated that

even though the initial stop was for a seat belt violation, the officers had reasonable concerns for their safety because the stop took place at night where there was little ambient lighting, in a high crime area, after the vehicle stopped briefly and then continued to drive around the corner. These actions allowed the officers to approach the vehicle with guns removed from their holsters, but not pointed at the suspects.

Considering the circumstances, the officers' actions of pointing their guns toward the ground while approaching the vehicle and holstering the guns as they arrived at the

front windows were objectively reasonable. See *State v. Munson*, 594 N.W.2d 128, 137 (Minn. 1999) (concluding that officers’ actions “approaching the [car] with weapons drawn, removing the occupants from the [car], frisking them, placing them in the back seat of squad cars and even handcuffing them briefly until it was determined they were not armed” were reasonable); *Balenger*, 667 N.W.2d at 141 (determining that officer who grabbed a person by the jersey acted reasonably when officer “harbored a reasonable suspicion that [the person] was armed, reasonably feared for his safety and the safety of the public at large, and used an amount of force that was proportionate to the initial justification for the stop”). The district court did not abuse its discretion by denying Scott’s motion to suppress evidence obtained from the traffic stop.

V.

In his pro se supplemental and reply briefs, Scott alleges that (1) his trial counsel was ineffective because his counsel failed to assert an impossibility defense, request jury instructions on circumstantial evidence, request that R.F.’s jail calls be redacted, object to the calls as hearsay, or object to an upward durational departure for sentencing; (2) R.F.’s jail calls were inadmissible hearsay, lacked foundation, and were testimonial; (3) the prosecutor injected her own credibility during closing argument; (4) the district court exhibited racial bias toward Scott by discussing the plot for *Empire*; (5) the police did not have an adequate basis for the traffic stop; and (6) the drugs lacked a proper chain of custody. After thoroughly considering Scott’s pro se arguments, we conclude that they are without merit.

Affirmed.