

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:22-cr-387-SDM-CPT

JULIUS SIMMONS,  
\_\_\_\_\_ /

**ORDER**

Julius Simmons is charged with possessing a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1). According to a police officer present during a traffic stop on Simmons, the officer noticed the handle of a firearm beneath a seat cover on the driver's seat in Simmons car. The officer ordered Simmons to exit his car and directed another officer to look "under the seat." Under the seat cover on the driver's seat, the other officer found the firearm at issue in this action.

Simmons moves (Doc. 38) to suppress the firearm and ammunition because according to Simmons both the traffic stop and the search of Simmons's car were unlawful. After listening to testimony and reviewing exhibits at an evidentiary hearing, the magistrate judge submits a thorough report and recommends (Doc. 87) denying Simmons's motion to suppress. Simmons, through counsel, objects (Doc. 94) to the report and recommendation. Separately, Simmons submits a *pro se* objection (Doc. 92). The United States declines to respond to either objection.

Simmons asserts two objections. First, Simmons disagrees with the magistrate judge's finding credible the testimony of the officers that conducted the traffic stop.

Simmons requests a new evidentiary hearing. But a review of the transcript of the evidentiary hearing and of the material in the record confirms that the magistrate judge's credibility determinations are supported by the record. See *United States v. Holzendorf*, 2012 WL 3871744, at \*2 (M.D. Fla. 2012) (Howard, J.). A second evidentiary hearing is unnecessary. *United States v. Cofield*, 272 F.3d 1303, 1304 (11th Cir. 2001).

Second, Simmons contends that the magistrate judge erred by determining that the search of Simmons's car was lawful. But a *de novo* review of the magistrate judge's determination reveals no error.

Simmons's objections are **OVERRULED**. The report and recommendation (Doc. 87) is **ADOPTED**. The motion (Doc. 38) to suppress is **DENIED**.

ORDERED in Tampa, Florida, on April 22, 2024.



---

STEVEN D. MERRYDAY  
UNITED STATES DISTRICT JUDGE