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This Order was filed under
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2026 IL App (4th) 250260-U

NO. 4-25-0260

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 20, 2026

Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Warren County
DANNY L. BRITT,	)	No. 23CF71
Defendant-Appellant.	)	
	)	Honorable
	)	James Standard,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.

Justices Zenoff and Doherty concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The State's evidence was sufficient to establish defendant's guilt beyond a reasonable doubt of both unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2022)) and endangering the life or health of a child (*id.* § 12C-5(a)).

(2) Defendant failed to establish that the unlawful possession of a weapon by a felon statute facially violated either the United States Constitution or the Illinois Constitution.

¶ 2 Following a bench trial, defendant, Danny L. Britt, was found guilty of unlawful possession of a weapon by a felon (UPWF) (720 ILCS 5/24-1.1(a) (West 2022)) and endangering the life or health of a child (*id.* § 12C-5(a)). The trial court sentenced him to 5 years in prison and 364 days in jail, respectively. Defendant appeals, arguing (1) the State failed to prove his guilt beyond a reasonable doubt and (2) his conviction for UPWF should be vacated because the charging statute violates the second amendment of the United States Constitution (U.S. Const.,

amend. II) and article I, section 22 of the Illinois Constitution (Ill. Const. 1970, art. I, § 22). We affirm.

¶ 3

I. BACKGROUND

¶ 4

In May 2023, the State charged defendant with UPWF (720 ILCS 5/24-1.1(a) (West 2022)) (count I), aggravated domestic battery (*id.* § 12-3.3(a)) (count II), and endangering the life or health of a child (*id.* § 12C-5(a)) (count III). The charges were based on allegations that defendant knowingly possessed a handgun after having been previously convicted of a felony offense; caused great bodily harm to Mackenzie Burkett, a family or household member, by throwing her to the ground and dislocating her shoulder and knee; and endangered the life or health of E.B., a child under the age of 18, by leaving a loaded handgun next to E.B. in the back seat of a vehicle and within the child's reach.

¶ 5

Defendant waived his right to a jury trial and, in October 2024, his bench trial was conducted. The State's evidence showed that during the early morning hours of May 23, 2023, law enforcement responded to a call about a domestic battery incident at 504 North 12th Street near Monmouth, Illinois (the 12th Street residence). Responding officers received information that a female had been injured, as well as the description of a vehicle involved in the incident, a silver SUV. Stephen Thompson, a police officer for the City of Monmouth, responded to the call and conducted a traffic stop of "the suspect vehicle," which he observed leaving the area. Occupants of the vehicle included defendant's sister, Dominique Walker, who was driving the SUV; defendant's mother, Mildred Mitchell, who was the front seat passenger; and defendant and his minor daughter, E.B., both of whom were back seat passengers. Thompson testified that during the stop, defendant exited the vehicle from the rear passenger side. Defendant was searched for weapons, but none were found on his person.

¶ 6 Austin Cox, an investigator for the Monmouth Police Department, testified that he responded to the May 23, 2023, domestic battery call and assisted with the traffic stop of the silver SUV. On his way to the call, he was advised by dispatch that defendant was “known to and possibly [had] a firearm on his person.” When he arrived at the traffic stop, he observed Thompson and another officer approaching the silver SUV. Defendant was directed to exit the vehicle first, detained, and placed in the back of a squad car. Cox stated E.B. was seated in the driver’s side back seat of the silver SUV.

¶ 7 Cox indicated that defendant’s mother and sister consented to a search of the silver SUV, asserting that “they knew nothing” about a weapon. Cox and another officer conducted the search. He testified that no weapons or contraband were found in the front part of the vehicle; however, “[w]hen searching the back half of the vehicle,” Cox found a 9-millimeter pistol in a holster inside a child’s backpack. Cox stated the firearm was “in the bottom portion of a child’s backpack underneath a bunch of children’s clothes,” and he identified photographs of the firearm and backpack, which were submitted by the State and admitted into evidence. The photographs depicted a children’s-style backpack, along with the firearm, clothing inside the backpack, and a Cheez-It bag in what appeared to be an outside pocket of the backpack.

¶ 8 According to Cox, the firearm had multiple rounds of ammunition in the magazine. He testified there was also a round in the chamber of the firearm and, thus, the “firearm was ready to be employed.” Cox testified that neither defendant nor anyone else provided any information regarding the origin or ownership of the weapon. Additionally, he did not recall whether the backpack was open or closed when he first observed it.

¶ 9 Burkett testified that she had known defendant for five years. On May 23, 2023, she argued with defendant on the street at her grandfather’s 12th Street residence in Monmouth.

Burkett stated that during the argument, she grabbed defendant's keys and threw them down the street. At some point, defendant's sister and mother arrived at the scene, and Burkett ran "to grab the keys really quick." She stated that defendant ran up behind her and, as she stopped to grab the keys, "he ran into the back of [her]." Burkett stated her leg was injured during that incident, she was transported to the hospital by ambulance, and her injury required surgery.

¶ 10 Burkett testified that before defendant's family arrived at the scene, Burkett's sister and a man named Jeremy were also present. She stated that her sister and Jeremy were present "at the beginning," when she and defendant arrived at her grandfather's residence and "were just arguing." Burkett's sister and Jeremy then left but returned to the scene after defendant's family "pulled up." Burkett further explained that on the night in question, defendant had picked her up and drove her to her grandfather's residence. She denied that anyone "pulled up behind" the vehicle they were in before they got out of the car, stating as follows: "[M]y sister and [Jeremy] *** pulled up in front of my car and then they ended up leaving. And we had the whole fight. And they came back and they pulled up behind the car."

¶ 11 Kyra M. testified that she and defendant had a daughter named E.B. In May 2023, E.B. was five years old. Kyra recalled having to pick E.B. up following a traffic stop that occurred during defendant's parenting time. Kyra stated she was told that defendant was arrested "because there was a gun in [E.B.'s] bookbag." She went to the scene of the traffic stop to get E.B., who was still in the back seat of the vehicle. When asked whether E.B. was in a car seat, Kyra responded, "I honestly do not remember that." Kyra also testified that E.B. had a "school bag" that she and defendant kept with E.B. when they "exchange[d] parenting time." She was shown photographs of the backpack found in the silver SUV with the firearm and identified the backpack as belonging to E.B. Kyra asserted the photographs depicted the "bookbag" that went with E.B.

“back and forth between houses.” Kyra also denied that she had any firearms. She asserted that she did not recognize the firearm depicted in the State’s photographs and stated she did not know how a firearm got into E.B.’s “bookbag.”

¶ 12 As part of its case, the State further presented a certified copy of defendant’s felony conviction for robbery in Knox County case No. 14-CF-284.

¶ 13 Following the State’s evidence, defendant moved for a directed finding as to his aggravated domestic battery charge, alleging the State had failed to present a *prima facie* case for each element of that offense. The trial court agreed and granted the motion.

¶ 14 During his case-in-chief, defendant called his sister, Walker, as a witness. Walker stated that during the early morning hours of May 23, 2023, she received a call from defendant asking for a ride from Monmouth. She and her mother then drove to Burkett’s house to get defendant. When they arrived, Walker parked on the side of the road in front of Burkett’s vehicle. She exited her vehicle to get E.B. out of the back seat of Burkett’s vehicle. Walker stated that E.B. was in a car seat on the “[b]ack left” side of the vehicle. When asked whether E.B. had a backpack or other bags “that went along with her,” Walker responded that there was a backpack behind the driver’s seat on the floor and that E.B. also “had her tablet.” Walker stated she carried E.B. and the tablet to her own vehicle but did not recall grabbing the backpack. She stated E.B. was on the left driver’s side of her car. Defendant also got into Walker’s vehicle in the back seat on the passenger side. Walker stated defendant was carrying a hoodie, but she did not “remember him having a backpack.”

¶ 15 On cross-examination, Walker testified the vehicle she was driving was her vehicle. She reiterated that her mother was with her and stated that her mother did not have a backpack with her. Walker denied that either she or her mother usually carried a gun and asserted that she

did not know anything about any weapons in her car. She also testified that she did not recognize the handgun or holster found in her car and did not know to whom the handgun belonged.

¶ 16 Defendant testified that at the time of the May 2023 incident, he and Burkett were in a dating relationship. He recalled picking Burkett up from work with E.B. around 11:45 p.m. and driving to the 12th Street residence. He stated there were other vehicles parked at the residence, including a navy blue Equinox that he believed belonged to Jeremy. Defendant did not know Jeremy and had learned Jeremy's name from Burkett's testimony.

¶ 17 Defendant testified that eventually, his mother and sister arrived to pick him and E.B. up. About three to five minutes before they arrived, defendant observed Burkett, Burkett's sister, and Jeremy "grabbing stuff" or "fiddling with stuff" in the "trunk or hatch" of Burkett's Chevy SUV, where defendant asserted E.B.'s backpack was located. Defendant also had items in the back of Burkett's vehicle, including "a hoodie and *** a black bookbag." When transferring E.B. from Burkett's vehicle to his sister's vehicle, defendant stated that he and his sister "grabbed [E.B.'s] car seat and other belongings from *** the trunk," including E.B.'s backpack. Defendant asserted he had no knowledge of the firearm at issue. He denied that the firearm belonged to him, or that he placed the firearm in E.B.'s backpack.

¶ 18 On cross-examination, defendant acknowledged that E.B.'s backpack had been placed in his sister's vehicle, where he was riding at the time of the traffic stop. He testified that he was "in the back" of his sister's vehicle seated next to E.B. and agreed that E.B.'s "backpack was back there as well." However, defendant asserted he did not recall who had taken the backpack from Burkett's vehicle. Initially, he stated that either he grabbed the backpack or his sister grabbed it. When confronted with his sister's statement indicating she did not move the backpack, defendant responded that it was either him or his mother. Defendant recalled that the backpack

was closed. He asserted he was not sure where the backpack was in his sister's vehicle but maintained that it was not right next to him.

¶ 19 Defendant further testified that although he did not know Jeremy, he believed it was Jeremy who had placed the gun in E.B.'s backpack. Defendant testified that while sitting in Burkett's vehicle and looking in the rearview mirror, he observed Jeremy exit a vehicle "with something in his hand." While sitting in the front passenger seat of Burkett's vehicle and looking through the rearview mirror, he also saw Jeremy "handle" E.B.'s backpack while at the back of Burkett's vehicle.

¶ 20 Following defendant's testimony, the State recalled Burkett as a rebuttal witness. When asked whether she ever saw Jeremy "rummaging around" in the back of her SUV, she stated that if he did, "it was after [she] was already *** away from the car." Burkett testified that her sister opened the "trunk" of the SUV, and she did not know what happened after that. She stated that Jeremy was there, but she could not see what he was doing. Burkett denied that she was "messaging with [E.B.'s] backpack," stating she did not "even know that the bookbag was in the car." When asked if she saw anyone tampering with the backpack, she testified as follows: "No, not the bookbag. I never seen the bookbag specifically."

¶ 21 On cross-examination, Burkett explained that she was not near the parked vehicles the whole time because after she ran down the street to grab defendant's keys, she was "worried about how [she was] going to get [herself] off the ground." She reiterated that her sister opened the "trunk" of her vehicle. She characterized her sister as "rummaging around" in the "trunk" because she was not aware of her sister having any belongings in the rear of her SUV. Burkett stated, "Jeremy was standing there," but she did not know if he "rummaged," noting that he was standing on the opposite side of the vehicle from where she was positioned, "laying in the street"

and unable to “walk around.” Burkett indicated that she saw her sister “leaning” into her car but did not know if Jeremy “was *** in it.”

¶ 22 The trial court found defendant guilty beyond a reasonable doubt of both remaining charged offenses—UPWF and child endangerment. On January 6, 2025, the court conducted defendant’s sentencing hearing and sentenced him to concurrent sentences of 5 years in prison for UPWF and 364 days in jail for endangering the life or health of a child. On January 16, 2025, defendant filed a “Motion for Judgment Notwithstanding the Verdict or a New Trial,” arguing the evidence was insufficient to support the court’s guilty findings. The same day, he filed a motion to reconsider his sentence, which he later amended. Following a hearing in March 2025, the court denied both motions.

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 A. Sufficiency of the Evidence

¶ 26 On appeal, defendant first challenges the sufficiency of the evidence against him, arguing the State failed to prove him guilty of either UPWF or child endangerment. He contends that because the State failed to establish where in the silver SUV the gun was recovered, it failed to prove either that he constructively possessed the gun or “that the gun was close enough to E.B. for her to be endangered.”

¶ 27 “The State has the burden of proving beyond a reasonable doubt each element of an offense.” *People v. Gray*, 2017 IL 120958, ¶ 35. When presented with a sufficiency-of-the-evidence challenge on review, we consider “whether, when viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt.” *People v. Conway*, 2023 IL 127670, ¶ 16. “All reasonable

inferences are drawn in favor of a finding of guilt.” *People v. Swenson*, 2020 IL 124688, ¶ 35. Additionally, “[a] criminal conviction will not be overturned unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant’s guilt.” *Conway*, 2023 IL 127670, ¶ 16.

¶ 28

1. UPWF

¶ 29 To prove defendant guilty of UPWF, the State had to establish that defendant (1) knowingly possessed a firearm and (2) had been convicted of a felony. 720 ILCS 5/24-1.1(a) (West 2022). “Possession may be actual or constructive.” *People v. Jones*, 2023 IL 127810, ¶ 30. In this instance, defendant does not dispute that he had a prior felony conviction. Additionally, there also appears to be no dispute that the State’s theory of the case was based upon defendant’s constructive, rather than actual, possession of the firearm found in E.B.’s backpack.

¶ 30 “To establish constructive possession, the State must prove that the defendant knew contraband was present and that the defendant exercised immediate and exclusive control over the area where the contraband was found.” *Id.* A defendant’s knowledge, *i.e.*, the mental element of the offense, may be inferred from circumstantial evidence. *Id.* Further, “[c]ontrol may be shown by evidence that defendant had the intent and capability to maintain control and dominion over the handgun, even if he lacked personal present dominion over it.” *People v. Anderson*, 2018 IL App (4th) 160037, ¶ 32.

¶ 31 “[P]roof that a defendant had control over the premises where contraband is located gives rise to an inference of knowledge and possession of that contraband.” *Jones*, 2023 IL 127810, ¶ 30. Additionally, “[t]he defendant’s proximity to the weapon is another factor that courts have found relevant in determining whether the defendant constructively possessed a firearm.” *People v. Wise*, 2021 IL 125392, ¶ 29.

¶ 32 Defendant argues the State failed to prove that he constructively possessed the firearm. He asserts the State's evidence did not show the precise location in Walker's vehicle of E.B.'s backpack and the gun; the evidence otherwise showed that multiple people had access to E.B.'s backpack and the opportunity to place the gun there; and the State failed to connect him "to the gun in any other way," including through fingerprints, suspicious movements toward the backpack, or the visibility of the gun in the backpack from defendant's position in the vehicle.

¶ 33 Here, the evidence showed defendant and Burkett were involved in an altercation outside of the 12th Street residence that left Burkett injured, lying in the street, and unable to walk. Defendant left the scene in Walker's vehicle. Walker was driving, with defendant's mother in the front passenger seat and defendant and E.B. in the back seat. Cox testified that the firearm at issue was found inside a "child's backpack" in the "back half" of Walker's vehicle. Although defendant suggests on appeal that the phrase "back half" could refer to a location other than where defendant and E.B. were positioned in the back seat, defendant's own testimony indicates otherwise. Specifically, defendant acknowledged that he and E.B. were seated next to each other in Walker's vehicle. Although he denied that E.B.'s backpack was "right next to" him, he agreed that "her backpack was back there as well." Contrary to defendant's arguments on appeal, a reasonable inference exists that the backpack and firearm were in the same back seat area of Walker's vehicle as defendant and accessible to him. Accordingly, the issue of proximity weighs in favor of finding that defendant constructively possessed the firearm.

¶ 34 Moreover, as noted, the police discovered the firearm in five-year-old E.B.'s backpack. Evidence at defendant's bench trial established that the backpack traveled with E.B. during parenting-time exchanges between defendant and Kyra. It contained items used for her care, such as clothing and snack food. On the day of the incident, defendant was exercising his parenting

time with E.B., and the record reflects the backpack traveled with defendant and E.B. in Burkett's vehicle and then to Walker's vehicle. Such evidence supports a finding that—as E.B.'s parent who was exercising his parenting time—defendant was in control of the backpack and had knowledge of its contents.

¶ 35 As stated, defendant argues others had access to E.B.'s backpack and could have placed the gun there. Specifically, he notes the evidence showed that Walker or his mother could have transported the backpack to Walker's vehicle and that Burkett's sister and Jeremy "were rummaging around in Burkett's vehicle, where E.B.'s backpack was." Ultimately, however, evidence that others had access to the backpack was introduced through defendant's own self-serving testimony, which the trial court was not obligated to accept.

¶ 36 First, defendant posited that he, Walker, or his mother moved E.B.'s backpack from Burkett's vehicle to Walker's vehicle. However, Walker testified that although she transferred E.B. and E.B.'s tablet to her vehicle, she did not "recall grabbing the backpack." Also, defendant's suggestion that his mother possibly transferred the backpack was inconsistent with other testimony he gave that he and Walker were the ones who transferred E.B. and her belongings from one vehicle to another. Moreover, defendant only suggested his mother as someone who could have transferred the backpack after being confronted with Walker's testimony, which indicated that she did not handle the backpack.

¶ 37 Second, defendant's testimony that Burkett's sister and Jeremy had access to the backpack was contradicted by other evidence. Defendant maintained that Burkett's sister and Jeremy were "rummaging" around in the "trunk" of Burkett's SUV, where E.B.'s backpack was located. However, Walker's testimony indicated that E.B.'s backpack was on the floor behind the driver's seat of Burkett's SUV, not in its "trunk." Specifically, Walker stated that, when she arrived

at the 12th Street residence, she exited her own vehicle and retrieved E.B. from Burkett's vehicle. When asked if E.B. had "a backpack or any other bags that went along with her," Walker stated, "[T]here was a backpack in there. It was behind the driver's seat on the floor and she had a tablet."

¶ 38 Moreover, Burkett's testimony contradicted defendant's testimony regarding the circumstances and timing of when people were "rummaging" around in Burkett's "trunk." Defendant testified the "rummaging" around occurred before his family arrived at the scene, after Jeremy parked behind Burkett's vehicle, and while defendant was still inside Burkett's vehicle and looking in the rearview mirror. However, Burkett's denied that anyone "pulled up behind" her vehicle before she and defendant exited the vehicle. She asserted that the vehicle her sister and Jeremy were in was initially in front of hers. Jeremy and her sister then left the scene, returning after Burkett and defendant "had the whole fight" and after defendant's family had arrived at the 12th Street residence. Burkett stated she observed her sister and Jeremy in the vicinity of her "trunk" while she was lying in the street after her altercation with defendant and after his family had arrived at the scene.

¶ 39 In this instance, the firearm at issue was located inside defendant's five-year-old daughter's backpack. The backpack was one that E.B.'s parents kept with her during parenting-time exchanges, and the evidence shows it traveled with defendant as he cared for E.B. during the underlying events. Additionally, the backpack was near and accessible to defendant within Walker's vehicle immediately prior to the discovery of the gun by the police. We find such circumstances support a finding that defendant constructively possessed the weapon.

¶ 40 On appeal, defendant cites *Wise*, 2021 IL 125392, ¶ 29, for the proposition that proximity to a weapon is a relevant factor for consideration in determining constructive possession and argues that the supreme court's analysis in that case is helpful here. In *Wise*, the court found

the State failed to prove the defendant's constructive possession of a weapon because it did not establish that he exercised immediate and exclusive control over the area where a firearm was found. *Id.* ¶ 39. The facts in that case showed that the police stopped a minivan that the defendant was driving and which had two passengers. *Id.* ¶ 3. During the stop, the police discovered a firearm in a “ ‘rear passenger compartment’ ” of the minivan. *Id.* ¶ 4. The defendant reported to the police that his brother owned the minivan and that the firearm belonged to a friend, who had previously borrowed the vehicle. *Id.* ¶ 6.

¶ 41 In holding the evidence was insufficient to establish the defendant's constructive possession of the firearm, the supreme court found that no evidence showed that the defendant owned the minivan or that he was positioned near the firearm while inside the minivan. *Id.* ¶ 34. In particular, the court stated the evidence showed that the defendant was 5 to 10 feet away from the firearm in the vehicle and that the third-row passenger was the closest person to the weapon. *Id.* It also noted that a police officer “did not think that [the] defendant could reach the firearm from the driver's seat.” *Id.*

¶ 42 We find *Wise* is significantly distinguishable from the present case. Here, the evidence, including defendant's own testimony, showed the gun was found in the back seat area of Walker's vehicle, where defendant and E.B. were seated. Unlike in *Wise*, the factor of proximity could reasonably be found to weigh in favor of finding constructive possession in this case. Significantly, *Wise* also did not involve circumstances of a weapon being found inside a backpack that the defendant used when exercising parenting time with his minor child. Accordingly, *Wise* does not require a different result than the one reached by the trial court in this case.

¶ 43 Defendant also argues on appeal that the trial court misstated the evidence in finding him guilty. Initially, the court appears to have attributed testimony to Burkett that was

testified to by Walker. Specifically, in setting forth its ruling, the court stated: “[Burkett] testified that the backpack was on the floor behind the front seat. She didn't believe she got the backpack. The backpack, she believes, was transferred from one car to another by the Defendant.”

¶ 44 However, Walker was the one whose testimony indicated E.B.’s backpack was on the floor behind the driver’s seat in Burkett’s vehicle and that she did not believe that she was the one who retrieved the backpack. Notably, neither Walker nor Burkett testified that they believed defendant transferred the backpack from one car to another. Walker testified she did not remember defendant having a backpack, and Burkett claimed she had no knowledge of the backpack. Additionally, the trial court also incorrectly attributed testimony to “mom” regarding the location of the backpack being within “arm’s reach” of E.B. Notably, defendant’s mother did not testify at trial, and E.B.’s mother did not testify as to the location of the backpack in Walker’s vehicle.

¶ 45 We note that “[a] trial court’s failure to recall and consider testimony that is crucial to the defense may violate the defendant’s right to due process.” *People v. Williams*, 2017 IL App (1st) 150795, ¶ 39 (citing *People v. Mitchell*, 152 Ill. 2d 274, 323 (1992)). However, no due process violation occurs “if a trial court’s minor misstatement of the evidence did not affect the basis of the ruling.” (Internal quotation marks omitted.) *Id.*

¶ 46 In this instance, we find any misstatement of the evidence was minor and did not affect the basis of the trial court’s guilty findings. Notably, a reasonable inference from the evidence was that defendant was the person who moved E.B.’s backpack from Burkett’s vehicle to Walker’s vehicle. For the reasons already discussed, the evidence also supported the finding that the backpack was near E.B. and defendant in the back seat area of Walker’s vehicle.

¶ 47 *2. Child Endangerment*

¶ 48 “A person commits endangering the life or health of a child when he or she

knowingly: (1) causes or permits the life or health of a child under the age of 18 to be endangered; or (2) causes or permits a child to be placed in circumstances that endanger the child's life or health." 720 ILCS 5/12C-5(a) (West 2022).

¶ 49 "[T]he offense of endangering the life or health of a child requires a knowing mental state." *People v. Davidson*, 2023 IL App (2d) 220140, ¶ 60. "A person acts knowingly 'when he or she is consciously aware that his or her conduct is of [the nature described by the statute defining the offense].'" *Id.* ¶ 71 (quoting 720 ILCS 5/4-5(a) (West 2020)). Additionally, "endanger" means " 'a potential or possibility of injury. The term does not refer to conduct that will result or actually results in harm, but rather to conduct that could or might result in harm.' " *People v. Jordan*, 218 Ill. 2d 255, 270 (2006) (quoting *People v. Collins*, 214 Ill. 2d 206, 215 (2005)).

¶ 50 Here, we find the evidence was sufficient for a rational trier of fact to find that defendant knowingly endangered E.B.'s life or health by placing a loaded, ready-to-fire gun in her backpack while in her presence. Although defendant, again, argues that the evidence failed to show he possessed the firearm in question, for the reasons already expressed, we disagree and find the evidence was sufficient to establish defendant's possession of the loaded firearm.

¶ 51 The evidence further showed that the backpack where defendant secreted the weapon was one that contained E.B.'s clothing and snack food. Kyra described the backpack as E.B.'s "school bag" or "bookbag" and testified it traveled with E.B. during parenting-time exchanges. A reasonable inference exists that E.B. might attempt to access a backpack that contained her own belongings or other items related to her care. Additionally, when discovered, the backpack was in the back seat area of Walker's car, where E.B. was also seated. As discussed, the evidence established that E.B. was placed in the back seat of Walker's car. Cox testified the

backpack with the firearm was found in the “back half” of Walker’s vehicle, and defendant confirmed that the backpack was in the back seat area of Walker’s vehicle with him and E.B. “as well.”

¶ 52 Defendant argues the State’s evidence failed to show the gun was accessible to E.B. and, therefore, it could not establish that she was endangered. He contends that “logic[]” and Walker’s testimony establish that E.B. was secured in a child’s car seat in Walker’s vehicle, which he suggests would have restricted E.B.’s movement and prevented her from accessing the gun.

¶ 53 First, we disagree with defendant’s characterization of the record and find that no testimony or evidence established that E.B. was placed in a car seat in Walker’s vehicle. Rather, the record is silent as to that point. Kyra testified she picked E.B. up at the scene of the occurrence and could not remember whether E.B. was in a car seat. Walker testified that when she retrieved E.B. from Burkett’s vehicle, E.B. was in a car seat. Walker asserted she transferred E.B. to her own vehicle by picking her up and carrying her, noting she could not find E.B.’s shoes. Contrary to defendant’s suggestion on appeal, Walker did not testify that she moved E.B.’s car seat to her own car. We note that defendant testified that he and Walker “grabbed” E.B.’s car seat and other belongings from the “trunk” of Burkett’s car before leaving in Walker’s vehicle. However, even assuming the truth of such testimony, it falls short of establishing that the car seat was utilized in Walker’s vehicle.

¶ 54 Defendant further points to the following colloquy between Walker and his counsel, arguing that it shows Walker secured E.B. in a car seat in her vehicle:

“Q. Okay. So you get her strapped into your car. What side of your car was she on?

A. The left side. Driver’s side.”

However, the above colloquy simply includes a statement by defense counsel that E.B. was

“strapped into” Walker’s car. Walker neither confirmed nor denied the statement, and we find the statement was not evidence. Nor does the statement reflect the use of a child’s car seat by Walker rather than a regular seat belt.

¶ 55 Finally, even assuming that E.B. was placed in a car seat in Walker’s vehicle, it does not necessarily follow that such would have prevented her from accessing her backpack with the loaded firearm. Even a remote risk is sufficient to establish endangerment. *Davidson*, 2023 IL App (2d) 220140, ¶ 72 (citing as examples of endangerment “the risk that a child left unattended in a parked car might be preyed upon by a social predator or that a bullet fired into the air might fall and strike a person”). Here, the evidence showed defendant hid a loaded firearm that “was ready to be employed” in his five-year-old child’s backpack, and that backpack and firearm were discovered by the police in the back seat of a vehicle with the child. Viewed in the light most favorable to the State, the evidence was sufficient to establish defendant’s guilt of child endangerment beyond a reasonable doubt.

¶ 56 B. Constitutionality of the UPWF Statute

¶ 57 On appeal, defendant also argues the UPWF statute (720 ILCS 5/24-1.1(a) (West 2022)) is unconstitutional. According to defendant, under the analytical framework set forth by the United States Supreme Court in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), the UPWF statute violates the second amendment to the United States Constitution (U.S. Const., amend. II).

¶ 58 “Statutes are presumed constitutional, and the party challenging the constitutionality of a statute has the burden of clearly establishing its invalidity.” *People v. Villareal*, 2023 IL 127318, ¶ 14. A reviewing court must “construe the statute in a way that preserves its constitutionality” if reasonably possible. *People v. Bochenek*, 2021 IL 125889, ¶ 10.

¶ 59 “A constitutional challenge to a statute may be facial or as applied.” *People v. Williams*, 2024 IL 127304, ¶ 25. “A facial challenge requires a showing that the statute is unconstitutional under any set of facts, whereas an as-applied challenge is dependent on the particular facts and circumstances of the challenging party.” *Id.* Ultimately, the constitutionality of a statute presents a question of law and is subject to *de novo* review. *Villareal*, 2023 IL 127318, ¶ 14.

¶ 60 The second amendment provides that “[a] well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. Const., amend. II. The United States Supreme Court has held that the second and fourteenth amendments (U.S. Const., amends. II, XIV) both “protect the right of an ordinary, law-abiding citizen to possess a handgun in the home for self-defense” and “an individual’s right to carry a handgun for self-defense outside the home.” *Bruen*, 597 U.S. at 8-10 (2022) (citing *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. Chicago*, 561 U.S. 742 (2010)).

¶ 61 “In *Bruen*, the Supreme Court announced a test for assessing the constitutional validity of laws seeking to regulate conduct protected by the second amendment.” *People v. Burns*, 2024 IL App (4th) 230428, ¶ 15. It held that (1) “[w]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct” and (2) to justify its regulation “the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 17. “Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’ ” *Id.* Under *Bruen*’s second step, the government must only “identify a well-established and representative historical *analogue*, not a historical *twin*.” (Emphases in original.) *Id.* at 30.

¶ 62 Here, defendant raises a facial constitutional challenge to the UPWF statute. He contends that under *Bruen*'s first step, his conduct in possessing a firearm was presumptively protected by the second amendment. Defendant argues that under *Bruen*'s second step, the State cannot identify a relevant historical analogue similar to the UPWF statute and its ban on the possession of weapons by individuals convicted of a felony.

¶ 63 Notably, however, this court has consistently rejected constitutional challenges to statutes that regulate firearm possession by felons, finding the UPWF statute and similar statutes facially constitutional. In *Burns*, 2024 IL App (4th) 230428, ¶ 21, this court found no merit to the defendant's facial constitutional challenge to the UPWF statute, holding *Bruen*'s "historical-tradition test" applied only to regulations affecting the possession of firearms by law abiding citizens and stating as follows:

"As a felon, [the] defendant, by definition, is not a law-abiding citizen. Thus, [the] defendant cannot show that his conduct was presumptively protected by the second amendment, and therefore, he does not fall within the scope of *Bruen*. As a result, [the] defendant cannot show that [the UPWF statute] violates the second amendment on its face under the *Bruen* framework."

See *People v. Cadengo*, 2025 IL App (4th) 240568, ¶ 65 (declining to reconsider *Burns*); *People v. Huff*, 2025 IL App (4th) 240762, ¶ 16 (collecting cases reaffirming our decision in *Burns*); *People v. Gardner*, 2024 IL App (4th) 230443, ¶ 68 (citing *Burns* and rejecting a defendant's facial constitutional challenge to the UPWF statute); In this case, defendant raises similar arguments to those already rejected by this court in other cases. Accordingly, we decline to reconsider *Burns* and adhere to our previous decisions.

¶ 64 Additionally, we note that even courts that have rejected the argument that felons

fall outside of *Bruen*’s scope have found that constitutional challenges to felon-in-possession statutes nevertheless fail. In his reply brief, defendant asks this court to “follow [those] decisions explicitly holding that ‘felons’ are among ‘the people’ presumptively protected by the Second Amendment.” However, each case he cites ultimately rejected the constitutional challenge before it under *Bruen*’s second step, finding that modern statutes regulating firearm possession by felons have relevant historical analogues. See *People v. Brooks*, 2023 IL App (1st) 200435, ¶ 100 (stating that “both the founding-era historical record and Supreme Court precedent support the ability of our legislature to prohibit firearm possession by people who have demonstrated disrespect for legal norms of society” (internal quotation marks omitted)); *People v. Macias*, 2025 IL App (1st) 230678, ¶¶ 31-34 (rejecting a constitutional challenge to the armed habitual criminal statute under *Bruen*’s second step); *People v. Smith*, 2025 IL App (1st) 231605-U, ¶ 30 (citing *Brooks* for the proposition that there was “ample historical support for the legislature’s ability to prohibit possession of firearms by felons”); *People v. Travis*, 2024 IL App (3d) 230113, ¶ 33 (finding the UPWF statute is “consistent with this nation’s history of preventing potentially dangerous individuals from exercising the right to bear arms”); *People v. Stephens*, 2024 IL App (5th) 220828, ¶ 39 (finding the State had “met its burden of showing that [the UPWF statute] is consistent with this nation’s historical tradition of firearm regulation”).

¶ 65 Both this court and other appellate districts have addressed and rejected the precise facial challenge to the UPWF statute that defendant raises on appeal. Again, we find defendant’s constitutional challenge lacks merit.

¶ 66 Finally, we note that in his appellant’s brief, defendant raises the conclusory contention that the UPWF statute violates article I, section 22, of the Illinois Constitution (Ill. Const. 1970, art. I, § 22). Because he has presented no developed argument regarding this claim,

we find it forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (“Points not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.”). Additionally, as noted by the State, such challenges have also previously been rejected by this court. See *Burns*, 2024 IL App (4th) 230428, ¶ 29 (concluding the UPWF statute was “a proper exercise of police power,” and the defendant could not show that it violated article I, section 22, of the Illinois Constitution); *People v. Mallery*, 2024 IL App (4th) 231397-U, ¶ 31 (agreeing with *Burns* and finding the defendant “failed to establish the UPWF statute facially violates article I, section 22 of the Illinois Constitution”).

¶ 67

III. CONCLUSION

¶ 68

For the reasons stated, we affirm the trial court’s judgment.

¶ 69

Affirmed.