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SUMMARY
September 24, 2026

2026 COA 72

No. 23CA1487, *People v. Perez* — Constitutional Law — Fifth Amendment — Due Process; Criminal Law — Witnesses — Voluntariness of Statements

A division of the court of appeals considers, for the first time, what standard to apply when a criminal defendant seeks to suppress an incriminating statement made by another because he alleges that it was made involuntarily due to coercion, thus violating his due process rights. The division adopts a standard uniformly applied by lower federal courts and California state courts, which imposes a burden on the defendant to show that the statement at issue was made involuntarily as a result of improper coercion and provides that the district court may, but is not required to, hold an evidentiary hearing if no disputed facts are at issue. Because the defendant in this case proffered no disputed facts that the statements made by the codefendants were obtained

through coercion, the division concludes that the district court did not abuse its discretion by declining to hold an evidentiary hearing.

Court of Appeals No. 23CA1487
Jefferson County District Court No. 21CR3028
Honorable Philip J. McNulty, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Ricardo Gonzalez Perez,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE JOHNSON
Freyre and Berger*, JJ., concur

Announced September 24, 2026

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*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2026.

¶ 1 No Colorado appellate court has yet determined the framework to analyze a criminal defendant's due process challenge to the prosecution's use of a witness's statements incriminating the defendant that the defendant contends were obtained involuntarily through coercion. For the first time, we adopt the framework uniformly applied by federal and California state courts, which places the burden on the defendant to prove that the incriminating statement was coerced at the time the witness made it and also provides that a district court may, but is not always required to, hold an evidentiary hearing.

¶ 2 Defendant, Ricardo Gonzalez Perez (Perez), appeals his judgment of conviction entered on a jury verdict finding him guilty of first degree murder, tampering with a deceased human body, attempting to influence a public servant, and tampering with physical evidence. He contends that the district court erred by failing to hold an evidentiary hearing to determine whether the statements two codefendants made to law enforcement were voluntary. We conclude that the court did not abuse its discretion by declining to hold a hearing before denying his motion to suppress, as no disputed facts suggested that the codefendants'

statements were coerced. Perez also contends that the court erred by failing to hold a hearing under *People v. Shreck*, 22 P.3d 68 (Colo. 2001), to consider the reliability of expert testimony involving blood spatter and patterns. Because we disagree with both of his contentions, we affirm.

I. Background

¶ 3 The victim, Gail Wilson (Gail),¹ allowed his daughter, Savannah Wilson (Savannah), and Savannah’s then boyfriend, Perez, to move into Gail’s home. Gail also allowed Perez’s friend, Jay Griffith (Griffith), to live there. Perez and Gail had numerous disagreements that gradually intensified, dealing mostly with financial issues.

¶ 4 Following a confrontation in which Gail alleged that he “knew” Perez had sexually assaulted a friend of his granddaughter, Perez left the house and was described by Savannah as “seething.” In the coming days, Perez began making comments about wanting to kill Gail.

¹ We refer to some individuals by their first names, as they share the same last name. We intend no disrespect by doing so.

¶ 5 Roughly a week after this confrontation, Gail began arguing with Savannah. When Perez intervened, Gail left, retreating to the basement. But approximately thirty minutes later, when Gail returned upstairs and made another remark to Perez, Perez attacked Gail.

¶ 6 Savannah testified that Perez first punched Gail in the living room, then choked him and led him to the bedroom. In the bedroom, Perez hit Gail's head against a dresser three times, forced him to the ground, and continued to punch him. Perez briefly left but then returned with a baseball bat and hit all parts of Gail's body, including his head, approximately thirty times, until Gail was dead. Savannah described the bedroom as being covered in blood, including the carpet beneath Gail's body.

¶ 7 Following the attack, Savannah expressed concern about the police "finding out" what had happened. Griffith did not witness the attack but entered the bedroom and saw Gail's body. The three then undertook extensive efforts to remove Gail's body and conceal the crime, traveling to locations around Denver to dispose of the evidence, including the body, in various dumpsters. Perez told Savannah and Griffith to adopt a cover story in which Gail left the

house without explanation and never returned home. The three then filed a missing person report with the police.

¶ 8 The police investigated and began to unravel the cover story.

This included the police

- discovering in a dumpster the carpeting that had been removed from the bedroom and was saturated in blood;
- obtaining surveillance videos tracking Perez and Griffith while they disposed of evidence at the various locations;
- learning about a phone call between Gail and his other daughters in which they discussed meeting with Gail a few days after the eventual murder, and Gail told his daughters about the disputes between him and Savannah and Perez;
- noticing injuries to Perez's head; and
- observing Perez and Savannah acting in ways that suggested Gail was not returning, such as getting rid of Gail's dogs, attempting to sell his guns, and discussing the possibility of Savannah inheriting his home.

¶ 9 After the investigation that eventually led to the three suspects' arrests, Griffith and Savannah abandoned their cover story and told the police what had really occurred, with their

versions generally aligning with each other's and the evidence the police had obtained.

¶ 10 Perez was arrested, charged, and after a trial, found guilty by a jury of the charged offenses.² The court sentenced him to life without the possibility of parole in the custody of the Department of Corrections for the murder; a consecutive term of twelve years for tampering with a deceased body; and concurrent terms of five years and eighteen months for attempting to influence a public servant and tampering with physical evidence, respectively.

II. Evidentiary Hearing

¶ 11 Perez contends that the district court erred by not holding an evidentiary hearing to determine the voluntariness of Griffith's and Savannah's statements to police that inculpated Perez. We disagree.

A. Additional Facts

¶ 12 Savannah and Griffith were interviewed separately while in custody and were represented by separate counsel. They were apprised of their rights and agreed to give their proffered statements

² He was found not guilty of a crime of violence count, which was later dismissed by the court.

after signing agreements that were reviewed by their attorneys and explained to them. During their separate interviews, Savannah and Griffith provided accounts of what took place on the night of Gail's murder and the subsequent coverup.

¶ 13 Later, in exchange for their truthful testimony at trial, the prosecution offered Savannah and Griffith pleas that included a reduction in charges and recommendations for probationary sentences. Savannah and Griffith pled guilty to accessory to a crime and concealing a death.

¶ 14 Before trial, Perez sought to suppress Savannah's and Griffith's statements to the police on the grounds that they were coerced due to "promises for leniency." The presence of this coercion, he argued, raised a factual dispute necessitating an evidentiary hearing. After the court heard argument and considered the extensive documentary record relating to the challenged statements, it denied Perez's motion without an evidentiary hearing.

B. Standard of Review

¶ 15 We review a ruling on a motion to suppress as a mixed question of fact and law. *People v. Zadran*, 2013 CO 69M, ¶ 13. We

defer to the district court's findings of fact if supported by the record, but we review the legal effect of those facts de novo. *Id.*

C. Analysis

¶ 16 The district court denied Perez's motion to suppress, finding that Perez did not have standing under the Fifth Amendment to challenge the voluntariness of Savannah's and Griffith's statements. But it also ruled on Perez's due process argument. The court noted that it had reviewed the videotaped interviews of Savannah and Griffith. It considered the fact that they were represented by separate counsel at the time the inculpatory statements were made and that both signed documents affirming that they had received no specific promises of leniency. The court concluded that, while promises were made to them in exchange for truthful testimony, meaning they were incentivized, "[m]aking a plea bargain with someone who agrees to tell the truth is not coercion."

¶ 17 The court also noted that, while Savannah and Griffith told similar accounts of the events to law enforcement, they were not identical, leading it to view the statements as more credible because it meant their accounts were not "rehearsed." And it looked to *United States v. Merkt*, 794 F.2d 950, 961 (5th Cir. 1986) — relied

on by Perez in his suppression motions — as instructive authority. In that case, there were questions about what promises were made because the interviews with the witnesses were not videotaped. See *id.* at 961-62. The court here noted that, despite there being stronger grounds for an evidentiary hearing in *Merkt*, the federal court of appeals held that an evidentiary hearing was not warranted.

¶ 18 In the end, the court concluded that, because the promises to Savannah and Griffith were laid out in written agreements and their interviews were videotaped, there was no need for an evidentiary hearing.

¶ 19 Generally, when a defendant challenges his own confession or proffered statement, the burden falls on the prosecution to dispute the facts presented in such a challenge and to establish by a preponderance of the evidence that the confession was made voluntarily. *Lego v. Twomey*, 404 U.S. 477, 489 (1972). This is because Fifth Amendment immunity is personal to the defendant and does not extend to other witnesses. *United States v. Nobles*, 422 U.S. 225, 234 (1975); *People v. Aguirre*, 839 P.2d 483, 486 (Colo. App. 1992). When a defendant is contending that his own

statements were coerced, there generally is a factual dispute that must be resolved by considering the totality of the circumstances. *Zadran*, ¶ 10. In other words, the factual dispute results from a prosecutor claiming that the statements were made voluntarily, while the defendant disagrees.

¶ 20 Here, Perez is not arguing that statements *he* made to the police were coerced; rather, he is arguing that such was the case for statements made by third parties. Although not specifically addressed in Colorado, federal and California state courts have dealt with this situation. Those courts have uniformly held that, when a defendant challenges the voluntariness of a third party's statements made to police, the claim does not fall under the Fifth Amendment right against self-incrimination but rather is a due process challenge. *See United States v. Gonzales*, 164 F.3d 1285, 1289 (10th Cir. 1999) (holding that the "defendants' due process rights would be implicated if the subject witness was coerced into making *false* statements and those statements were admitted against [the] defendants at trial"); *Merkt*, 794 F.2d at 961 (holding that "the admission at trial of a coerced out-of-court statement from a non-defendant may violate the defendant's right to a fair trial as

guaranteed by the [D]ue [P]rocess [C]lause of the [F]ifth [A]mendment” (quoting *United States v. Merkt*, 764 F.2d 266, 274 (5th Cir. 1985)); *People v. Clark*, 372 P.3d 811, 858 (Cal. 2016) (“[A] [d]efendant can prevail on his suppression claim only if he can show that the trial testimony given by [the third party] was involuntary at the time it was given.” (quoting *People v. Badgett*, 895 P.2d 877, 886 (Cal. 1995))).

¶ 21 In order “to state a claim of violation of his *own* due process rights, a defendant must also allege that the pretrial coercion was such that it would actually affect the reliability of the evidence to be presented at trial.” *Clark*, 372 P.3d at 858 (quoting *Badgett*, 895 P.2d at 887). Under this approach, courts look to whether a defendant’s right to a fair trial was violated by the witness’s coerced statements. *Gonzales*, 164 F.3d at 1289.

¶ 22 If the third-party witness does not contend that his statement was coerced, there is not necessarily a factual dispute for the court to resolve. In that case, the defendant — not the prosecution — must allege facts in his motion raising a factual dispute showing that the witness’s statements were involuntary, thus necessitating an evidentiary hearing. *Badgett*, 895 P.2d at 886-87 (“By

contrast, when a defendant makes a motion to exclude coerced testimony of a third party on due process grounds, the burden of proving improper coercion is upon the defendant.”). But even if the defendant alleges a factual dispute in his motion, the court need not accept the allegations as true if, as in this case, the record supports that the witnesses’ statements were made voluntarily. Therefore, absent a factual dispute (either because the motion does not raise one or because the record supports otherwise), it is unlikely a court will need to hold an evidentiary hearing. *See Merkt*, 794 F.2d at 962 (finding that an evidentiary hearing was not warranted when neither witness claimed they were threatened or coerced).

¶ 23 Although we are not bound by lower federal court or out-of-state case law, we find this analytical framework persuasive and adopt it. *See M.S. v. People*, 2013 CO 35, ¶ 16 n.9 (Colorado courts not bound by lower federal court case law); *Wal-Mart Stores, Inc. v. United Food & Com. Workers Int’l Union*, 2016 COA 72, ¶ 17 (same for out-of-state case law). For three reasons, we discern no error in the district court’s decision not to hold an evidentiary hearing.

¶ 24 First, the court's interpretation of *Merkt* was correct, and this case presents less indicia of coercion than existed in *Merkt*. In *Merkt*, the defendants argued that their due process rights were violated when the district court declined to hold an evidentiary hearing on allegations that the witnesses' testimony was coerced. 794 F.2d at 961. There, the defendants alleged that the witnesses' statements were involuntary because border patrol agents made promises that the witnesses and the children the witnesses were with would be sent to Washington, D.C. in exchange for their truthful testimony, and one border patrol agent "bang[ed] his fist on the table twice" during questioning. *Id.* at 961-62. The Fifth Circuit affirmed the district court's decision not to hold a hearing because neither witness claimed to have been threatened or coerced, and the border patrol agents' conduct fell far short of the pressure needed to exclude nondefendant testimony. *Id.* at 962.

¶ 25 Law enforcement's conduct here was even less severe. Besides the promises of leniency offered to Savannah and Griffith through the negotiated plea agreements, there were no promises made about children or alleged coercive actions like law enforcement agents

banging their fists, making the need for an evidentiary hearing even less necessary than in *Merkt*.

¶ 26 Second, like the district court, we have reviewed the videotaped police interviews of Savannah and Griffith. When we have videotapes of the interviews, we are in the same position as the district court to decide the voluntariness issue. *People v. Ramadon*, 2013 CO 68, ¶ 21; see *People v. Springsted*, 2016 COA 188, ¶ 16. The detectives told Savannah and Griffith that the most important thing for them to do during the interview was to tell the truth, and that if they were not certain about answers to any questions, they were not to make up information because it would hurt their credibility. Likewise, the detectives' questions recognized that the witnesses' stories would be different from what they had initially told police. Savannah and Griffith were represented by counsel, who were present in the interviews. And the proffer agreement — which was read on the record to Griffith before being questioned by the detective — noted that he was meeting voluntarily with the detective; he was waiving his right to remain

silent; he would answer questions truthfully; and no plea offers, promises of leniency, or grants of immunity had been made to him.³

¶ 27 Third, Perez’s central argument — that the promises of leniency to Savannah and Griffith induced them to change their stories, which became coerced statements — is not supported by the record. General offers of leniency do not amount to coercion. *See People v. Perez-Rodriguez*, 2017 COA 77, ¶¶ 51-52 (holding that a suggestion that a judge or prosecutor may be more lenient due to the defendant’s cooperation was not a specific promise of leniency); *see also People v. Joyce*, 878 P.2d 48, 49-50 (Colo. App. 1994) (holding that reporting the defendant’s level of cooperation to the district attorney was not an implied promise or threat).

¶ 28 And while Savannah and Griffith ultimately received plea agreements that included reduced charges and recommendations for probationary sentences, Perez has not pointed to — nor do we see — any evidence in the record that specific promises of leniency were made to them at the time they made the statements to law

³ Savannah’s proffer agreement was not read into the record, but she signed it on the record after having it read to her. Perez has made no argument that Savannah’s proffer agreement did not contain the same terms and conditions as Griffith’s agreement.

enforcement agents. And even if a “statement made pursuant to a negotiated plea is given in exchange for a promise of a lesser punishment,” this does not render that statement involuntary. *People v. Butler*, 929 P.2d 36, 40 (Colo. App. 1996); see also *Clark*, 372 P.3d at 859 (“Although any plea agreement or grant of immunity involves a certain amount of compulsion, it is valid so long as it only requires full and truthful testimony.”). Likewise, requiring a witness to tell the truth as part of a plea agreement does not constitute coercion in the Fifth Amendment self-incrimination or due process contexts. *People v. Sapp*, 934 P.2d 1367, 1373 (Colo. 1997).

¶ 29 In sum, Perez did not meet his burden to show that a factual dispute necessitating an evidentiary hearing existed. Savannah and Griffith did not claim that their statements were coerced, the interviews were videotaped, and the plea agreements — while certainly incentivizing Savannah and Griffith with promises of leniency — did not constitute improper inducement by law enforcement to render their statements involuntary. Thus, we conclude that the court did not err when it denied Perez’s motions

to suppress Savannah’s and Griffith’s statements without first holding an evidentiary hearing.

III. *Shreck* Hearing

¶ 30 Perez also contends the district court erred by failing to hold a *Shreck* hearing involving the reliability of blood spatter evidence the prosecution intended to present through an expert witness. We disagree.

A. Additional Facts

¶ 31 At trial, the prosecution called Amy Laabs (Laabs), a crime scene analyst, to opine on the blood spatter and patterns found in the bedroom where Gail was murdered. Specifically, she testified about Gail’s position in the bedroom, time passage after the blood was deposited, and indications of attempts to clean.

¶ 32 Before trial, Perez attempted to exclude this expert testimony by challenging the reliability of the underlying science of blood spatter and pattern analysis. In his motion, he relied on three scientific articles to argue that the science underlying this field had been “called into question” in recent decades. The district court denied the motion. Specifically, it found that a hearing was not necessary because Colorado appellate courts had allowed similar

observational scientific testimony in the past, including the type of testimony at issue. And the court said that the science at issue was not “new or novel.” The court further found that the defense’s cited scientific articles were appropriate material for cross-examination, but not for a *Shreck* hearing, and that they went to the weight, not the admissibility, of the evidence. Finally, the court found that Laabs had sufficient experience and training to qualify as an expert in her field. We discern no error.

B. Standard of Review and Applicable Law

¶ 33 We review a district court’s admission of expert evidence for an abuse of discretion. *People v. Shanks*, 2019 COA 160, ¶ 9. A court abuses its discretion when its decision is manifestly arbitrary, unreasonable, or unfair, or it misapplies the law. *People v. Battigalli-Ansell*, 2021 COA 52M, ¶ 30. When a party requests an evidentiary hearing under *Shreck*, the district court has the discretion to decide whether such a hearing would aid the court in its gatekeeping function. *People v. Rector*, 248 P.3d 1196, 1201 (Colo. 2011).

C. Analysis

¶ 34 In *Shreck*, the supreme court adopted a “liberal” “totality of the circumstances” standard for determining whether scientific evidence or expert testimony is admissible. 22 P.3d at 70. Based on that approach, a district court must determine the reliability and relevance of expert evidence and testimony, analyzing (1) the reasonable reliability of the scientific principles underlying the testimony; (2) the qualifications of the witness to opine on such matters; (3) the usefulness of the testimony to the jury; and (4) under CRE 403, whether the evidence’s probative value is substantially outweighed by any danger of unfair prejudice. *Id.* at 77.

¶ 35 We conclude that the district court did not abuse its discretion for three reasons.

¶ 36 First, although the district court’s findings are thin, we agree that the scientific evidence was not new or novel. *See People v. Ramos*, 2012 COA 191, ¶ 16 (holding that expert testimony regarding bloodstain pattern analysis was admissible because an expert is required to testify about things that a layperson would not know (citing *People v. Miller*, 981 P.2d 654, 659-60 (Colo. App.

1998))), *aff'd*, 2017 CO 6. Perez identifies no deviation in Laabs' blood spatter analysis from the scientific principles underlying similar expert testimony provided in other cases; thus, we decline to disturb the court's reliability assessment.

¶ 37 Second, Perez did not make a cognizable challenge to Laabs' expert qualifications. Instead, defense counsel's voir dire focused more on Laabs' alleged bias and typos in her resume. Even so, the court is required to evaluate a proposed witness's knowledge, skill, experience, training, and education to determine their qualifications as an expert. CRE 702. Here, the district court considered Laabs' extensive resume and qualifications, as well as her expert forensic testimony in other district court cases, and found her to be a qualified expert.

¶ 38 Finally, Perez did not challenge the usefulness of Laabs' testimony to the jury. Central to Perez's defense was the contention that because law enforcement had not recovered Gail's body, he could be missing, not dead. But Laabs' testimony rebutted Perez and his codefendants' cover story that Gail went missing by noting the amount of blood present; the blood spatter, which indicated that a violent event had occurred; the missing carpet that was

saturated with blood; and the attempts to clean the crime scene. Laabs' blood spatter testimony was consistent with Savannah's description of the altercation beginning in the living room, moving to the bedroom, and ending with Gail on the ground being violently beaten to death. Thus, we discern no error.

¶ 39 Nothing in *Shreck* or its progeny mandates that a district court always hold a hearing; rather, the supreme court has stated that a district "court is vested with the discretion to decide whether an evidentiary hearing would aid the court in its *Shreck* analysis." *Rector*, 248 P.3d at 1201. The district court must weigh whether, given the complexity or uniqueness of the expert testimony, a hearing would assist the court, as gatekeeper, to assess the reliability of the proffered science, the qualifications of the potential expert, and the usefulness of the testimony to assist the jury in its decision-making process. *Id.* Based on the record in this case, we discern no abuse of discretion by the court in its decision not to hold a hearing.

IV. Conclusion

¶ 40 The judgment of conviction is affirmed.

JUDGE FREYRE and JUDGE BERGER concur.