TEAM: 102

Case No. 2023-CR-812

IN THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
Sept. 4, 2023

THE UNITED STATES OF AMERICA,

Prosecution,

vs.

JAMIE LAWTON,

Defendant.

DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE OBTAINED

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INTRODUCTION

The Defendant's Motion to Suppress Evidence should be granted. Officer Griffin's warrantless entry of Defendant's residence violated the Fourth Amendment because (1) Jaime Lawton had a reasonable expectation of privacy within her own residence, and (2) no exigent circumstances existed to justify warrantless entry. Assuming entry was permissible, Griffin's warrantless search of Lawton's residence was unlawful and violated the Fourth Amendment because the evidence seized (1) was not in plain view, (2) there were no exigent circumstances present to justify a warrantless search, and (3) would not have been inevitably discoverable.

STATEMENT OF FACTS

Jamie Lawton ("Lawton") is a 25-year-old bartender and railroad conductor living in a home at 900 49th Street, Petersburg, Stetson. R. at 61. Lawton was inspired to renovate his home after seeing warehouse-to-home renovation videos. R. at 61. Lawton's coworker, Kell Halstead ("Halstead"), is helping renovate and has expressed interest in living with Lawton. *Id.* The home has a kitchen, bedroom, and "No Trespassing, Private Property" signs posted on both entrances. R. at 30–31, 33.

On June 8, 2023, Lawton, driving her cousin's truck, visited Right on Cue: Pool House & Casino with friends from 1:00 to 3:45pm. R. at 62. Lawton only drank half of a beer because she felt unwell, but purchased her friends' drinks. *Id.* On her way home, she experienced sharp stomach pains. *Id.* At the intersection of 49th and Raymond Boulevard, Lawton stopped at the red light to vomit. *Id.*

Taylor Griffin ("Griffin"), a Petersburg Police Officer specializing in traffic enforcement and Driving Under the Influence ("DUI") protection, was in another lane two cars behind Lawton. R. at 17–18, 40. Griffin mistook Lawton for Kevin James ("James"), who Griffin previously arrested for DUI, due to similarities between Lawton's vehicle and James' vehicle. R. at 20. Griffin never saw the driver's face and admitted seeing blonde hair, despite knowing James had light brown hair. R. at 22–23.

Despite Lawton driving under the speed limit, Griffin still followed her. R. at 24; Exhibit 3. As Lawton's condition worsened, she focused on getting home safely. R. at 63. When Lawton drifted briefly into an emergency lane, Griffin attempted to pull her over by turning on police lights but never activated sirens. R. at 26. Griffin continued following Lawton until she reached home. R. at 63. Lawton felt shooting pain in her abdomen, stumbled inside, and closed the door behind her. *Id.*

Griffin remained in their vehicle, forty yards away from Lawton's residence and radioed for backup. R. at 28, 31. Lieutenant Samy Vann ("Vann"), head of the narcotics division and Task Force Officer of the Drug Enforcement Administration ("DEA"), immediately called Griffin's cell phone and instructed Griffin not to enter the premises because someone purportedly lived there and it was already under investigation by the DEA for suspected cocaine trafficking. R. at 28, 50, 54. Griffin told Vann that they believed James was the target, and Vann stated James was not connected to the premises or case. R. at 54.

A minute after Lawton went inside, Griffin disregarded Vann's orders and entered the home to preserve Lawton's blood alcohol content ("BAC"). R. at 47–48. Griffin did

not knock or announce their presence. R. at 32. Inside, Griffin smelled food and followed voices from thirty yards away to a kitchen where Lawton and Halstead were. R. at 32–34.

Lawton and Halstead yelled for Griffin to leave, but Griffin refused and asked why Lawton did not pull over. R. at 35–36. Lawton explained she did not see Griffin because she was focused on getting home safely, and stated she needed to get to the hospital for excruciating stomach pain. *Id.* Griffin noticed Halstead looking toward a wooden pallet six to eight feet away. R. at 35, 39.

Griffin called an ambulance. R. at 49. At the hospital Lawton was diagnosed with acute appendicitis. *Id*. Griffin, instead of directly exiting Lawton's home, walked five to six steps out of the way toward the wooden pallet. R. at 70. Griffin saw a substance covered in plastic wrap and packing tape, partially covered by a tarp with only three-by-four inches exposed. R. at 39–40. Griffin lifted the tarp and found three packages of cocaine R. at 40. Later that day, police were granted an emergency warrant to search the home but did not locate other narcotics, weapons, cash, or packaging materials. *Id.* While Griffin was investigating the tarp, Halstead ran to the back door and was seized by DEA officers. R. at 41. Lawton was arrested at the hospital and charged with Conspiracy and Possession of Cocaine with Intent to Distribute, alongside Driving Under the Influence. R. at 49.

ARGUMENT

I. THE COURT SHOULD GRANT THE MOTION TO SUPPRESS EVIDENCE BECAUSE LAWTON'S FOURTH AMENDMENT RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES WAS VIOLATED BY THE GOVERNMENT'S WARRANTLESS ENTRY OF HER HOME.

The Fourth Amendment provides a reasonable expectation of privacy in "the sanctity of a man's home and the privacies of life" against "all invasions on the part of the government and its employees." *Mapp v. Ohio*, 367 U.S. 643, 646 (1961). Accordingly, the Fourth Amendment requires police to obtain a warrant before searching a person's home. *See Katz v. United States*, 389 U.S. 347, 357 (1967). Exceptions are granted in light of exigent circumstances, which are evaluated case-by-case under the totality of the circumstances. *See Lange v. California*, 141 S. Ct. 2011, 2018 (2021).

Here, the Government violated Lawton's Fourth Amendment rights by entering her home without a warrant. Even if the warehouse does not constitute a residence, the Fourth Amendment guarantees Lawton a reasonable expectation of privacy. Furthermore, no exigent circumstances existed to justify Griffin bypassing the warrant requirement to enter Lawton's home.

A. The Fourth Amendment Requires Griffin to Obtain a Warrant to Enter Lawton's Home, and Lawton's Warehouse Constitutes a Home.

The Supreme Court has stated, "Freedom in one's own 'dwelling is the archetype of the privacy protection secured by the Fourth Amendment.'" *Lange*, 141 S. Ct. at 2018. In *Mapp*, the Supreme Court stressed the requirement of a warrant, stating an individual's right to privacy cannot "be revocable at the whim of any police officer who… chooses to

suspend its enjoyment." 367 U.S. at 660; *see also Katz*, 389 U.S. at 357 (Without judicial approval in the form of a warrant, searches "are *per se* unreasonable under the Fourth Amendment"). Therefore, the Court articulated the exclusionary rule, which excludes "evidence which an accused had been forced to give by reason of the unlawful seizure." *Mapp*, 367 U.S. at 656.

Griffin could not have entered the warehouse because it was Lawton's home, the exact archetype of constitutional privacy protection. Lawton owned, lived, and slept there. R. at 33. Lawton was inspired to renovate after seeing a warehouse renovation video. R. at 61. When Lawton arrived in the evening on June 8, 2023, she closed the door behind her as one typically would upon arriving home. R. at 63.

Griffin also knew that the warehouse was Lawton's home because Vann explicitly told them someone lived there. R. at 28. Griffin saw "No Trespassing" signage and smelled signs of cooking in the kitchen, further indicating someone lived there. R. at 34, 47. *Mapp* stressed that officers may not suspend the warrant requirement to intrude upon a person's home, thereby excluding materials obtained during a warrantless search. 367 U.S. at 660. Because Griffin entered Lawton's home without a warrant, the exclusionary rule should similarly apply.

B. Even if the Warehouse Does Not Constitute a Home, Lawton Nevertheless had a Reasonable Expectation of Privacy.

Katz v. United States established, "[w]herever a man may be, he is entitled to know that he will remain free from unreasonable searches and seizures." 389 U.S. at 359. *Katz* introduced a twofold test to determine reasonability of privacy expectations, "first

that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable.'" *Id.* at 361. Applying the test, Griffin violated Lawton's Fourth Amendment reasonable expectation of privacy by entering without a warrant.

1. Lawton Exhibited an Actual, Subjective Expectation of Privacy, Therefore the Government Impermissibly Entered the Warehouse.

Katz explained that what one "seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected." 389 U.S. at 351. Additionally, "constitutional provisions for the security of person and property should be liberally construed." *Mapp,* 367 U.S. at 647 (quoting *Boyd v. United States*, 116 U.S. 616, 635 (1886)).

Katz upheld privacy rights of an individual who was wiretapped in a public telephone booth. *See* 389 U.S. at 352. The Supreme Court rejected the Government's argument that probable cause alone justified wire-tapping, emphasizing the need for a warrant based on the defendant's reasonable expectation of privacy. *See id.* at 357.

Lawton's warehouse was constitutionally protected because she sought to preserve it as private, regardless of public accessibility. The Government may argue that Griffin's entrance was justified because the warehouse appeared abandoned and public, but that assertion is unsupported. *Mapp* promoted a liberal construction of privacy protections for persons and properties, which applies to Lawton as the warehouse owner. Even if it did not appear to Griffin as a home, it was nevertheless private property belonging to Lawton. R. at 92, Exhibit 16. Similar to *Katz,* Lawton manifested her expectation of

privacy by going indoors, closing the door, and telling Griffin to leave. R. at 63–64. Since *Katz* upheld an actual expectation of privacy of someone shutting a telephone booth door, the same should apply to Lawton's warehouse.

Officers must have a warrant even if they mistake a premises as public. *Recznik v. Lorain*, 393 U.S. 166, 168 (1968). Officers in *Recznik* entered an apartment which appeared to them to be public. *See id.* at 167. Police entered, followed noises, and were told to leave by the suspect. *See id*. at 167. The Court stated, the "suggestion that the officers were privileged to enter because the apartment 'at that point had taken on… a public appearance,' is untenable." *Id.* at 168.

Recznik renders Griffin's assumptions about the warehouse being abandoned moot because police still require a warrant if they mistake a private space as public. Similarly, Griffin followed noises once inside and was told to leave. R. at 64. Because an officer's assumptions about a premises being public does not dispense with the warrant requirement, Lawton's manifestation of privacy resulted in Griffin's unlawful entry.

The Government may raise *United States v. Oliver* to argue that "No Trespass" signs do not manifest a reasonable expectation of privacy. *Oliver* examined the expectation of privacy created by "No Trespass" signs, and found that signs did not create an expectation of privacy when placed next to an open field of marijuana. 466 U.S. 170, 180 (1986). However, unlike *Oliver*, the "No Trespassing" signs here relate to Lawton's warehouse, not an open field. Here, no illegal activity was visible from Lawton's home when Griffin arrived. Unlike *Oliver,* there was nothing in plain view for

Griffin to find objectionable. Thus, the existence of "No Trespassing" signs reinforce Lawton's reasonable expectation of privacy.

2. An Expectation of Privacy in a Privately-Owned Warehouse is Societally Recognized.

Katz also requires that an expectation of privacy "be one that society is prepared to recognize as 'reasonable.'" *See* 389 U.S. at 361. *Rakas v. Illinois* stated that property rights "reflect society's explicit recognition of a person's authority to act as he wishes in certain areas, and therefore should be considered in determining whether an individual's expectations of privacy are reasonable." 439 U.S. 128, 153 (1978). The Supreme Court elaborated that exclusion is a right of property owners, which often includes "a legitimate expectation of privacy by virtue of this right." *Rakas,* 439 U.S. at 144, n. 12.

Society would recognize Lawton's warehouse as having a reasonable expectation of privacy because Lawton owns and has exclusion rights over it. Exhibit 16. The video Lawton drew renovation inspiration from, with over four million views and one hundred thousand likes, shows societal acceptance of warehouses as private, personal spaces. R. at 61. *Rakas* based societal expectation of privacy on one's authority to act as they wish in a certain area. As the owner, Lawton had an objective right to permit or deny entry into the warehouse. Lawton exercised this right by telling Griffin to leave. R. at 35. As the property owner, Lawton has a societally recognized right to exclude others from that property, especially those entering without a warrant.

C. No Exigent Circumstances Existed Under the Totality of the Circumstances to Justify a Warrantless Entry by Police.

Though law enforcement typically requires a warrant to enter a home, "an officer may make a warrantless entry when 'the exigencies of the situation' create a compelling law enforcement need." *Lange*, 141 S. Ct. at 2016 (quoting *Kentucky v. King*, 563 U. S. 452, 460 (2011)). Exigent circumstances include "hot pursuit of a fleeing suspect" and "prevent[ing] the imminent destruction of evidence.'" *King*, 563 U.S. at 460. Exigencies are evaluated by most courts via "nature of the underlying offence," and "most have refused to permit warrantless home arrests for nonfelonious crimes." *Welsh v. Wisconsin*, 466 U.S. 740, 751–52 (1984). The Court emphasized that police bear a heavy burden to demonstrate urgency justifying warrantless actions. *See Welsh*, 466 U.S. at 749–50. Here, no exigent circumstances exist to justify Griffin's warrantless entry.

1. Lawton, as a Misdemeanant, was Not Under Hot Pursuit Because Her Driving was Non-Threatening.

Hot pursuit of a fleeing suspect is an exigent circumstance. *See King*, 563 U.S. at 460. However, the Supreme Court rejected a categorical warrant exception involving misdemeanants fleeing from officers into their homes. *Lange*, U.S. 141 at 2021–2022. In *Lange*, police entered the home of a drunk-driving suspect, a misdemeanant allegedly fleeing in hot pursuit. *See id.* at 2016. Misdemeanors were characterized as generally less dangerous, less violent, with less prison time than felonies. *See id.* at 2020. Thus, fleeing misdemeanants are not *per se* exigencies, and "[a]n officer must consider all the circumstances in a pursuit case to determine whether there is a law enforcement

emergency… But when the officer has time to get a warrant, he must do so—even though the misdemeanant fled." *Id.* at 2024.

The Government may claim hot pursuit justified entry, however this would be incorrect. The Court upheld hot pursuit exigency over fears of evidence destruction, but only after confirming the existence of drugs. *See United States v. Santana*, 427 U.S. 38, 43 (1976). In *Santana*, police purchased drugs and arrested dealers before driving to another suspect's home. *See* 427 U.S. at 40. The suspect was at an open doorway and retreated inside once police announced themselves. *See id.* The Court upheld exigency, reasoning "realistic expectation that any delay would result in destruction of evidence." *Id.* at 43. As there was no threat of evidence destruction to incite pursuit, the exigent circumstances exception does not apply here.

The hot pursuit doctrine does not apply because Lawton was not fleeing nor posing a threat to anyone. Unlike *Santana*, where the suspect fled upon police announcing themselves, Griffin never used sirens. *Id*; R. at 26. *Santana* officers chased the suspect immediately upon arriving at the home. *See Santana*, at 40. Griffin, conversely, waited to sneak in and followed Lawton thirty yards before announcing their presence. R. at 34. Lawton's behavior also cannot be characterized as fleeing, driving under the speed limit and causing no accidents. R. at 24. Lawton's behavior aligns closer to the non-threatening misdemeanor circumstances of *Lange* as opposed to the drug felonies of *Santana*. Since Lawton's behavior was non-threatening and nonfelonious, there was no exigency of hot pursuit.

2. Threat of Lawton's BAC Dissipating Does Not Create an Exigency in the Absence of Other Emergency Circumstances.

The Court has rejected natural metabolization of alcohol in the blood as a *per se* exigency. *See Missouri v. McNeely*, 569 U.S. 141, 145 (2013); *see also Welsh*, 466 U.S. at 754.

In *Welsh*, a suspect was arrested at home "for a noncriminal, traffic offense," justified by the State as an exigent circumstance of BAC preservation. 466 U.S. at 753. Because no one was hurt, with no actual harm to the public, the Court found these justifications unconvincing. *Id.* Although *Schmerber v. California* found exigency to justify an officer drawing blood for BAC analysis without a warrant, it was only after a drunk-driving accident had occurred. 384 U.S. 757, 770 (1966). However, the Court did not establish *per se* exigency for BAC dissipation and limited the judgment "only on the facts of the present record." *Id.* at 772.

Griffin's concern about Lawton's allegedly dissipating BAC is not an exigency. *McNeely* rejected blood alcohol concerns as *per se* exigencies, instead applying a totality of circumstances test to determine lawfulness of warrantless searches. *See* 569 U.S. at 155. Unlike *Schmerber*, Lawton did not cause an accident to justify warrantless entry. Similar to *Welsh*, Lawton arrived home without harming the public. R. at 63. Thus, it was unreasonable for Griffin to forgo the warrant requirement and consider Lawton's BAC dissipation an exigent circumstance.

As Griffin was not in hot pursuit and there was no prior accident to create a BAC exigency, there are no exigent circumstances here.

Lawton had a reasonable expectation of privacy within her home, and even if the court determines the warehouse is not a residence Lawton retains said expectation. No exigent circumstances existed to excuse Griffin's incursion. Therefore, the motion to suppress should be granted.

II. THIS COURT SHOULD SUPPRESS COCAINE SEIZED FROM LAWTON'S RESIDENCE BECAUSE IT WAS NOT IN PLAN VIEW, NO EXIGENT CIRCUMSTANCES EXISTED TO JUSTIFY THE WARRANTLESS SEARCH LEADING TO ITS DISCOVERY, AND IT IS NOT SUBJECT TO THE INEVITABLE DISCOVERY DOCTRINE.

Griffin's warrantless search and seizure of cocaine violated Lawton's Fourth Amendment rights to be "secure in [his] person, house, papers, and effects against unreasonable searches and seizures." U.S. CONST. amend. IV. "The Fourth Amendment's protection of the home has never been tied to the measurement of the quality or quantity of information obtained…. In the home, *all* details are intimate details, because the entire area is held safe from prying government eyes." *Kyllo v. United States*, 533 U.S. 27, 37 (2001). In an effort to uphold Fourth Amendment rights, "[Supreme Court] decisions [have] establish[ed] an exclusionary rule that forbids the use of improperly obtained evidence at trial." *Herring v. United States*, 555 U.S. 135, 139 (2009)

The Supreme Court established that warrantless searches and seizures in a home are presumptively unreasonable. *See King*, 563 U.S. at 452. While the "presumption may be overcome in some circumstances," the circumstances here do not overcome the presumption. *Id.* No warrant exceptions apply here as the cocaine was not in plain view, no exigent circumstances existed, and it was not inevitably discoverable.

A. The Cocaine was not in Plain View, and Griffin Moving the Tarp Constituted an Independent Search Without Probable Cause.

The plain view doctrine does not justify warrantless discovery of contraband in Lawton's residence because a reasonable officer in Griffin's position could not have identified the contraband as immediately incriminating. The plain view doctrine, an exception to the warrant requirement, permits the seizure of objects found in plain view. *See Texas v. Brown*, 460 U.S. 730, 736 (1983). If police are (1) lawfully in a position from which they view an object, (2) if its incriminating character is immediately apparent, and (3) if the officers have a lawful right of access to the object, they may seize it without a warrant. *See Horton v. California*, 496 U.S. 128, 136–17 (1990); *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993). To determine if an officer was in a lawful viewing position when an object was seized, courts look to whether an officer had justification for the search. *Coolidge v. New Hampshire*, 403 U.S. 443, 466 (1971). Assuming that entry was lawful, elements one and three are satisfied because Griffin was in a lawful position to view the cocaine and could seize it without warrant. However, element two fails because the cocaine's incriminating nature was not apparent to Griffin from their lawful viewing position six to eight feet away. Accordingly, no probable cause existed as a basis for the plain view doctrine.

Courts consider whether an officer had probable cause to associate the object with criminal activity to determine if an object's incriminating character is immediately apparent. *See Payton v. New York*, 445 U.S. 573, 587 (1980). If police lack probable cause to believe an object in plain view is contraband without conducting some further

search of it, the plain view doctrine cannot justify the seizure. *See Dickerson*, 508 U.S. at 374–75. This Court must determine whether a reasonable officer in Griffin's position, six to eight feet away, would identify the visible three-by-four inches of a packaged substance as contraband, or if that officer would only have a hunch of such. This assessment is pivotal in determining if the plain view doctrine applies in this context.

Moving an object to see something out of plain view constitutes an independent search. *Arizona v. Hicks*, 480 U.S. 321, 324–5 (1987). In *Hicks*, police entered an apartment to search for a suspect when an officer saw "expensive stereo components" and suspected they were stolen. 480 U.S. at 323. The officer moved the equipment to read their serial numbers, learned they were stolen, and seized them. *Id.* The Court ruled the officer only had a reasonable suspicion that the equipment was stolen, falling short of the requirement for probable cause, so moving equipment to read the serial numbers constituted a second search and rendered the seizure unlawful. *Id.* at 326–27.

Here, Griffin lacked probable cause. While Griffin may have had a reasonable suspicion that cocaine was inside Lawton's residence, such suspicion is not the heightened standard of probable cause. Therefore, Vann's statements suggesting drug trafficking in the residence or Halstead's repeated glances toward the tarp fall short of making the obstructed cocaine immediately incriminating from Griffin's vantage point six to eight feet away. R. at 36. While the Government may claim Griffin's drug training informed probable cause, Griffin's primary duties pertain to traffic enforcement and DUI protection. R. at 16. A drug training course may have been enough to spark Griffin's curiosity when viewing the tarp-obstructed object, but curiosity is not probable cause. R.

at 40. An object's character cannot be immediately incriminating without probable cause, which Griffin lacked when lifting the tarp to uncover suspected contraband. *Id.*

B. No Exigent Circumstances Existed to Permit Griffin's Warrantless Search of Lawton's Residence.

"It is well established that 'exigent circumstances,' including the need to prevent the destruction of evidence, permit police officers to conduct" a warrantless search. *King*, 563 U.S. at 455. However, exigency requires that "the destruction of evidence be 'imminent.'" *Id.* at 460. In *King*, police smelled marijuana coming from an apartment, knocked on the door, and announced themselves. *Id.* at 456. Police heard people inside moving and kicked down the door, believing that drug-related evidence was going to be destroyed. *Id.* The Court determined that, assuming an exigency existed, officers acted consistently with the Fourth Amendment as they announced their entrance. *Id.* at 472.

Here, Griffin's reliance on exigent circumstances is unjustified because there was no imminent destruction of evidence. Unlike *King's* officers, who acted upon smell and noise from the apartment, Griffin solely relied on Vann's statements and DEA suspicions of trafficking. R. at 40. While the Government may argue the need to preserve cocaine is an exigency, Vann instructing Griffin not to enter suggests preservation was not immediately required. According to Vann, the DEA's intentions were to track the suspected cocaine "to see where it goes from here" rather than seize it. R. at 54.

The Government may assert preservation of Lawton's BAC level constitutes an exigency. However, Griffin's actions do not support such assertion. If Griffin's entry was based on the imminent need to preserve dissipating BAC, no explanation exists for failing

to immediately enter after Lawton. Instead, Griffin radioed for backup and spoke with Vann. R. at 47. Further, Griffin's belief that evidence in the warehouse would be imminently destroyed because Lawton knew they were being followed home is unsupported on two accounts. First, Lawton was unaware of being followed because she was focused on driving home safely amid excruciating stomach pain. R. at 64. Second, as mentioned above, Griffin did not immediately follow Lawton indoors. R. at 47. Lawton would not destroy evidence when she was unaware of Griffin's pursuit. As such, no exigent circumstances existed, and the warrant requirement remains. An immediate need to preserve evidence based on the fear of Halstead destroying it was also not present because Halstead was attempting to flee, not thwart Griffin's search. R. at 41. Neither Halstead's acts nor Griffin's incorrect assumption that Lawton knew she was being followed overcomes the warrant requirement, mitigating any exigency argument.

C. Inevitable Discovery Does Not Apply Because the DEA Investigation Would Not Have Resulted in a Search of Lawton's Premises.

It is unlikely Griffin or Vann would have discovered the cocaine in the course of probable events: police were not in the process of obtaining a warrant when Griffin entered and searched, and Griffin took several steps out of the way to discover it. R. at 53, 70. The inevitable discovery exception applies if evidence seized in a warrantless search would have been lawfully discovered during a routine investigation. *Nix v. Williams*, 467 U.S. 431, 440 (1984). In *Nix*, the defendant attempted to suppress his statements made to officers about his deceased victim's location because the statements would violate his 6th Amendment rights. *Nix*, 467 U.S. at 441. Inevitable discovery

applied because the defendant's admissions were made the same day police would have discovered the body because they were searching only 2.5 miles away and approaching that direction. *Id.* at 449–50. "Unconstitutionally obtained evidence may be admitted at trial if it inevitably would have been discovered in the same condition by an independent line of investigation that was already being pursued." *Id.* at 459. (Brennan, J. dissenting).

Here, unlike *Nix* where evidence "demonstrat[ed] that at the time of the constitutional violation an investigation was already under way which, in the natural and probable course of events, would have soon discovered the body," the facts weigh in against discovering the contraband in Lawton's residence the same day Griffin pursued Lawton. *Id.* at 457. While the Government may assert Vann was pursuing a drug-related investigation at the time Griffin was following Lawton, the critical difference here is that there was no indication Vann would obtain a search warrant on the same day. R. at 53.

Where evidence has been obtained through a warrantless search of a defendant's home, the inevitable discovery rule only applies if the Government can show that police were in the process of obtaining a warrant for the same premises. *Rodriguez v. State*, 187 So.3d 841, 849 (Fla. 2015). Without such showing, "application of the inevitable discovery rule would effectively nullify the requirement of a search warrant under the Fourth Amendment." *Id.* at 849–50. The lack of active pursuit, or "pursuit of a warrant," does not expand the exclusionary rule. *Id.* at 849. Additionally, "speculation may not play a part in the inevitable discovery rule; the focus must be on demonstrated fact, capable of verification." *Bowen v. State*, 685 So.2d 942, 944 (Fla. Dist. Ct. App. 1996). While police were attempting to obtain a search warrant for Lawon's residence, they did not yet have

enough information to do so. R. at 53. At the time of Griffin's unconstitutional search, they were operating under the DEA's assumption that drugs may be in the residence – a fact not yet established. *Id.* It is unclear whether an active pursuit of a warrant was in place. Any suggestions otherwise made by the Government would be speculative at best, broadening *Rodriguez's* holding in a way that would invalidate the warrant requirement completely. In fact, it was not until after Griffin discovered the contraband that Vann obtained an emergency search warrant for the premises. R. at 59. As such, inevitable discovery does not apply to the scope of Griffin's search and seizure, and any evidence obtained during it should be suppressed to maintain Lawton's Fourth Amendment Rights.

CONCLUSION

For the foregoing reasons, the Defense respectfully requests this Court grant Defendant's Motion to Suppress. The (1) entry into and (2) search of Lawton's residence was a violation of her Fourth Amendment rights against unreasonable search and seizure. Therefore, evidence seized should be suppressed.

DATED this 4th day of September 2023.

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Respectfully Submitted,

/s/ TEAM 102

Attorneys for Defense

Team 102