IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF STETSON

No. 2023-CR-812

UNITED STATES OF AMERICA,

Non-Movant

v.

JAMIE LAWTON,

Movant.

BRIEF FOR THE NON-MOVANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATEMENT OF THE ISSUES

I. Did Officer Griffin infringe upon Defendant's reasonable expectation of privacy when she entered a warehouse where Defendant purportedly lived?

II. Did Officer Griffin violate Defendant's Fourth Amendment rights against unreasonable search and seizure when she searched Defendant's warehouse and seized cocaine?

INTRODUCTION

Few things are as universally important as public safety. The purpose of police officers is to protect society from crimes that wreak havoc on communities such as drug trafficking, violence, and drunk driving. In their efforts to protect people and prevent crime, police officers often bring into conflict the privacy interests of American citizens and the interests of law enforcement in crime prevention. When a police officer determines that immediate police action is necessary to prevent crime, this often leads to warrantless entry, search, and seizure, which infringes on the privacy interests of criminal suspects. This Memorandum addresses one such situation and argues that the warrantless entry, search, and seizure was lawful under the Fourth Amendment.

Through immediate police action, Officer Taylor Griffin ("Griffin") prevented thirty-one pounds of cocaine from polluting the streets of Stetson. In response, Defendant filed a Motion to Suppress, alleging that Griffin violated his Fourth Amendment rights. The Prosecution hereby files its Response and argues that Griffin's warrantless entry, search, and seizure was lawful and in compliance with

the United States Constitution and the federal case law interpreting the extent and application of the Fourth Amendment. For the following reasons, this Court should deny Defendant's Motion to Suppress.

STATEMENT OF FACTS

1. On or about June 8th, 2023, at approximately 4:00 p.m, Griffin saw a driver vomit out of the driver-side window of a red Chevrolet S10 pickup truck while Griffin was traveling southbound on 49th Street in Petersburg County, Stetson. Transcript of Record at 17, 20, 22, 46, *United States v. Lawton* (2023) (No. 2023-CR-812).
2. Griffin noticed that the truck did not have a rear license plate, which is an infraction in the State of Stetson. *Id.* at 12, 21, 23.
3. Griffin thought that this truck belonged to Kevin James. *Id.* at 20-21, 45.
4. Kevin James is a Stetson resident with an extensive criminal record. *Id.* at 20-21, 45-46.
5. As Griffin followed the truck, she saw it fluctuate speed, swerve, and repeatedly drift into the emergency lane. *Id.* at 24-26, 46.
6. Griffin saw the driver of the truck repeatedly hunch over, lean toward the passenger seat, and make "furtive movements" which indicated the potential concealment of weapons or contraband. *Id.* at 25-26.

7. Griffin turned on her police lights and attempted to pull the truck driver over. *Id.* at 26, 46.

8. Although Griffin was driving one car length behind the truck in her marked police SUV cruiser with police lights activated, the truck continued to drive for three miles until it turned into the parking lot of a run-down warehouse located at 900 49th Street, Petersburg, Stetson. *Id.* at 27-28, 46-47.

9. Griffin saw the driver exit the car, stumble toward the warehouse, and go inside. *Id.* at 28, 30-31.

10. Before Griffin pursued the suspect whom she believed was Kevin James, she received a call from Petersburg Police Lieutenant and Drug Enforcement Administration ("DEA") Agent Samy Vann ("Vann"). *Id.* at 28, 47.

11. Vann told Griffin not to enter the warehouse because the DEA was surveilling it as a suspected stash house used to move cocaine. *Id.*

12. Griffin entered the warehouse through the front door, which the suspect left wide open, believing that she had probable cause to pursue and arrest the suspect for driving under the influence ("DUI"), and to prevent the imminent destruction of evidence—specifically, the suspect's diminishing blood alcohol content ("BAC").[1] *Id.* at 28-29, 47.

[1]Griffin was following the knowledge gained in the course of police training, which taught officers that a person's BAC begins to decrease approximately sixty minutes after that person stops drinking, as their body metabolizes the alcohol. *Id.* at 29.

13. Griffin followed voices to the back right of the warehouse and heard the voice—of who she later identified as Kell Halstead ("Halstead")—say, "We got a good deal going down tonight and need the cash[.]" *Id.* at 31-32, 34.

14. Griffin then encountered Defendant alongside Halstead, and at that point, realized that the suspect was Defendant, and not Kevin James. *Id.* at 34, 48.

15. Defendant informed Griffin that he felt sick, so Griffin radioed for an ambulance, which arrived approximately five minutes later. *Id*. at 36.

16. While waiting for the ambulance to arrive, Griffin noticed that Halstead was repeatedly glancing toward a wooden pallet. *Id.* at 36, 48.

17. Griffin also noticed that Defendant's eyes were bloodshot and glassy, strengthening her suspicion that Defendant had consumed alcohol. *Id.* at 37, 48.

18. While escorting Defendant to the ambulance, Griffin passed the wooden pallet at which Halstead had repeatedly glanced and observed in plain view a light-colored, white powdery substance wrapped in saran wrap and duct tape. *Id.* at 38-40, 48.

19. Due to her Police Academy training, Griffin recognized this substance as cocaine packaged for distribution. *Id.* at 40, 48.

Time, therefore, is of the essence for officers measuring a suspect's BAC, as each passing minute leads to the disappearance of valuable evidence in a DUI prosecution. *Id.*

20. Griffin was standing six to eight feet away from the package, and could see that the package was approximately three inches thick and four inches long. *Id.* at 39-41.

21. Griffin then walked toward the package to seize it, pulled back the tarp that partially covered it, and observed three packages of cocaine. *Id.* at 40, 48.

22. The DEA later confirmed that the white powdery substance was cocaine weighing a total of thirty-one pounds. *Id.* at 4, 40, 58.

23. Thereafter, Defendant underwent a blood alcohol test, and Griffin put a police hold on Defendant to go into custody for DUI and cocaine possession following his discharge from the hospital. *Id.* at 43.

24. Based on the former, on or about July 7th, 2023, Defendant was indicted for three counts: (1) actual or constructive possession of five kilograms or more of cocaine with intent to distribute; (2) conspiracy with others to distribute five kilograms or more of cocaine; and (3) operating a motor vehicle while under the influence of alcohol. *Id.* at 5-6.

25. Defendant thereafter filed a Motion to Suppress the Evidence, to which the Prosecution responds in the instant Memorandum.

I. PROBABLE CAUSE AND EXIGENT CIRCUMSTANCES JUSTIFIED GRIFFIN'S ENTRANCE INTO THE WAREHOUSE, WHERE DEFENDANT LACKED A REASONABLE EXPECTATION OF PRIVACY.

A. REASONABLE EXPECTATIONS OF PRIVACY UNDER A FOURTH AMENDMENT MOTION TO SUPPRESS.

The Fourth Amendment assures that citizens will be protected in their "persons, houses, papers, and effects against unreasonable searches and seizures." U.S. CONST. amend. IV. When one opines that this right has been violated, they may file a motion to suppress evidence. *See United States v. Ford*, 34 F.3d 992, 993-94 (11th Cir. 1994). Federal law is clear that when a motion to suppress is filed, the government bears the "burden of persuasion to show that its evidence is untainted." *Alderman v. United States*, 394 U.S. 165, 183 (1969).

A motion to suppress should only be granted in certain scenarios, as Fourth Amendment violations "cannot turn upon . . . a physical intrusion into any given enclosure." *Katz v. United States*, 389 U.S. 347, 353 (1967). While the Fourth Amendment protects the security of citizens in various aspects of life, it does *not* protect illicit activity in places where its inhabitants do not have a reasonable expectation of privacy. *See United States v. Noriega*, 676 F.3d 1252, 1262-63 (11th Cir. 2012) (holding that a defendant lacked reasonable privacy expectations in a building used primarily for illicit drug activity); *see also United States v. Dunn*, 480 U.S. 294, 302-03 (1987) (finding that one who made phenylacetic acid in a barn

lacked a reasonable expectation of privacy, as the space was used primarily for drug making, not private or domestic activities).

Finally, a defendant cannot create a mere facade or appearance of privacy to claim unwarranted Fourth Amendment protection. *See United States v. Garner*, 444 F. App'x 361, 363 (11th Cir. 2011) (noting the presence of "no trespassing" signs as "irrelevant[,]" as they did not automatically indicate that an area was not open to public use).

B. THE WARRANTLESS ENTRY AND THE PURSUIT OF JUSTICE.

While a warrant is generally required to enter one's property, various exceptions exist to further the goals of justice. For instance, law enforcement officials may lawfully enter a home without a warrant when both probable cause and exigent circumstances exist. *Kentucky v. King*, 563 U.S. 452, 459-61 (2011). Probable cause exists when "the facts and circumstances within the officer's knowledge, of which he or she has reasonably trustworthy information, would cause a prudent person to believe, under the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense." *Von Stein v. Brescher*, 904 F.2d 572, 578 (11th Cir. 1990). *See also United States v. Lockett*, 533 F. App'x 957, 962 (11th Cir. 2013) (noting that a court cannot disregard evidence that independently fails to establish probable cause, as it must "consider all of the evidence under the totality of the circumstances."); *United States v. Tobin*, 923 F.2d

1506, 1510 (11th Cir. 1991) (finding probable cause to search a garage after officers observed defendants engaging in furtive movements and suspicious outward behavior).

Exigent circumstances, the second prong for the warrant exception, exist when an officer does not have sufficient time to secure a warrant and must act quickly under the circumstances. *King*, 563 U.S. at 460. For instance, exigent circumstances apply when an officer needs to pursue a fleeing suspect, render emergency medical attention, or prevent the imminent destruction of evidence such as contraband or the declining blood alcohol content of a drunk-driving suspect. *Id.* *See also Schmerber v. California*, 384 U.S. 757, 770-71 (1966) (noting that an officer was faced with an emergency and had no time to secure a warrant to measure the suspect's blood alcohol content, as a delay caused by obtaining a warrant could result in the destruction of crucial evidence).

C. DEFENDANT LACKED A REASONABLE EXPECTATION OF PRIVACY IN THE ABANDONED WAREHOUSE.

Griffin's entry into the warehouse did not violate Defendant's Fourth Amendment rights because Defendant did not have a reasonable expectation of privacy in his warehouse. Despite the presence of a makeshift bed and miscellaneous cooking supplies, the primary purpose of the warehouse is clear: Defendant used the building as an illegal drug front, which does not enjoy the benefits of Fourth Amendment protection. *See Noriega*, 676 F.3d at 1262-63; *see also Dunn*, 480 U.S.

at 302-03. Moreover, photographs of the warehouse interior plainly demonstrate that Defendant did not reside there: the floors were filthy and water-damaged, and aside from a bed and table, the space was unfurnished. Just like the barn in *Dunn* and the building in *Noriega*, Defendant's warehouse was nothing more than a drug stash house, which ultimately lacks reasonable privacy expectations under established precedent.

Moreover, Defendant *admitted* to barely spending time in the warehouse, despite having utilized the space for nearly three months. Although Defendant points to his arbitrary use of "No Trespassing" signs on the property, legal precedent is clear that "No Trespassing" signs by themselves do not indicate privacy expectations, let alone reasonable privacy expectations. *See Garner*, 444 F. App'x at 363. Therefore, Defendant lacked a reasonable expectation of privacy in the warehouse, and he thus cannot claim unwarranted Fourth Amendment protection.

D. PROBABLE CAUSE AND EXIGENT CIRCUMSTANCES JUSTIFIED GRIFFIN'S ENTRY INTO THE WAREHOUSE.

Even if this Court finds that Defendant had a reasonable expectation of privacy in the warehouse, Griffin's entry into the warehouse was nonetheless justified by probable cause and exigent circumstances. This case involves ample evidence of probable cause: an experienced officer followed Defendant's car for miles as he engaged in furtive movements in his vehicle, just as the furtive movements in *Tobin* gave rise to probable cause for suspicious activity. *Tobin*, 923

F.2d at 1510. Moreover, Griffin observed Defendant vomit out of his window, swerve all over the road, and completely disregard his signal to pull over for flashing police lights for three miles straight. A person of reasonable caution would believe that a driver who vomits, swerves, and refuses to pull over is driving under the influence. By looking at the totality of the circumstances, the context clearly pointed to intoxicated driving. Therefore, Griffin had probable cause to make a DUI arrest. *See Lockett*, 533 F. App'x at 962.

Exigent circumstances, the second prong necessary for a warrantless entry, were also present. Defendant blatantly attempted to flee Griffin's pursuit. Defendant refused to pull over even after Griffin followed him for miles with police lights flashing, and quickly stumbled into the abandoned warehouse to further escape. The law is clear that fleeing an officer serves as the exigent circumstances exception to procurement of a warrant. *Schmerber*, 384 U.S. at 770-71. Moreover, Griffin was faced with the possibility of the suspect's diminishing blood alcohol content, as well as the destruction of contraband in the stash house, as noted by Vann. *Schmerber*, 384 U.S. at 770-71; *King*, 563 U.S. at 460. Griffin was therefore faced with the imminent threat of crucial evidence being destroyed, and followed Defendant to salvage evidence that surely would have disappeared but for the lawful entrance.

Based on the foregoing, Griffin's entrance into the abandoned warehouse was justified under the circumstances. Defendant lacked a reasonable expectation of

privacy as the space was used primarily for stashing illicit drugs. Moreover, the existence of probable cause and exigent circumstances justified Griffin's entrance into the space in her pursuit of justice.

II. PROBABLE CAUSE, COMBINED WITH THE PLAIN VIEW AND IMMINENT DESTRUCTION OF EVIDENCE EXIGENT CIRCUMSTANCES, JUSTIFIED GRIFFIN'S SEARCH OF THE WAREHOUSE AND SEIZURE OF COCAINE.

A. PROBABLE CAUSE STANDARD FOR A LAWFUL SEARCH.

Under the Fourth Amendment, "a warrantless search is allowed . . . where both probable cause and exigent circumstances exist." *Tobin*, 923 F.2d at 1510. In *Florida v. Harris*, the Supreme Court reiterated that "[a] police officer has probable cause to conduct a search when 'the facts available to [him] would "warrant a [person] of reasonable caution in the belief"' that contraband or evidence of a crime is present." 568 U.S. 237, 243 (2013) (quoting *Texas v. Brown*, 460 U.S. 730, 742 (1983)). In *United States v. Walker*, the Eleventh Circuit held that detectives had probable cause to search a home suspected to be a crack cocaine stash house because the detectives heard from an informant that cocaine was being sold from the home, observed three people come and go from the home, and watched their informant purchase cocaine from the occupants of the home. 390 F. App'x 854, 855 (11th Cir. 2010).

B. GRIFFIN HAD PROBABLE CAUSE TO SEARCH THE WAREHOUSE.

The facts available to Griffin at the time that she searched the warehouse and seized cocaine would warrant a person of reasonable caution in the belief that contraband was present in the warehouse.

The following facts were available to Griffin before she searched the warehouse: (1) Vann informed Griffin that the DEA was surveilling the warehouse under the suspicion that it was a cocaine stash house, (2) Griffin heard people in the warehouse say "We got a good deal going down tonight and need the cash," (3) Griffin noticed that Halstead exhibited nervous body language and repeatedly glanced in the direction of a wooden pallet located on the warehouse floor, and (4) While exiting the warehouse, Griffin walked past the wooden pallet and without touching anything, observed a white powdery substance wrapped in saran wrap and duct tape in plain view lying underneath the pallet.

Any person of reasonable caution who was told that the warehouse was being surveilled as a cocaine stash house, heard the warehouse occupants talking about a good cash deal going down later that night, observed the occupants repeatedly and nervously glance toward a pallet, and saw a white powdery substance wrapped in saran wrap beneath the pallet would believe that there was cocaine in the warehouse.

Finally, the facts that gave rise to probable cause in *Walker* are analogous to the facts in the present case. Just like the detectives in *Walker* were informed that

there was contraband located in the home, Griffin was informed that there was contraband located in the warehouse from Vann. Similar to the officers in *Walker* who saw crack cocaine leave the home when their informant purchased it, Griffin observed a white powdery substance wrapped in saran wrap inside the home. If seeing someone exit a home while holding contraband justifies a person of reasonable caution in the belief that there was contraband inside the home, then surely actually seeing contraband *inside the warehouse* justified Griffin in her belief that the warehouse contained contraband. Therefore, Griffin had probable cause to search the warehouse.

C. PROTECTION OF CRUCIAL EVIDENCE.

Federal law is clear that "a variety of circumstances may give rise to an exigency sufficient to justify a warrantless search" and that "in some circumstances[,] law enforcement officers may conduct a search without a warrant to prevent the imminent destruction of evidence." *Missouri v. McNeely*, 569 U.S. 141, 149 (2013).

In *United States v. Gardner*, the court found sufficient evidence of imminent destruction of contraband to justify the DEA's search of a defendant's home, finding that the "danger that someone would dispose of the illicit drugs was especially great in this case because the agents knew the person in the house might be . . . the defendant's wife and partner in the drug trade." 553 F.2d 946, 948 (5th Cir. 1977).

The court held that when the agents learned that there was somebody else in the house, "a search of the home became *necessary* under the imminent destruction of evidence exigency to prevent disposal of the cocaine, a powder which can easily be flushed down a toilet." *Id.* (emphasis added).

D. THE SEARCH AND SEIZURE WAS NECESSARY TO PREVENT THE IMMINENT DESTRUCTION OF COCAINE.

In this case, the imminent destruction of evidence necessitated Griffin's search and seizure of cocaine located in the warehouse. As Griffin escorted Defendant to the ambulance, she saw a brick of saran-wrapped white powder poking out from beneath a tarp inside the warehouse. Just as the search in *Gardner* became necessary when the agents learned that another person was inside the home, the search of the warehouse became necessary as soon as Griffin realized that she was about to exit a warehouse containing a brick of white powder and a person capable of destroying it. Had Griffin not searched the warehouse and seized the cocaine, there was a great danger that Halstead, the person inside the warehouse, could have destroyed the cocaine by moving it from the warehouse, selling it, or otherwise disposing of it.

The danger of the destruction of cocaine became more imminent as Griffin began to suspect that Halstead could be Defendant's accomplice. Just as the agents in *Gardner* had reason to suspect that the person in the home could have been Defendant's partner in crime, Griffin had reason to suspect that Halstead was

Defendant's partner in crime because Griffin heard Halstead say to Defendant "We got a good deal going down tonight and need the cash[.]" This statement indicated to Griffin that Halstead conducted drug deals with Defendant and would therefore be incentivized to destroy the cocaine in order to shield himself from criminal prosecution. The search and seizure became necessary as soon as Griffin realized that leaving Defendant's partner in crime inside the warehouse with cocaine would create a great danger that Halstead would destroy it.

E. THE COCAINE WAS IN PLAIN VIEW OF GRIFFIN.

In *United States v. Ladson*, the Eleventh Circuit articulated the following conditions that must be met for a search to qualify under the plain view exception to the Fourth Amendment's warrant requirement: "First, the initial intrusion which made the discovery possible must have been lawful. Second, the discovery must have been inadvertent. Finally, it must have been immediately apparent that the item was evidence, contraband or otherwise subject to seizure." 774 F.2d 436, 439 (11th Cir. 1985). However, the Court in *Horton v. California* ruled that the inadvertence requirement is not a necessary condition to the plain view exception and "the fact that an officer is interested in an item and fully expects to find it should not invalidate its seizure if the search is confined in area and duration by . . . a valid exception to the warrant requirement." 496 U.S. 128, 129 (1990).

In *Ladson*, the court held that evidence of cocaine observed in plain view fulfilled the second and third conditions of the plain view exception. 774 F.2d at 439. The discovery of cocaine was inadvertent because officers discovered the cocaine during a walk-through of the home as they were taking an inventory of the home's contents for forfeiture purposes. *Id.* at 438. It was immediately apparent to the officers that the cocaine was subject to seizure because the officers found the cocaine lying in plain view as they entered the home's bedroom. *Id.* However, the court held that the cocaine evidence was inadmissible because the officers' initial entry was illegal. *Id.* at 439.

The facts of the present case are analogous to those of *Ladson* because Griffin's discovery of cocaine was inadvertent and it was immediately apparent to Griffin that the substance she observed was cocaine. The discovery was inadvertent because she did not enter the warehouse intending to search for cocaine. Griffin entered the warehouse to pursue Defendant, whom she suspected was driving under the influence of alcohol. While the *Ladson* officers discovered drugs by conducting a walk-through of a home with the intention of taking an inventory of its items, Griffin neither conducted a walk-through nor intended to take an inventory of any items in the warehouse.

Griffin's discovery of cocaine was as inadvertent as contraband discoveries come. She saw the cocaine beneath a pallet while walking toward the warehouse

door. She intended to leave the warehouse and escort Defendant to the ambulance, not to find cocaine. Furthermore, as noted in *Horton*, even if Griffin was interested in finding cocaine while inside the warehouse, and fully expected to find it, these facts *do not invalidate the seizure* as long as the search is "confined in area and duration by . . . a valid exception to the warrant requirement." *Horton*, 496 U.S. at 129. Even if Griffin intended to find cocaine in the warehouse, this does not invalidate her seizure because her search was confined specifically to the warehouse interior and lasted only as long as necessary to question Defendant, escort him to the ambulance, and discover the cocaine, a period of time not exceeding twenty minutes.

Just as the officers in *Ladson* knew that the white powder left out in plain view in Defendant's bedroom was cocaine, it was immediately apparent to Griffin that the saran-wrapped white powder lying in plain view beneath the wooden pallet was cocaine. Based on Griffin's training and experience, she recognized the manner in which cocaine is packaged for distribution. When Griffin first saw the cocaine, she noticed that it was wrapped in plastic saran wrap and secured with duct tape. In her experience, plastic saran wrap and duct tape are typically the items used to package cocaine for distribution. Therefore, it was immediately apparent to her that the wrapped substance was contraband subject to seizure under the plain-view exception.

Finally, the present case differs from *Ladson* because Griffin's warrantless entry was supported by probable cause and exigent circumstances whereas the warrantless entry of the *Ladson* officers was not. For the reasons previously argued, Griffin's initial entry was legal. Because Griffin's entry was legal, her discovery of evidence was inadvertent, and it was immediately apparent to her that the saran-wrapped white powder was cocaine, her search and seizure fulfills all three conditions of the plain view exception.

In conclusion, a warrantless search and seizure is lawful under the Fourth Amendment when supported by both probable cause and exigent circumstances. *Tobin*, 923 F.2d at 1510. Griffin had probable cause to search the warehouse because the facts available to her at the time of the search would justify a person of reasonable caution to believe that there was contraband in the warehouse. The imminent destruction of evidence exigency applies to this case because if Griffin left Defendant's partner in crime inside the warehouse with the cocaine, she would have created a great danger that Halstead would destroy it. The plain view exception applies because Griffin's initial entry was legal, her discovery of cocaine was inadvertent, and it was immediately apparent to her that the saran-wrapped white powder was contraband. If this Court finds that Griffin had probable cause and that either the imminent destruction of evidence exigency or the plain view exigency applies, then it should hold that Griffin's search and seizure was lawful.

CONCLUSION

In conclusion, Griffin's entry into Defendant's warehouse was justified as Defendant used the space as a cocaine stash house, and therefore lacked a reasonable expectation of privacy in the warehouse. Even if the Court finds that Defendant did have a reasonable expectation of privacy, Griffin's entrance was further justified by probable cause for DUI and contraband, as well as exigent circumstances that Halstead would destroy crucial evidence. Griffin's search and seizure of the cocaine was also warranted. Due to probable cause, exigent circumstances, and the plain view exception, Griffin acted reasonably under the circumstances in seizing cocaine that she inadvertently discovered.

WHEREFORE, the Prosecution respectfully requests that this Court deny Defendant's Motion to Suppress, and grant the Prosecution all other relief this Court deems just and proper.

Dated September 4th, 2023

Respectfully submitted,

See Appendix 1.

Attorneys for the Prosecution

INTEGRITY CERTIFICATION

See Appendix 1.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered via electronic mail by 5:00 p.m. EST on September 4th, 2023, to nptc@law.stetson.edu.