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

UNITED STATES OF AMERICA, *Plaintiff*, v. JAMIE LAWTON, *Defendant*.	Case No. 2023-CR-812

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS

Team 105

Attorneys for Plaintiff
United States of America

September 4, 2023

TABLE OF CONTENTS

Pages

TABLE OF AUTHORITIES

Pages

Cases

Statutes

Rules

Constitutional Provisions

Plaintiff United States of America ("United States") respectfully submits this Plaintiff's Memorandum of Law in Support of Plaintiff's Opposition to Defendant's Motion to Suppress.

INTRODUCTION

On July 7, 2023, defendant Jamie Lawton ("Lawton") was indicted in the Middle District of Stetson for violating (1) Title 21 U.S. Code Sections 841(a)(1) and (b)(1)(A), possession with intent to distribute five kilograms or more of cocaine; (2) Title 21 U.S. Code Section 846, conspiracy to distribute five kilograms or more of cocaine; and (3) Title 18 U.S. Code Section 342(b), operation of a motor vehicle while under the influence of alcohol or drugs while in possession of a federally issued common carrier license. Indictment ("Indict.") at 5-6.

Lawton has alleged that on June 8, 2023, the United States violated the Fourth Amendment when a Petersburg Patrol Officer ("Officer") (1) illegally entered his warehouse, and (2) conducted a warrantless search. Arraignment Transcript ("Arraign. Tr.") at 8-9. Lawton has moved to suppress all evidence seized in connection with that search, including thirty-one pounds of cocaine and a subsequent blood alcohol test. *Id*.; Stipulation ("Stip.") ¶ 3. The United States respectfully requests that this Court deny Lawton's motion.

Lawton's claims are unfounded. The Officer's warrantless entry into Lawton's warehouse and subsequent search thereof were both objectively reasonable under the Fourth Amendment. Entry was justified by a reasonable belief that the warehouse was abandoned, as well as several exigent circumstances, and the seizure conducted pursuant

to that entry fell under a multiple exceptions to the exclusionary rule. Even assuming that the entry and search were unreasonable, suppressing the seized evidence would not serve the purpose of the exclusionary rule, namely the deterrence of law enforcement misconduct, rendering it inapplicable. Therefore, this Court should dismiss the motion to suppress.

STATEMENT OF FACTS

On June 8, 2023, Officer Taylor Griffin of the Petersburg Police Department ("Department") discovered thirty-one pounds of cocaine inside Lawton's warehouse in Petersburg, Stetson. Stip. ¶4; Griffin Grand Jury Transcript ("Griffin GJ Tr.") at 40. Lawton later consented to a blood alcohol test, which showed that Lawton had a blood alcohol content ("BAC") of .04. *Id.* at 42-43; Lawton Sworn Statement ("Lawton SS") ¶ 28; Ex. 18. Lawton was indicted on July 7, 2023, and subsequently brought this motion to suppress evidence. Indict. at 5-6.

I. Lawton Was Under Investigation for Narcotics Trafficking by the Drug Enforcement Administration.

By June 8, 2023, Lawton had been under surveillance for three months by a joint taskforce comprised of the Drug Enforcement Administration ("DEA") and Stetson under the suspicion he was trafficking narcotics. Vann Grand Jury Transcript ("Vann GJ Tr.") at 52; Griffin GJ Tr. at 28. Earlier in 2023, Lawton purchased an abandoned warehouse. Lawton SS ¶ 4; Ex. 16. Lawton placed "no trespassing" signs on the doors and gates. Vann GJ Tr. at 55; Exs. 4, 16; Police R. 47. By June 8, 2023, the warehouse remained

mostly uninhabitable and contained junk from prior squatters. Lawton S.S. ¶ 5. *Id.* at ¶ 4, ¶ 7. The taskforce believed it was a stash house. Vann GJ Tr. at 54.

II. Officer Griffin Followed Lawton for Three Miles in an Attempt to Conduct a Traffic Stop for Suspicion of Driving Under the Influence.

On June 8, 2023, Lawton was driving his cousin Kevin's raised Chevrolet S10 in Petersburg County. Griffin GJ Tr. at 17, 21; Lawton SS ¶ 13; Ex. 2. The truck had no rear license plate and displayed a crude bumper sticker on the rear. Griffin GJ Tr. at 20-21; Ex. 2. While on patrol, Officer Griffin witnessed Lawton open the truck door and vomit. Griffin GJ Tr. at 17, 20-23; Police Report ("Police R.") at 46; Lawton SS ¶ 15.

Officer Griffin followed Lawton under the suspicion the driver was driving under the influence ("DUI"), and activated their lights after witnessing Lawton weave into the emergency lane twice. Griffin GJ Tr. at 24-25; Police R. at 46. Officer Griffin believed the driver was Kevin James ("James"), although the driver's hair color was different, and their face was not visible. Griffin GJ Tr. at 20-23; Police R. at 46. James's truck, however, possessed the exact attributes of the one driven by Lawton. *Id.* at 21. Officer Griffin had arrested James for DUI in 2021, and James was convicted six months prior. *Id.* at 20, 23.

Officer Griffin is a Petersburg Patrol Officer. Griffin GJ Tr. at 15. Officer Griffin has competed multiple training programs, including Field Training, where Officer Griffin was shown photos of packaged narcotics. *Id.* at 17, 40. Although Officer Griffin was on probation at the end of 2022 for unintentionally misreporting their overtime in August 2022, they were not under probation in 2023. *Id.* at 17, 44; Ex. 15.

Lawton did not stop for three miles, instead, they drove at varying speeds under the speed limit, and furtively reached towards the passenger seat. Griffin GJ Tr. at 24-28; Police R. at 46-47. Officer Griffin, believed James was fleeing to avoid jail time for driving under a suspended license due to DUI, and that they might be committing a second DUI within three years of a prior DUI conviction, a third-degree felony. §§14-227a(2)(b) and 14-215(c)(1); Griffin GJ Tr. at 23, 27.

Lawton drove to their warehouse, unlocked the door, and entered, leaving the door open. Griffin GJ Tr. at 28; 30-31; Police R. at 47; Vann GJ Tr. at 56. Lieutenant Samy Vann, a deputized agent for the DEA, called Officer Griffin. Griffin GJ Tr. at 28; Vann GJ Tr. 54. Lieutenant Vann asked Officer Griffin to not enter due to their ongoing investigation, and indicated that an individual "purportedly" lived there that was not James, though it was being used as a cocaine stash house. *Id*. Officer Griffin entered the warehouse, however, noting the possibility of the driver's BAC level dropping, destruction of narcotics, and escape. Griffin GJ Tr. at 28-29; Police R. at 47.

III. Thirty-one Pounds of Cocaine Sat on a Pallet Inside Lawton's Warehouse.

Officer Griffin observed there was no one present within thirty yards upon entry. Griffin GJ Tr. at 32. Hearing voices, Officer Griffin walked forward, and saw Lawton and co-conspirator Kell Halstead ("Halstead"). Stip. ¶6; *Id.* at 32-34. Officer Griffin announced themself, and realized Lawton was not James. *Id.* at 34; Police R. at 48. Halstead stated that the warehouse belonged to Lawton, and asked Officer Griffin to leave. Griffin GJ Tr. at 35; Police R. at 48.

Lawton appeared ill, and although they indicated they were calling an ambulance and wanted Officer Griffin to leave, Officer Griffin radioed for an ambulance. Griffin GJ Tr. at 36; Police R. at 48. While waiting, Officer Griffin noticed Halstead looking towards a pallet. *Id.* EMTs transported Lawton to the hospital. Griffin GJ Tr. at 37; Police R. at 48. Officer Griffin followed the EMTs out, and walked past the area Halstead was looking. Griffin GJ Tr. at 38-39; Police R. at 48.

From six to eight feet away, Officer Griffin saw the pallet, partially covered by a tarp, and noticed plastic and duct tape covering something light in color. Griffin GJ Tr. at 39; Police R. at 48; Vann GJ Tr. at 58. Officer Griffin lifted the tarp, identified three packages of cocaine, and brought them to Lieutenant Vann who was waiting outside. Griffin GJ Tr. at 40; Police R. at 48; Vann GJ Tr. at 58. Lieutenant Vann thereafter applied for an emergency warrant. Vann GJ Tr. at 59.

IV. Lawton Requested and Consented to a Blood Alcohol Test

At 5:40 p.m., Officer Griffin went to the hospital to obtain Lawton's consent to a urine test for the DUI investigation. Griffin GJ Tr. at 42; Police R. at 49. Officer Griffin informed Lawton they were not under arrest. *Id.* Lawton, who was conscious, declined but asked to submit a blood alcohol test, instead. Griffin GJ Tr. at 42; Police R. at 49. Lawton confirmed their consent to the test was voluntary, and signed a consent form. Police R. at 49; Lawton SS ¶¶ 27-28; Ex. 18.

ARGUMENT

I. Legal Standard

District courts may make both findings of law and findings of fact in analyzing a motion to suppress. *United States v. Stevenson*, 396 F.3d 538, 541 (4th Cir. 2005). Motions to suppress are to be decided prior to trial by the court, rather than by the jury during trial. *Id.* (citing Fed. R. Crim. P. 12(b)(3)(C)).

II. Officer Griffin's Entry into Lawton's Warehouse was Lawful Under the Fourth Amendment.

Officer Griffin's warrantless entry into Lawton's warehouse was lawful under the Fourth Amendment and, as such, cannot serve as the basis under which to suppress the evidence underlying Lawton's indictment. The Fourth Amendment allows law enforcement to conduct a traffic stop where there is reasonable suspicion to suspect "the particular person stopped of criminal activity." *Navarette v. California*, 572 U.S. 393, 396 (2014) (citing *United States v. Cortez*, 449 U.S. 411, 417-418 (1981)).

If that particular person does not stop, and continues on into the home, law enforcement is generally required to obtain a warrant to follow inside, barring consent. *See Lange v. California*, 141 S. Ct. 2011, 2017 (2021) (quoting *Riley v. California*, 573 U.S. 373, 382 (2014)). The Fourth Amendment, however, does not extend to abandoned homes where the owner has relinquished "his reasonable expectation of privacy in that property." *United States v. Harrison*, 689 F.3d 301, 307 (3d Cir. 2012). Further, within those homes not otherwise abandoned, only "*unreasonable* searches and seizures" are prohibited. U.S. const. amend. IV (emphasis added).

Therefore, where exigent circumstances make it *objectively reasonable* for law enforcement to believe that it is impractical to obtain a warrant, warrantless entry is permitted. *Lange*, 141 S. Ct. at 2017. "To be reasonable is not to be perfect," however. *Heien v. North Carolina*, 574 U.S. 54, 60 (2014). An officer may conduct a lawful search or seizure under an objectively reasonable mistake of fact or law. *Id.* at 61.

The United States bears the burden of proving that an officer's warrantless entry into an area recognized by the Fourth Amendment was reasonable. *United States v. Davis*, 44 F.4th 685, 688 (7th Cir. 2022) (citing *Riley*, 573 U.S. at 382). Here, it was objectively reasonable for Officer Griffin to believe they were permitted to enter Lawton's warehouse without a warrant. Further, Lawton's warehouse appeared abandoned, and several exigent circumstances justified entry. As such, Officer Griffin's warrantless entry was lawful under the Fourth Amendment.

A. Officer Griffin possessed reasonable suspicion to pull Lawton over for a DUI, despite mistaking Lawton for James.

Lawton's driving pattern, coupled with Officer Griffin's reasonable belief that the vehicle Lawton had borrowed was being driven by Kevin James, gave rise to a requisite level of reasonable suspicion to conduct a traffic stop. When law enforcement stops a particular individual, under the belief that a crime has been committed, that individual has been seized for the purposes of the Fourth Amendment. *Heien*, 574 U.S. at 60-61. Traffic stops, however, only require law enforcement to possess a reasonable level of suspicion, based upon "the totality of the circumstances – the whole picture." *Cortez*, 449 U.S. at 417; *See Terry v. Ohio*, 392 U.S. 1, 21-22 (1968).

Weaving in and out of lanes while driving alone can give rise to a reasonable suspicion that a particular individual is driving under the influence. *Navarette*, 572 U.S. at 402 (collecting cases); *Amundsen v. Jones*, 533 F.3d 1192, 1198 (10th Cir. 2008). In *Amundsen*, the court determined that an officer possessed reasonable suspicion to conduct a traffic stop for DUI when she observed an individual weave in and out of lanes repeatedly. 533 F.3d at 1198-99.

In the present case, Officer Griffin witnessed Lawton not only weave into the emergency lane twice, which would have been sufficient to create reasonable suspicion, but also vomit, furtively reach towards the passenger seat, and alternate his speed. Griffin GJ Tr. at 24-28; Police R. at 46. These combined indicia shaped Officer Griffin's objectively reasonable suspicion that Lawton was intoxicated, and thus rendered the traffic stop lawful.

Lawton may argue that Officer Griffin was improperly motivated by the fact that they may have wanted to prove themself to the Department after their probation had ended, or that they believed Lawton was James. Neither "[t]he subjective understanding of the particular officer" nor "the actual motivations of officers" are considered in assessing what was objectively reasonable for a specific search or seizure, however. *Heien*, 574 U.S. at 66; *United States v. Delfin-Colina*, 464 F.3d 392, 398 (3d Cir. 2006). As such, Officer Griffin's subjective motivation or mistaken identification are not factorable into the analysis. Therefore, the attempted traffic stop was lawful and cannot serve to invalidate Officer Griffin's later entry into the warehouse.

B. Officer Griffin reasonably believed Lawton's warehouse was abandoned and lacked protection under the Fourth Amendment.

It was objectively reasonable for Officer Griffin to believe that Lawton's warehouse was abandoned property and that a warrant was not required to enter. The Fourth Amendment does not recognize a reasonable expectation of privacy in abandoned property. *United States v. Harrison*, 689 F.3d 301, 306-07 (3d Cir. 2012) (citing *United States v. Fulani*, 368 F.3d 351, 354 (3d Cir. 2004)). Consequently, warrantless entry into abandoned property does not result in the suppression of any evidence seized therein. *Id.*

The determination of whether property is abandoned is an objective one that is assessed under a totality of the circumstances analysis. *Id.* at 307 (citing *McKenney v. Harrison*, 635 F.3d 354, 359 (8th Cir. 2011)). In *Harrison*, the court held that law enforcement made a reasonable mistake of fact when they surmised that a home was abandoned. *Id.* at 310-11. There, law enforcement not only observed that the home was in a state of disrepair and that the front door was left open, but they were also already aware of what the inside looked like and the fact that it was "known drug den." *Id.*

Officer Griffin not only came across a warehouse in disrepair, with broken windows and peeling paint, but through the open door it appeared empty. Griffin GJ Tr. at 31-32; Lawton SS ¶ 4. In addition, Lieutenant Vann noted that while an individual "purportedly" lived there, it was likely being used as a stash house. Griffin GJ Tr. at 28; Police R. at 37. As such, while Officer Griffin was ultimately incorrect in their assessment the property was abandoned, like the officers in *Harrison*, it was an objectively reasonable mistake of fact given the information available to Officer Griffin

at the time. Therefore, Officer Griffin's warrantless entry into the warehouse was valid, and the results of the subsequent search should not be suppressed.

C. Officer Griffin was also justified in entering Lawton's warehouse without a warrant under several exigencies.

Even if it were unreasonable for Officer Griffin to believe that the warehouse was abandoned, several exigent circumstances rendered their entry lawful. Exigent circumstances permit entry into the home where there is a "compelling need for official action and no time to secure a warrant." *Mincey v. Arizona*, 437 U.S. 385, 394 (1978) (citing *McDonald v. United States*, 335 U.S. 451, 456 (1948)).

Exigencies recognized to be so compelling include the hot pursuit of a suspect, and prevention of the destruction of evidence. *See Lange*, 141 S. Ct. at 2017, 2024. While most misdemeanors are insufficient to justify warrantless entry into the home by law enforcement, a felony in process coupled with the fear that evidence inside might be destroyed in the time need to acquire a warrant permits it. *Id.* at 2018, 2021, 2014 .

Here Officer Griffin reasonably believed that the individual they were chasing was James, and despite their reasonable mistake of identity and law, if the driver was James, a felony might have been in the process of being committed. §§14-227a(2)(b) and 14-215(c)(1); Griffin GJ Tr. at 23, 27. Officer Griffin did not, however, enter the warehouse until they were notified by Lieutenant Vann that there was cocaine inside. *See* Griffin GJ Tr. at 29; Police R. at 47; Vann GJ Tr. at 54.

At that point, Officer Griffin reasonably believed that James might destroy evidence. *Id.* Further, once inside, although Officer Griffin was made aware that Lawton

was not James, and Lawton had been transported out by EMTs, the destruction of evidence exigency remained where Halstead remained in the warehouse. *See* Griffin GJ Tr. at 41. Therefore, Officer Griffin's warrantless entry into the warehouse was valid under both the hot pursuit and destruction of evidence exigencies, and their entry was lawful.

III. Lawton's Fourth Amendment Rights Were Not Violated When Officer Griffin Seized Thirty-One Pounds of Cocaine from His Warehouse.

Officer Griffin's seizure of thirty-one pounds of cocaine in Lawton's warehouse was lawful under the Fourth Amendment, and therefore the underlying evidence should not be suppressed. While the Fourth Amendment considers warrantless searches and seizures to be unreasonable *per se*, where certain exceptions to the exclusionary rule apply, those very searches become reasonable, and the fruits thereof admissible. U.S. Const. amend. IV; *Mincey*, 437 U.S. at 390 (1978 (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)). Even when they do not apply, however, courts will only exclude evidence under the exclusionary rule if it would have a deterrent effect on police misconduct. *See Herring v. United States*, 555 U.S. 135, 141, 153.

Here, while legally in the warehouse under several exigencies, Officer Griffin legally seized the cocaine that was sitting in plain view. Even if Officer Griffin were in the warehouse unlawfully, however, multiple exceptions to the exclusionary rule apply which would render the evidence admissible. Lastly, even if neither the entry nor seizure were reasonable, the exclusionary rule should not be applied where reasonable mistakes of fact and law, rather than police misconduct, were the cause thereof. Therefore, the

seized evidence should not be excluded, and this court should deny Lawton's motion to suppress.

A. Officer Griffin was in the warehouse lawfully under an exigency and appropriately seized the cocaine sitting in plain view.

The cocaine in Lawton's warehouse sat in plain view, and therefore should not be suppressed. Law enforcement may seize evidence without a warrant when it is in plain view and the officers are (1) lawfully positioned; (2) have a lawful right of access to the object; and (3) the incriminating nature of the item is immediately apparent. *Horton v. California*, 496 U.S. 128, 136-37 (1990) (citing *Coolidge v. New Hampshire*, 403 U.S. 443, 466 (1971)). Here, Officer Griffin was lawfully present inside the warehouse when they saw the cocaine in plain view, pursuant to an exigency, and possessed a lawful right of access to the pallet whose incriminating nature was immediately apparent before the tarp was removed. *See* Griffin GJ Tr. at 36, 39-40. As such, the seizure was legal, and the evidence should not be suppressed.

i. Officer Griffin was lawfully positioned when the cocaine was in plain view, and had a lawful right of access to it.

In the course of the ongoing exigency regarding destruction of evidence, Officer Griffin was lawfully positioned, and had a lawful right of access to the cocaine in Lawton's warehouse. Officers may seek out a better look at something in plain view that provokes their suspicion, and can reasonably take minor walking detours within areas they are authorized to be without offending the Fourth Amendment. *United States v. Jackson*, 131 F.3d 1105, 1110 (4th Cir. 1997) (citing *Texas v. Brown*, 460 U.S. 730, 740 (1983)); *United States v. Carter*, 378 F.3d 584, 589-90 (6th Cir. 2004) (holding there was

"nothing improper" about an officer taking a few steps toward a table to look at evidence in plain view).

As Officer Griffin followed the EMTs out, they took five to six steps out of their natural path to observe the area to which Halstead had been staring. Griffin GJ Tr. at 39; Halstead Sworn Statement ("Halstead SS") ¶ 15. In accordance with the holding in *Carter*, the few steps Officer Griffin took out of their natural walking path to observe the evidence in plain view was permissible.

ii. The criminal nature of the cocaine was immediately apparent before the tarp was lifted.

The criminal nature of the cocaine was immediately apparent to Officer Griffin, prior to their lifting the tarp that partially obscured it. In order for law enforcement to seize evidence in plain view, they must have probable cause to believe the evidence is incriminating. *Brown*, 460 U.S. 730 at 742. The probable cause standard does not require absolute certainty that the evidence is criminal in nature, rather, it requires a "practical, nontechnical" probability. *Id.* (quoting *Brinegar v. United States*, 338 U.S. 160, 176 (1949)).

In *Brown*, the court held that an officer had probable cause to seize an opaque balloon under the belief it contained narcotics, given their experience with previous narcotics arrests, and conversations regarding narcotics balloons with other members of law enforcement. *Id.* at 742-43.

Similarly, here, Officer Griffin could surmise the criminal nature of the portion of cocaine exposed, prior to lifting the entire tarp. Officer Griffin had narcotics training, and

had already been told by Lieutenant Vann that there was cocaine inside. Griffin GJ Tr. at 17, 40; Vann GJ Tr. at 54. All factors considered, the cocaine was legally seized by Officer Griffin in plain view.

B. Even if Officer Griffin's entry or seizure were improper, several exceptions to the exclusionary rule render the evidence admissible.

Even if Griffin's entry into the warehouse and subsequent seizure of the cocaine was improper, the motion to suppress should be denied. The exclusionary rule recognizes three exceptions, all of which render otherwise unreasonable searches lawful, namely, the independent source doctrine, the inevitable discovery doctrine, and the attenuation doctrine. *Utah v. Strieff*, 579 U.S. 232, 238 (2016).

In the present case, Lieutenant Vann and the DEA's seizure of the cocaine following Officer Griffin's entry into the warehouse was lawful under all three exceptions to the exclusionary rule. In addition, even if the cocaine was unlawfully seized, the BAC test should remain admitted as it was sufficiently attenuated from the original seizure. As such, the motion to suppress should be denied, even if Officer Griffin's entry and seizure were invalid.

i. The independent source doctrine applies to the seizure of the cocaine.

Even if Officer Griffin's entry and seizure was unreasonable, the evidence was later acquired lawfully through an untainted source, and should therefore not be suppressed. Evidence that was originally seized pursuant to an unlawful search, but later seized pursuant to a lawful one, remains admissible if the decision to apply for, and grant the warrant was not based on information obtained from the unlawful activity. *United*

States v. Saelee, 51 F.4th 327, 335 (9th Cir. 2022) (quoting *Murray v. United States*, 487 U.S. 533, 537 (1988)). In those instances, law enforcement need not return the seized evidence to the owner and reseize it for the search to be valid; to do otherwise would be to invite the suspect to destroy the evidence. *Id.* at 338.

Lieutenant Vann's decision to obtain an emergency warrant to search the warehouse was not based on the information gleaned from Officer Griffin's entry; there was already an ongoing investigation which rendered sufficient probable cause to enter. Vann GJ Tr. at 51-52, 59. Nor does Officer Griffin's removal of the cocaine and handoff to Vann nullify the independent source doctrine. Griffin GJ Tr. at 40. There was no need for Lieutenant Vann to hand Lawton the cocaine only to reseize it for the doctrine to apply. Therefore, the cocaine should not be suppressed.

ii. The inevitable discovery doctrine applies to this seizure.

The independent discovery doctrine also applies to the seizure here. Under the independent source doctrine, if it can be determined that the evidence seized unlawfully "ultimately or inevitably would have been discovered by lawful means . . . then the deterrence rationale has so little basis that the evidence should be received." *Nix v. Williams*, 467 U.S. 431, 444 (1984).

Once again, the DEA and Lieutenant Vann were actively monitoring the warehouse for three-months prior to Officer Griffin's entry. Vann GJ Tr. at 52; Griffin GJ Tr. at 28. If the cocaine left, they would have been aware of it, and would have known where to seize it. So, for this reason too, the evidence should not be suppressed.

iii. Lawton's consent to a blood draw was attenuated from the seizure and is therefore admissible even if the cocaine is suppressed.

Even if the seizure of the cocaine was unreasonable, Lawton's BAC test remains separately admissible as its collection was attenuated from the seizure of the cocaine. In determining whether a subsequent search is attenuated from the original unlawful activity, courts balance the (1) length of time between the illegal act and obtaining evidence, (2) presence of intervening causes, and (3) flagrancy of the illegal act. *Utah*, 579 U.S. at 239 (citing *Brown v. Illinois*, 422 U.S. 590, 603–04 (1975)). Intervening causes can include signed consent forms. *United States v. Delancy*, 502 F.3d 1297, 1311-12 (11th Cir. 2007).

Although Officer Griffin's visit to Lawton took place only two hours later, there was a sufficient intervening cause and there was no flagrancy as to Officer Griffin's actions. Here, Lawton, after being told they were not under arrest, volunteered to take a BAC test and signed a consent form. Police R. at 49; Lawton SS ¶¶ 27-28; Ex. 18. As such, the consent form was an intervening cause. Lastly, Officer Griffin actions were taken in compliance with the law, after the search of the warehouse, and they did not aim to coerce Lawton into compliance. Accordingly, even if the cocaine is suppressed, the BAC test should remain admitted.

C. Even if Officer Griffin's entry and search of Lawton's warehouse was improper, the exclusionary rule should not be applied.

Finally, even if the entry and seizure are both found to be unlawful, the evidence should not be suppressed. Exclusion "has always been our last resort, not our first impulse." *Herring*, 555 U.S. at 140 (quoting *Hudson v. Michigan*, 547 U.S. 586, 591

(2006)). The exclusionary rule is deterrence doctrine against police misconduct rather than a personal remedy. *See Id.* at 141, 153 (quoting *United States v. Leon*, 468 U.S. 897, 916 (1984)). As such, it is not applied unless the "benefits . . . outweigh the costs." *Herring*, 555 U.S. at 141 (citing *Leon*, 468 U.S. at 910). Suppression should only occur if it can be shown that law enforcement was aware that they were acting in violation of the Fourth Amendment. *Id.* at 143 (quoting *Illinois v. Krull*, 480 U.S. 340, 348-49 (1987)).

Here, Officer Griffin believed at all times that they were acting lawfully. Their actions were taken exclusively under objectively reasonable mistakes of fact and law; at no time was Officer Griffin aware they were violating the Fourth Amendment. Exercising the use of the exclusionary rule in this case would not have a deterrent effect on police misconduct. As such, even if this Court does deem the search and seizure improper, the exclusionary rule should not be applied, and the evidence should not be suppressed.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that this Court deny Lawton's Motion to Suppress. Neither the cocaine nor the BAC test should be suppressed because (1) Officer Griffin's warrantless entry into Lawton's warehouse was reasonable under both the reasonable belief that the warehouse was abandoned, and the exigent circumstances present; (2) the subsequent seizure of cocaine in Lawton's warehouse was permissible under both the plain view doctrine, and several exceptions to the exclusionary rule; (3) the BAC test was attenuated from the search and conducted pursuant to Lawton's consent; and (4) even if the search or seizure were unreasonable,

the exclusionary rule would have no deterrent effect and accordingly should not be applied. Therefore, this Court should deny Lawton's motion to suppress evidence.

Dated: September 4, 2023

Respectfully Submitted,

Plaintiff, United States of America

By: /s/ Team 105
Team 105

Attorneys for the United States of America