TEAM NO. 106

Case No. 2023-CR-812

IN THE

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF STETSON

UNITED STATES OF AMERICA

v.

JAMIE LAWTON,

Defendant.

MOVANT'S MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO SUPPRESS

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INTRODUCTION

This Court should grant Jamie Lawton's Motion to Suppress because the Government entered Lawton's residence and conducted a search in violation of the Fourth Amendment.

After mistaking Lawton for a different person, Officer Griffin entered Lawton's warehouse, where he resided, without a search warrant or any exigent circumstances. Once inside, Officer Griffin conducted a search by trespassing onto Lawton's property to find narcotics and by invading Lawton's reasonable expectation of privacy in his home. Because the search was warrantless and cannot be justified by any exception to the warrant requirement, any evidence resulting from the discovery of the cocaine must be suppressed.

STATEMENT OF FACTS

THE DEFENDANT. Jamie Lawton was with friends at Right on Cue: Pool House & Casino on June 8, 2023, where he often spends his days off work. (Lawton Aff. ¶ 9.) Despite purchasing drinks for his two friends, Lawton was feeling ill, so he only drank half of a beer and ate a few jalapeño poppers. (Lawton Aff. ¶ 10–11.) Lawton left after a few hours and experienced trouble with his cousin Kevin James's red truck, which he borrowed that afternoon. (Lawton Aff. ¶ 13.) The truck began making clunking noises, and Lawton worried that the engine would give out. (Lawton Aff. ¶ 13.) Unfortunately, Lawton then began experiencing sharp pains in his stomach. (Lawton Aff. ¶ 14.) He assumed the jalapeño poppers caused his stomach pains because Lawton typically cannot handle spicy food. (Lawton Aff. ¶ 14.) Just as he approached the intersection of 49th Street and Raymond Boulevard, the traffic light turned red, and Lawton vomited slightly. (Lawton

Aff. ¶ 15.) There was nothing to help in his cousin's truck, so Lawton was forced to spit it out the driver's side door. (Lawton Aff. ¶ 15.) Lawton's stomach pain became so terrible that he could hardly move from his hunched-over position. (Lawton Aff. ¶ 16.) Fearing his cousin's truck could break down, Lawton drove directly to his warehouse without ever exceeding the speed limit. (Lawton Aff. ¶ 15; Officer Taylor Griffin's Grand Jury Test. ("Griffin Test.") 24.)

THE MISTAKEN IDENTITY. While Lawton was at the red light on 49th Street and Raymond Boulevard, Officer Taylor Griffin spotted him during his traffic patrol. (Griffin Test. 17). On patrols, Officer Griffin watches intently for suspicious activity, especially regarding impaired driving. (Griffin Test. 16.) He dreams of making a name for himself in the Petersburg Police Department, so Officer Griffin prides himself on stopping any criminal activity while on patrol. (Griffin Test. 16.) When he approached the red truck, Officer Griffin immediately recognized that it was owned by Kevin James, whom Officer Griffin had arrested for a DUI in 2021. (Griffin Test. 20–21.) Officer Griffin watched as the driver spit vomit out the driver's side door and, although he knew James had a different hair color and style, he assumed the driver was James. (Griffin Test. 22.) Officer Griffin began following the red truck, with both vehicles going about five to ten miles per hour below the speed limit. (Griffin Test. 24.) Once he saw who he believed to be James drift into the emergency lane, Officer Griffin turned on his police cruiser's lights but did not activate the sirens. (Griffin Test. 25–27.) Based on James's criminal record, Officer Griffin was convinced this would be a "bigtime arrest," despite never seeing the driver's face to identify him. (Griffin Test. 27.) Although he never activated the sirens and dash camera,

Officer Griffin followed the red truck for about three miles, thrilled at the thought of a chase. (Griffin Test. 27.) To his disappointment, the truck never accelerated to the point of engaging Officer Griffin in pursuit. (Griffin Test. 27–28.)

OFFICER GRIFFIN'S MISSION. After following the red truck for a short time, the vehicles came to a warehouse at 900 49th Street North. (Griffin Test. 28.) Throughout this occurrence, Lawton was experiencing so much pain that he had no idea Officer Griffin had followed him. (Lawton Aff. ¶ 21.) Lawton struggled to walk into the warehouse, almost doubling over as pain shot through his entire abdomen. (Lawton Aff. ¶ 17–19.) Officer Griffin radioed for backup as he watched, still incorrectly assuming he had followed James. (Griffin Test. 28.) Lieutenant Samy Vann responded to Officer Griffin, telling him not to enter the warehouse. (Griffin Test. 28.) Lieutenant Vann then called Offer Griffin on his cell phone and explained that the building was under surveillance by the Drug Enforcement Administration ("DEA"), and that James had no connection to the warehouse. (Griffin Test. 28; Lieutenant Vann's Grand Jury Test. ("Vann Test.") 54.) Lieutenant Vann also mentioned that there were likely large quantities of cocaine in the warehouse but ordered Officer Griffin to stand down. (Vann Test. 55.) The DEA knew that Lawton purported to live in the warehouse, so Lieutenant Vann was building a case strong enough to get a warrant. (Vann Test. 53.) Officer Griffin, however, disregarded Lieutenant Vann's orders and entered the warehouse without a warrant. (Griffin Test. 30.)

Once inside, he followed voices to the kitchen area and found Lawton with Kell Halstead. (Griffin Test. 33.) Lawton and Halstead ordered Officer Griffin to leave, but he disregarded their demands and accused Lawton of being a "drunk driver" and a "drug

dealer." (Lawton Aff. ¶ 20; Halstead Aff. ¶ 12.) Officer Griffin further told Lawton that he was "going down for two serious crimes," although the cocaine had not yet been discovered. (Halstead Aff. ¶ 12.) At this point, Lawton's pain became unbearable, and he requested a doctor. (Griffin Test. 35.) Officer Griffin called an ambulance, and the EMTs arrived shortly thereafter to take Lawton to the hospital, where he was later diagnosed with appendicitis. (Griffin Test. 37–38, 42.)

THE HIDDEN COCAINE. After the EMTs wheeled Lawton outside, Officer Griffin began to exit the building and noticed a tarp covering a wooden pallet. (Griffin Test. 39.) Officer Griffin claims he could see a few inches of plastic wrap under the tarp, so he walked over and pulled back to tarp to reveal cocaine. (Griffin Test. 40.) Police then arrested Halstead and seized the cocaine. (Griffin Test. 41).

LAWTON'S ARREST. After arriving at the hospital for an emergency appendectomy, Lawton maintained that he was not drunk. (Griffin Test. 42.) Lawton submitted to a blood test, and it came back with .04 blood alcohol content ("BAC"). (Griffin Test. 43). Law enforcement placed a police hold on Lawton, where he would enter police custody after his surgery. (Griffin Test. 43.)

ARGUMENT

The Fourth Amendment safeguards an individual's right to be free from unreasonable searches and seizures. *Lange v. California*, 141 S. Ct. 2011, 2017 (2021). Although the Amendment affords protection to multiple areas, defending the sanctity of the home is its cardinal concern. *Id.* at 2018. The Constitution's framers drew a hard line which shields an individual's freedom to retreat into the privacy of their own dwellings. *Id.*

(citing *Payton v. New York*, 445 U.S. 573, 590 (1980)). Even so, law enforcement may cross that boundary when issued a proper warrant by a neutral magistrate. *Id.* Although some exceptions to the warrant requirement exist, they are confined to carefully drawn parameters which the United States Supreme Court has repeatedly refused to expand. *Id.*; *Caniglia v. Strom*, 141 S. Ct. 1596, 1600 (2021). When law enforcement searches or enters a home without a proper warrant, the action is presumptively unreasonable under the Fourth Amendment. *Groh v. Ramirez*, 540 U.S. 551, 559 (2004). The justice system does not permit police to benefit from Fourth Amendment abuses; thus, the products of unreasonable searches must be excluded from evidence to deter future police misconduct. *Davis v. United States*, 564 U.S. 229, 246 (2011).

I. Officer Griffin's warrantless entry into Lawton's warehouse violated the Fourth Amendment because the warehouse is his residence, and the warrant exceptions do not apply.

The Fourth Amendment has drawn an inflexible line at individuals' front doors. *Payton*, 445 U.S. 573, 590 (1980). Absent exigent circumstances, the Government may not reasonably cross that boundary without a warrant. *Id.* Even when probable cause exists, law enforcement officers are prohibited from acting unilaterally. *Katz v. United States*, 389 U.S. 347, 357 (1967). Instead, law enforcement officers are bound to the decisional authority possessed by neutral magistrates. *Id.* In this case, Officer Griffin disregarded the Fourth Amendment's commands by entering Lawton's residence without a warrant or exigent circumstances. In doing so, the Government improperly stepped beyond the hard line drawn by the Amendment; thus, any evidence resulting from the entry must be suppressed.

A. The Fourth Amendment firmly protects the warehouse because it is Lawton's residence.

The Fourth Amendment's chief role is to protect individuals from warrantless governmental intrusions into their homes. *Welsh v. Wisconsin*, 466 U.S. 740, 748 (1984) (citing *United States v. U.S. Dist. Ct. for E. Dist. of Mich.*, 407 U.S. 297, 313 (1972)). The Supreme Court has not specifically defined what qualifies as a home or a residence in Fourth Amendment inquiries. To generally determine what rises to the level of Fourth Amendment protection, however, the Court developed a two-part inquiry under *Katz v. United States*. *See* 389 U.S. at 351. At its core, the *Katz* test focuses on an individual's reasonable expectation of privacy. *Id.* That is, if a person seeks to preserve an area's privacy, and their expectation of privacy is one which society is prepared to accept as reasonable, then government intrusion into that area qualifies as a Fourth Amendment search. *Id.* (citing *Smith v. Maryland*, 442 U.S. 735, 740 (1979).

Even so, the Supreme Court has examined a similar question when deciding whether a mobile home was considered a residence, or if it fell within the warrant requirement's automobile exception. *See California v. Carney*, 471 U.S. 386, 393 (1985). In *Carney*, the Court examined the circumstances and recognized that, although the mobile home possessed many attributes of a home, it was not a "home" within the meaning of the Fourth Amendment. *Id.* Notably, the Court was persuaded by the mobile home's ready mobility, its access to streets under constant public view, and that an objective observer would likely conclude it was used merely as a vehicle. *Id.* at 392–94. Moreover, society's interest in effective law enforcement justifies searching a mobile home before it flees police. *Id.* at

393. The Court further rejected the argument that a mobile home is capable of functioning as a residence because it would arbitrarily bar the automobile exception's application to certain vehicles depending on their sizes and accessories. *Id.* In other words, the Court explicitly refused to distinguish between "worthy" and "unworthy" vehicles—a distinction that the Fourth Amendment forecloses. *Id.* at 394.

Here, the Government demands that this Court apply the same arbitrary distinction that the Supreme Court has disavowed on multiple occasions. *See, e.g.*, *Carney*, 471 U.S. at 394 ("worthy" and "unworthy" vehicles); *United States v. Ross*, 456 U.S. 798, 822 (1982) ("worthy" and "unworthy" containers). Lawton's warehouse does not possess any vehicular qualities which could bring it out of the realm of a "home" or increase society's interest in immediate searches. Practically, Lawton's warehouse functions as a home, and any argument that its physical condition produces a different conclusion is precluded by *Carney* and *Ross*. Courts should be hesitant to join the business of evaluating worthiness of individuals' homes—the Fourth Amendment's concern is much more forceful here than with containers and vehicles.

Even under *Katz*'s reasonable-expectation-of-privacy test, however, Lawton's warehouse should qualify as his home because the circumstances show that Lawton treated it as such. Even Lieutenant Vann admitted that Lawton appeared to "spend most nights" at the warehouse, which Lieutenant Vann considered significant enough to demand a stronger case for a warrant. (Vann Test. 53.) Lawton privately owned the building and had many plans to fix it up, which was corroborated by Kell Halstead's grand jury testimony and the fact that he already began building a bedroom on the second floor. (Ex. 16; Lawton Aff.

¶ 6–7; Halstead Aff. ¶ 6; Ex. 14.) Lieutenant Vann even observed chicken wings, cheese, Spaghetti-Os, and a jar of pickles next to the stove and in Lawton's kitchen fridge. (Vann Test. 59; Ex. 13.) Under the *Katz* test, Lawton held a subjective expectation of privacy in his warehouse, and society is prepared to accept it as reasonable since it is his residence.

Society's objective interest in privacy, and the Constitution's concern for that privacy, do not disappear when law enforcement considers an individuals' home unworthy of protection. Such a conclusion is precisely what the Fourth Amendment was intended to prevent. From sleeping to cooking in the warehouse, Lawton's actions reflect that the warehouse is his home, and it warrants the Amendment's protection.

B. Officer Griffin's entry required a warrant because no exigencies existed, and he was not in hot pursuit of Lawton.

Law enforcement officers generally need a warrant to legally enter a home, but some circumstances allow entry when exigent circumstances are coupled with probable cause. *Kirk v. Louisiana*, 536 U.S. 635, 638 (2002). Various circumstances may create an exigency sufficient to justify a warrantless search. *See*, *e.g*., *Michigan v. Fisher*, 558 U.S. 45, 47–48 (2009) (emergency assistance); *United States v. Santana*, 427 U.S. 38, 42–43 (1976) (hot pursuit); *Cupp v. Murphy*, 412 U.S. 291, 296 (1973) (imminent destruction of evidence). A warrantless entry's reasonableness must be evaluated based on the totality of the circumstances. *Missouri v. McNeely*, 569 U.S. 141, 151 (2013). An action is unreasonable under the Fourth Amendment if the circumstances, viewed objectively, do not justify the officer's actions. *Brigham City v. Stuart*, 547 U.S. 398, 404 (2006). In other words, the test to determine whether exigent circumstances exist is objective—it does not

hinge on an officer's subjective belief. *Id.* Here, Officer Griffin testified he entered Lawton's residence because the longer he waited, the more Lawton's BAC would likely drop. (Griffin Test. 29.)

Alcohol's natural metabolization in the bloodstream does not present a per se exigency. *McNeely*, 569 U.S. at 145. An exigency only exists in those circumstances when the dropping BAC is coupled with some other factor that creates a health, safety, or law enforcement necessity compelling enough to take priority over a warrant application. *Mitchell v. Wisconsin*, 139 S. Ct. 2525, 2530 (2019). Officer Griffin's fear that Lawton's BAC may drop is not sufficient to justify his warrantless entry because no other factors known to Officer Griffin created a pressing need overtaking a warrant application. (Griffin Test. 28–29.); *see generally McNeely*, 569 U.S. at 154 (recognizing that technology allows officers to send warrant applications remotely and efficiently). When refusing to obtain a search warrant, Officer Griffin violated Lawton's Fourth Amendment rights when he entered the residence—an even more blatant violation after being told by Lieutenant Vann that he was mistaking Lawton for someone else. (*See* Vann Test. 54.) Since no exigency existed, and no other circumstances created a pressing need taking priority over the warrant application, Officer Griffin's warrantless entry into Lawton's residence was unjustified.

Moreover, Officer Griffin was also not in "hot pursuit" of Lawton. The hot pursuit doctrine does not apply when there is no immediate or continuous pursuit of the defendant from the scene of a crime. *Welsh*, 466 U.S. at 753. A hot pursuit refers to a chase, and although it need not to be long or drawn out, the chase nonetheless must exist. *Santana*, 427 U.S. at 43. Here, Officer Griffin was not in hot pursuit of Lawton. While driving behind

Lawton, Officer Griffin turned on his emergency lights but failed to activate his sirens. (Griffin Test. 26–27.) Lawton was unaware that Officer Griffin was even behind him because Lawton was focused solely on getting home while experiencing immense pain. (Lawton Aff. ¶ 21.) Through the duration of this encounter, Lawton never accelerated past the speed limit. (Griffin Test. 28.) If Officer Griffin believed Lawton was evading him, he could have activated his sirens, but he never did so. (Griffin Test. 28.) In fact, Officer Griffin even admitted that Lawton never accelerated to the point of engaging him in pursuit or trying to elude him. (Griffin Test. 28.) The Government cannot point to the hot pursuit doctrine when the encounter did not give rise to an objective chase and the officer himself admits he did not subjectively believe there was a chase. In such a circumstance, Officer Griffin was doing no more than simply following Lawton—the hot pursuit doctrine requires much more. *See Welsh*, 466 U.S. at 750 (stating that the police bear a heavy burden for warrant exceptions).

Because the Government cannot satisfy either the exigent circumstances or hot pursuit exceptions, the Fourth Amendment demanded a warrant before entering Lawton's warehouse. Officer Griffin failed to secure a warrant; thus, he unlawfully entered Lawton's residence and any evidence resulting from such entry must be suppressed.

II. The cocaine discovered in Lawton's residence must be suppressed because its discovery resulted from a warrantless search in violation of the Fourth Amendment.

The Fourth Amendment protects individuals from unreasonable searches. *Lange*, 141 S. Ct. at 2017. Although the ultimate benchmark is reasonableness, searches generally demand a warrant issued by a neutral magistrate. *Id.*; *Katz*, 389 U.S. at 357. Law

enforcement officers are strictly bound to judicial processes, even when unquestionable probable cause exists. *Katz*, 389 U.S. at 357. Officer Griffin did not acquire a warrant before lifting a tarp covering cocaine in Lawton's residence. (Griffin Test. 40.) Thus, because Officer Griffin's actions constituted a search within the meaning of the Fourth Amendment, and such warrantless search was unjustified by any exception to the warrant requirement, the cocaine discovery must be suppressed.

A. Officer Griffin conducted a search of Lawton's residence within the meaning of the Fourth Amendment.

Traditionally, whether law enforcement conducted a "search" under the Fourth Amendment depended on its physical intrusion onto property to obtain information. *Carpenter v. United States*, 138 S. Ct. 2206, 2213 (2018) (citing *United States v. Jones*, 565 U.S. 400, 405 (2012)). Common-law trespass guided the courts in analyzing police conduct. *Id.* The Supreme Court expanded the conventional interpretation, however, in *Katz v. United States*, and clarified that the Fourth Amendment focuses on individuals—it is not bound to physical property rights. 389 U.S. at 351. Under the modern understanding, the Amendment protects areas of individuals' lives where they possess reasonable expectations of privacy. *Carpenter*, 138 S. Ct. at 2213 (citing *Katz*, 389 U.S. at 351).

In *United States v. Jones*, however, the Supreme Court explained that the *Katz* test did not supplant the traditional common-law trespass standard—the framework was simply added to the long-established interpretation. 565 U.S. at 409. As clarified by *Jones*, the government still conducts a Fourth Amendment search when it physically trespasses onto

a constitutionally protected area to obtain information. *Id.* at 407. In this case, Officer Griffin conducted a Fourth Amendment search of Lawton's residence under both standards.

As previously discussed, Officer Griffin illegally entered Lawton's residence, trespassing onto his property under *Jones*. But even if Officer Griffin lawfully entered the warehouse, his further search constituted a separate invasion of property rights to find narcotics. When exiting the warehouse, Officer Griffin took a different path from how he entered. (Griffin Test. 38.) Although Officer Griffin claims he "naturally walked closer" to the cocaine, Lieutenant Vann watched him walk toward the new door after the EMTs already left, "look down to the left, then stop, walk to his left a few feet, and then bend over and lift up a tarp." (Griffin Test. 39; Vann Test. 58.) Kell Halstead also watched as Officer Griffin "did not walk straight to the door," but rather, "walked over to the left toward the wooden pallet" as if he "was on a mission." (Halstead Aff. ¶ 15.) Indeed, Officer Griffin was on a mission to find evidence of narcotics and, by walking to a new area of the warehouse and lifting a tarp to peer underneath, he meaningfully interfered with Lawton's property rights. Thus, under *Jones*, the Government conducted a warrantless search of Lawton's warehouse.

Additionally, the Government invaded Lawton's reasonable expectation of privacy under *Katz*. The home is the quintessential sphere of privacy under the Fourth Amendment. *Lange*, 141 S. Ct. at 2018. But even items in public areas can be constitutionally protected when an individual seeks to preserve them as private. *Carpenter*, 138 S. Ct. at 2217 (citing *Katz*, 389 U.S. at 351). In this case, however, the cocaine was not only stored inside private property, but it was also concealed by a tarp within the building. The Supreme Court has

repeatedly affirmed that individuals can reasonably expect to retreat into their homes. *Lange*, 141 S. Ct. at 2018. Lawton's subjective expectation of privacy is further reinforced by the additional layer of protection—specifically, the tarp—used to preserve its contents as private. The inquiry then rests on whether Lawton's subjective expectation of privacy is one that society is willing to accept as reasonable or, under an objective lens, whether it is legitimate. *See Carpenter*, 138 S. Ct. at 2213.

Of course, crime is a significant societal concern. *United States v. Knotts*, 460 U.S. 276, 282 (1983) (citing *Johnson v. United States*, 333 U.S. 10, 13–14 (1948)). Whether society is willing to legitimize concealed drugs, however, is not the only question which the *Katz* test considers. If it were, then law enforcement would be permitted to invade any private sphere where it suspects criminal activity. Individuals do not forfeit any reasonable expectation of privacy by committing crimes. *Mincey v. Arizona*, 437 U.S. 385, 391 (1978). Rather, the test's second prong looks to the areas of life which the nation historically understands enjoy a freedom from police surveillance. *Carpenter*, 138 S. Ct. at 2214 (citing *United States v. Di Re*, 332 U.S. 581, 595 (1948)). As stated, the cocaine was stored inside Lawton's residence, under a tarp. Society's concern for law enforcement's warrantless intrusion into homes outweighs its concern for addressing suspected crime. *See Knotts*, 460 U.S. at 282 (finding that the defendant "undoubtedly" had the traditional expectation of privacy in his dwelling place although it did not extend to his vehicle).

The occasions when the right to privacy must yield to society's concern for crime must be decided by a judicial officer, not by law enforcement. *Id.* (citing *Johnson*, 333 U.S. at 13–14). Upon showing probable cause, and the following issuance of a warrant, the

Government may then justifiably enter a constitutionally protected sphere. *Carpenter*, 138 S. Ct. at 2213. In this case, however, Officer Griffin did not permit a neutral magistrate to consider the circumstances and issue a proper warrant. Instead, Officer Griffin unilaterally determined that Lawton's residence could be intruded upon and conducted a search within the meaning of the Fourth Amendment.

B. Officer Griffin's warrantless search was unlawful because the cocaine was not in plain view and there were no exigent circumstances.

Although searches generally require a proper warrant, the Supreme Court has fashioned a handful of exceptions to such requirement on the basis that certain, carefully delineated situations make warrantless searches reasonable. *See, e.g.*, *Santana*, 427 U.S. at 42–43 (1976) (hot pursuit); *United States v. Jeffers*, 342 U.S. 48, 51–52 (1951) (exigent circumstances); *New York v. Belton*, 453 U.S. 454 (1982) (search incident to arrest). The plain view doctrine, although often referred to as an exception to the warrant requirement, technically refers to seizures instead of searches. *Texas v. Brown*, 460 U.S. 730, 738 (1983). Under the doctrine, officers may seize incriminating evidence discovered in plain view without a warrant because objects in the public eye do not enjoy any privacy; thus, no search truly occurs. *Id.* Exigent circumstances also present an exception to the warrant requirement where an emergency justifies a warrantless search. *Lange*, 141 S. Ct. at 2018. Here, Officer Griffin testified that he saw the cocaine in plain view inside the warehouse and seized it in order to prevent Halstead from destroying it. (Griffin Test. 40.) Even so, neither the plain view doctrine nor the exigent circumstances exception justify Officer Griffin's warrantless search of Lawton's residence.

An officer may only seize evidence under the plain view doctrine while lawfully in an area from which they can view the evidence, its incriminating character is immediately apparent, and the officer has lawful access to the evidence. *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993). Here, the Government fails to satisfy any of these requirements. As previously discussed, Officer Griffin illegally entered Lawton's residence; thus, Officer Griffin was neither lawfully in an area from which he could view the cocaine, nor did he have lawful access to it. Although each element is dispositive in itself, the incriminatory character was also not immediately apparent. When a police officer lacks probable cause to believe an object is contraband without further investigation, the doctrine's second element is not satisfied. *Id.* In this case, there is conflicting testimony regarding whether the tarp fully concealed the cocaine packages. (*see* Griffin Test. 39–40; Halstead Aff. ¶ 14.) Even if Officer Griffin is correct that a few inches were visible beneath the tarp, he still required further investigation to reach probable cause—Officer Griffin needed to lift the tarp.

Probable cause is a totality-of-the-circumstances analysis, which may include an officer's prior expertise and training. *Ornelas v. United States*, 517 U.S. 690, 696, 700 (1996). Officer Griffin claimed that he immediately knew the package was cocaine after only seeing a few inches of plastic wrap peeking out beneath a tarp. (Griffin Test. 40.) He testified that the circumstances reached probable cause from the information he received from Lieutenant Vann, and from his experience in drug training. (Griffin Test. 40.) Officer Griffin's training and experience with narcotics is minimal. He has been a traffic enforcement officer for less than three years, and the only drug training he experienced was

at the police academy where he was simply shown "pictures of cocaine and other drugs packaged for transport and sale." (Griffin Test. 40.) Viewing images of packages drugs at the police academy does not give Officer Griffin enough experience to immediately conclude that a few inches of plastic wrap indicate narcotics. Thus, the only other information which could have led to this conclusion was Lieutenant Vann's reference to an investigation. Considering the circumstances, Officer Griffin's discovery once lifting the tarp was nothing more than a lucky guess.

Even if the Government could satisfy the plain view doctrine's elements, it still cannot justify the doctrine in this case because Officer Griffin exceeded its scope. The plain view doctrine may only supplement an officer's prior justification for being on the premises. *Horton v. California*, 496 U.S. 128, 136 (1990) (citing *Coolidge v. New Hampshire*, 403 U.S. 443, 466 (1971)); *see also Chimel v. California*, 395 U.S. 752, 763 (1969) (stating that objects in plain view may be seized during a post-arrest search appropriately limited in scope). Since the entry here was warrantless, the doctrine's scope must be defined by Officer Griffin's limited DUI investigation. Aside from Lawton's BAC, any DUI evidence logically could not be found at the warehouse because the alleged drunk driving occurred on the way there. The Government cannot use the plain view doctrine as a permission slip to transform a limited DUI investigation into an exploratory search for narcotics.

The Government also cannot point to exigent circumstances to justify its warrantless search because its own wrongdoing created the anticipated destruction of evidence. Under the police-created exigency rule, law enforcement may not satisfy the warrant exception

when officers gain entry to premises through an actual or threatened Fourth Amendment violation. *Kentucky v. King*, 563 U.S. 452, 469 (2011). As previously discussed, Officer Griffin's entry into Lawton's residence and his warrantless search of the premises violated the Fourth Amendment. The Government cannot justify conducting an exploratory search for narcotics when Officer Griffin unlawfully entered the building for an unrelated offense in the first place. Thus, the Government's searched Lawton's residence in violation of the Fourth Amendment because it failed to secure a warrant or satisfy any exception to the warrant requirement.

CONCLUSION

For the foregoing reasons, Jamie Lawton respectfully requests that this Court grant his Motion to Suppress, which includes any and all evidence resulting from the Government's unlawful entry into, and search of, Jamie Lawton's residence.

Respectfully Submitted,

/s/ Team 106
Attorneys for the Defendant