Criminal Case No: 2023-CR-812

IN THE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF STETSON

SEPTEMBER 1, 2023

THE UNITED STATES OF AMERICA,

Prosecution,

-against

JAMIE LAWTON,

Defendant.

DEFENSE'S MEMORANDUM OF LAW FOR MOTION TO SUPPRESS

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INTRODUCTION

Defendant Jamie Lawton files this motion to suppress evidence gathered by the Petersburg Police Department in violation of the Fourth Amendment. Officer Griffin of the Petersburg Police Department violated the Fourth Amendment in two main ways.

First, Griffin made illegal entry into Mr. Lawton's home, without Mr. Lawton's consent and without a warrant. Mr. Lawton's home, and its curtilage, are not subject to the open fields doctrine. Griffin's illegal entry was not justified by the hot pursuit of a felony suspect, a threatened destruction of evidence, a threat to public safety, or a need to render emergency medical assistance.

Second, Griffin made an unlawful search of Mr. Lawton's home, without a warrant, while he was unlawfully present in Mr. Lawton's home. The search was not incident to a lawful arrest. The seizures were not protected by the plain view doctrine. Moreover, the subsequent emergency search warrant for Mr. Lawton's home was granted based upon the findings of this unlawful search and seizure.

Officer Griffin deliberately violated Constitutional protections with which any reasonable police officer should be familiar. Accordingly, this Court should suppress the evidence which was collected through such egregious violations.

STATEMENT OF FACTS

On June 8, 2023, at approximately 16:00 hours, Jamie Lawton was driving southbound on 49th St. in the City of Petersburg, State of Stetson. (Griffin Grand Jury Tr. ("Griffin Tr.") ¶¶ 23, 27, 43.) Admittedly, Mr. Lawton was operating a vehicle without a license plate visibly affixed to the back of the vehicle, a traffic infraction in violation of STETSON STAT. § 14-147. (Griffin Tr. ¶ 81.) This minor infraction constitutes the sole offense committed by Mr. Lawton on June 8, 2023.

During his commute, Mr. Lawton was struck with an acute onset of abdominal pain. (Lawton Statement ("Lawton") ¶¶ 14-16, July 20, 2023.) This illness was subsequently diagnosed by McDaniel Medical Center as appendicitis requiring an emergency appendectomy. (Griffin Tr. ¶¶ 293, 311; Lawton ¶ 25.) While stopped at a red traffic light at the intersection of 49th St. and Raymond Blvd., Mr. Lawton opened the driver's door of his vehicle and spit out a small mouthful of vomit. (Griffin Tr. ¶ 83; Lawton ¶ 15.) After the traffic light changed to green, Mr. Lawton closed the door and continued driving, maintaining his speed within the posted speed limit. (Lawton ¶ 16; Griffin Tr. ¶¶ 113, 119.)

Officer Griffin was present in his patrol car near the intersection of 49th St. and Raymond Blvd. at the same time as Mr. Lawton and observed Mr. Lawton spit out the mouthful of vomit. (Griffin Tr. ¶¶ 49, 65, 83.) Although Griffin was initially unable to identify Mr. Lawton as a man or a woman, he surmised that Mr. Lawton's

identity was that of Kevin James. (Griffin Tr. ¶¶ 105, 67.) Mr. James is a local individual, known to Griffin, who was convicted of Driving under the Influence ("DUI") in 2021. (Griffin Tr. ¶¶ 71, 99, 101.) Griffin based his misidentification on his observations that Mr. Lawton was an "average-size person" with a similar build to Mr. James and that Mr. Lawton was driving a truck with an aftermarket suspension and an anti-Ford bumper sticker. (Griffin Tr. ¶¶ 91, 63, 79.) Griffin acknowledged that Mr. Lawton had a different hair color and hairstyle than Mr. James but assumed that Mr. James dyed his hair to evade arrest. (Griffin Tr. ¶ 101.) Griffin began to follow directly behind Mr. Lawton on 49th St. (Griffin Tr. ¶ 119.)

Griffin alleges that Mr. Lawton's vehicle drifted into the emergency lane, prompting Griffin to initiate a traffic stop. (Griffin Tr. ¶¶ 127, 139.) This allegation is uncorroborated. Griffin claims that he attempted to pull Mr. Lawton over solely by use of the patrol car's emergency lights and chose not to turn the sirens on because he "didn't think it was necessary." (Griffin Tr. ¶ 141.) Griffin was likely aware that this decision would result in the dash camera footage not being stored—dash camera footage is only stored while the siren is activated. (Griffin Tr. ¶ 145.) The stored footage would have included the immediate thirty seconds prior to the siren activation. (Griffin Tr. ¶ 145.)

Not noticing the patrol car behind him, Mr. Lawton remained unaware of the attempted traffic stop and continued his commute home, traveling at the posted

speed limit. (Lawton ¶¶ 16, 21; Griffin Tr. ¶¶ 155, 159.) Griffin followed behind him for approximately three miles. (Griffin Tr. ¶ 155.) At no point in this "pursuit" did Griffin turn his siren on. (Griffin Tr. ¶ 157.) In Griffin's own words, it "slipped [his] mind" as he was "getting ready for a chase." (Griffin Tr. ¶ 155.)

Mr. Lawton arrived at his residence, a warehouse in the process of conversion, clearly demarcated with "No Trespassing" signs on the doors. (Vann Grand Jury Tr. ("Vann Tr.") ¶¶ 19, 21, 67; Griffin Tr. ¶¶ 161, 179; Lawton ¶¶ 4, 5, 7; Ex. 4, 11, 6, 7, 13, 14, 16, 17.) He parked the truck and rushed towards the warehouse on foot, hunched over in pain. (Vann Tr. ¶¶ 43, 45; Griffin Tr. ¶¶ 161, 179, 187; Lawton ¶ 17.) After pausing to unlock the door to his warehouse home, Mr. Lawton hurried inside. (Vann Tr. ¶¶ 45, 47; Griffin Tr. ¶¶ 187, 189; Lawton ¶ 17.) The door swung shut behind him. (Vann Tr. ¶ 49; Lawton ¶ 20.) Inside, he immediately rinsed the taste of vomit from his mouth with Peppermint Schnapps. (Lawton ¶ 18.)

Initially, Griffin remained in his patrol car in the parking lot, approximately forty yards away from the warehouse door, and requested additional police units to his location. (Griffin Tr. ¶¶ 191, 163, 193; Vann Tr. ¶ 25.) Lt. Samy Vann, also of the Petersburg Police Department, swiftly informed Griffin that the building was suspected of housing large quantities of cocaine and ordered him not to enter the building. (Griffin Tr. ¶ 165; Vann Tr. ¶ 25.) Despite Lt. Vann's admonitions, Griffin elected to make illegal entrance into Mr. Lawton's residence, without a warrant and

without Mr. Lawton's permission, for the unlawful purpose of furthering the DUI investigation and because "the driver could have been getting rid of whatever evidence the narcotics team was surveilling for." (Lawton ¶ 20; Griffin Tr. ¶¶ 167, 169, 171; Vann Tr. ¶¶ 23, 25, 29, 43, 49.)

Griffin approached the warehouse on foot, pushed the door all the way open, and entered the building. (Vann Tr. ¶ 49.) Once inside, Griffin encountered Mr. Lawton and another individual, later identified as Kell Halstead, in a make-shift kitchen where a meal was being prepared. (Griffin Tr. ¶¶ 221, 211, 219; Ex. 6; Lawton ¶¶ 18-20.) At this point, Griffin realized that Mr. Lawton was not Mr. James. (Griffin Tr. ¶ 221.) Despite this realization, Griffin did not depart the residence because "this was still a suspected DUI and [he] wasn't about to let that slide." (Griffin Tr. ¶ 221.)

Both Mr. Lawton and Mr. Halstead directed Griffin to leave the residence, to no avail. (Griffin Tr. ¶¶ 229, 235; Lawton ¶ 20.) After Mr. Lawton, still in great distress, stated that he was about to call an ambulance for himself, Griffin summoned emergency medical services ("EMS"). (Griffin Tr. ¶¶ 235, 241; Lawton ¶¶ 21-22; Vann Tr. ¶ 51.)

Armed with knowledge of the narcotics investigation, Griffin availed himself of the opportunity to search the contents of Mr. Lawton's residence while Mr. Lawton was secured to a gurney and wheeled out of his home. (Griffin Tr. ¶¶ 273,

271; Vann Tr. ¶ 59.) Under the guise of following the EMTs outside, Griffin departed from his direct path to the door and approached a collection of unidentifiable items covered with a tarp. (Griffin Tr. ¶¶ 269, 243, 271; Ex. 7b; Vann Tr. ¶ 61.) Griffin proceeded to remove the tarp, seize three packages located underneath, and carry them outside to Lt. Vann and additional members of the DEA team. (Griffin Tr. ¶¶ 277, 279; Vann Tr. ¶ 63.) The contents of the packages tested positive for cocaine. (Vann Tr. ¶ 63.)

Lt. Vann was granted an emergency search warrant of Mr. Lawton's residence, based upon Griffin's findings. (Vann Tr. ¶ 67.) No further evidence of criminal activity was discovered during the execution of the warrant. (Vann Tr. ¶ 67; Griffin Tr. ¶ 277.)

Insistent on completing the DUI investigation, Griffin met Mr. Lawton at McDaniel Medical Center. (Griffin Tr. ¶ 291.) After Griffin confirmed that Mr. Lawton was not under arrest, Mr. Lawton agreed to provide a blood sample. (Griffin Tr. ¶ 299.) The resulting blood sample yielded a blood alcohol content of 0.04. (Griffin Tr. ¶ 309.)

ARGUMENT

I. THIS COURT SHOULD SUPPRESS ALL EVIDENCE BECAUSE OFFICER GRIFFIN VIOLATED MR. LAWTON'S FOURTH AMENDMENT RIGHTS BY UNLAWFULLY ENTERING MR. LAWTON'S RESIDENCE

The Fourth Amendment to the Constitution protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . ." U.S. CONST. amend. IV. The federal government is forbidden from convicting an individual of a crime based upon evidence obtained from the individual through unreasonable search and seizure as defined by the Fourth Amendment. Ker v. Cal., 83 S.Ct. 1623, 1628 (1963). The Fourteenth Amendment renders this Constitutional prohibition enforceable against state governments. Id. at 1630.

A. Officer Griffin impermissibly entered Mr. Lawton's residence.

At the very core of the Fourth Amendment stands "the right of [an individual] to retreat into his own home and there be free from unreasonable government intrusion." Fla. v. Jardines, 133 S.Ct. 1409, 1414 (2013) (quoting Silverman v. U.S., 81 S.Ct. 679, 680 (1961)). Fourth Amendment protections of the home extend to its curtilage, the "area adjacent to the home" in "to which the activity of the home life extends." Collins v. Va., 138 S.Ct. 1663, 1670 (2018) (quoting Jardines, 133 S.Ct. at 1409). Fourth Amendment protections do not extend beyond curtilage to areas of

property that are within the view and access of police and public. Oliver v. U.S., 104 S.Ct. 1735, 1744 (1984).

1. Mr. Lawton did not give Officer Griffin permission to enter his residence.

A visitor is permitted to "approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave." Jardines, 133 S.Ct. at 1415. "Thus, a police officer not armed with a warrant may approach a home and knock, precisely because that is 'no more than any private citizen might do.'" Id. at 1416 (citing Ky. v. King, 131 S.Ct. 1849, 1862 (2011)). The officer may not begin to search the premises while awaiting admittance, for "the background social norms that invite a visitor to the front door do not invite him there to conduct a search." Jardines, 133 S.Ct. at 1416. Nor may the officer enter the residence without the occupants' knowledge and consent, for such action amounts to usurpation of a constitutionally protected area. Silverman, 81 S.Ct. at 682.

Although this concept "does not require fine-grained legal knowledge" and is "generally managed without incident by the Nation's Girl Scouts and trick-or-treaters," Griffin failed to grasp it. Jardines, 133 S.Ct. at 1415. By his own admission, Griffin failed to stop and knock at the front door of Mr. Lawton's residence. (Griffin Tr. ¶ 199.) Instead, he followed Mr. Lawton through the unlocked door uninvited, only announcing his presence once he turned a corner and came face to face with the occupants of the home. (Griffin Tr. ¶ 221.) When Mr. Lawton observed Griffin in

his home, Mr. Lawton made it clear that Griffin's presence was intrusive and unconsented by directing him to leave. (Griffin Tr. ¶¶ 229, 235; Lawton ¶ 20.) Griffin refused to heed the homeowner's instruction. (Griffin Tr. ¶ 239.)

Evidence obtained through unlicensed physical intrusion into a home, without the resident's permission, is inadmissible because it was obtained in violation of the Fourth Amendment. Jardines, 133 S.Ct. at 1416; Silverman, 81 S.Ct. at 683. In Jardines, detectives allowed a trained police dog to explore the respondent's front porch, 133 S.Ct. at 1413, while in Silverman, officers attached a microphone to the heating duct of the petitioner's home, via permitted use of a vacant adjoining home. 81 S.Ct. at 680. In both cases, the Supreme Court determined that law enforcement infringed upon constitutional rights and declared the collected evidence inadmissible. Jardines, 133 S.Ct. at 1416; Silverman, 81 S.Ct. at 683. Griffin's personal uninvited exploration of Mr. Lawton's residence, compounded by his refusal to leave, similarly establishes a Fourth Amendment violation. Therefore, the evidence collected through this infringement is similarly inadmissible.

2. Mr. Lawton's residence encompasses the entirety of his warehouse.

The Supreme Court has definined curtilage as "the area immediately surrounding and associated with a person's home." Collins, 138 S.Ct. at 1670. Intrusion upon curtilage invades the resident's Fourth Amendment interest in the

home. Id. at 1671. Any evidence collected via such invasion is inadmissible. Id. at 1675.

It is arguable that Mr. Lawton's precise living quarters within the warehouse are not clearly defined. However, it is simply discriminatory to assert that one's residence does not constitute living quarters due to a lack of furniture or the presence of empty space. Although Griffin was unable to visualize indicia of living quarters at the point of his initial entry, he soon encountered a kitchen where a meal was being prepared. (Griffin Tr. ¶¶ 221, 211, 219; Ex. 6; Lawton Tr. ¶¶ 18-20.) The subsequent search warrant executed revealed a bedroom on the second floor. (Vann Tr. ¶ 67; Ex. 14.)

In Collins, police officers suspected that the petitioner was in possession of a stolen motorcycle. 138 S.Ct. at 1668. From their position on the street in front of the petitioner's home, the officers observed "what appeared to be a motorcycle with an extended frame covered with a white tarp," Id. at 1668, parked in the "partially enclosed top portion of the driveway that abuts the house." Id. at 1671. Without permission from the petitioner, the officers entered the enclosed portion of the driveway, removed the tarp from the motorcycle, and confirmed that the motorcycle was stolen, based on the license plate and vehicle identification number. Id. at 1668.

Applying Collins, it stands to reason that the entire space within the warehouse walls constitutes curtilage, because any vacant space qualifies as "an area

adjacent to the home" and "to which the activity of [Mr. Lawton's] home life extends. See 138 S.Ct. at 1671 (quoting Jardines, 133 S.Ct. at 1409). Therefore, the entire interior of Mr. Lawton's warehouse is entitled to the same Fourth Amendment protections as the Collins petitioner's partially enclosed driveway. 138 S.Ct. at 1671.

Moreover, Griffin's actions bear striking similarities to the actions of the officers in Collins. Without Mr. Lawton's permission, Griffin trespassed upon the curtilage of his residence and noticed something covered by a tarp (Griffins Tr. ¶¶ 239, 271.) To confirm his suspicion that the concealed object was illegal, Griffin removed the tarp. (Tr. Griffin ¶ 277.) The resulting search revealed the illicit nature of the item. (Tr. Griffin ¶ 277.) Evidence collected in such fashion must be inadmissible. See Id. at 1675.

3. Mr. Lawton's residence is not subject to the open fields doctrine.

The open fields doctrine is consistent with the Fourth Amendment. Oliver, 104 S.Ct. at 1744. The Supreme Court has defined open fields as spaces which are "usually accessible to the public and police in ways that a home, an office, or a commercial structure would not be." Id. at 1741. "Open fields do not provide the setting for those intimate activities that the Amendment is intended to shelter from government interference or surveillance." Id. The erection of "No Trespassing" signs does not "effectively bar the public from viewing open fields in rural areas" that could easily be surveyed by air. Id.

In Oliver, narcotics agents were informed that marijuana plants were being grown on the petitioner's farm. 104 S.Ct. at 1738. Upon investigation, they found a locked gate labeled with a "No Trespassing" sign and a footpath that led around one side of the gate. Id. The agents followed the footpath to a field of marijuana plants located over a mile from the petitioner's house. Id. The petitioner unsuccessfully moved to suppress this evidence, contending that he had a reasonable expectation that the field would remain private because he posted "No Trespassing" signs and kept the gate locked. Id. at 1739.

In stark contrast to the petitioner in Oliver, 104 S.Ct. at 1738, Mr. Lawton posted "No Trespassing" signs on the doors of a warehouse which he utilized as his home, not on a gate enclosing an open field. (Griffin Tr. ¶ 179; Ex. 4, 11.) The same reasoning which upholds the constitutionality of the open fields doctrine in Oliver negates its application to Mr. Lawton. 104 S.Ct. at 1744. Mr. Lawton's warehouse home *did* provide a "setting for [] intimate activities." See Id. at 1741. By the Court's own language, Mr. Lawton's home is *not* "accessible to the public and police," irrespective of whether it appears to be a home or a commercial structure at first sight. See Id. The solid warehouse doors, to which Mr. Lawton's "No Trespassing" signs were affixed, *did* "effectively bar the public from viewing" the building's interior. See Id. Based upon these differences, Mr. Lawton is entitled to his reasonable expectation of privacy regarding the interior of his home. See Id.

B. Officer Griffin entered Mr. Lawton's residence without a warrant.

The Fourth Amendment draws a "firm line at the entrance to the house" which equally precludes seizures of property and seizures of persons. Payton v. N.Y., 100 S.Ct. 1371, 1382 (1980) "To be arrested within the home . . . is too substantial an invasion to allow without a warrant, at least in the absence of exigent circumstances, even when it is accomplished under statutory authority and when probable cause is clearly present." Payton, 100 S.Ct. at 1381 (quoting U.S. v. Reed, 572 F.2d 412, 423 (1978)). Like the officers in Payton, Griffin did not have a warrant to enter Mr. Lawton's home to make an arrest. 100 S.Ct. at 1375. Therefore, in so doing, Griffin violated Mr. Lawton's Fourth Amendment rights.

Moreover, Griffin's contention that he had "had a right to be there because [he] was investigating a DUI" has no merit. (Griffin Tr. ¶ 239.) "When a law enforcement officer physically intrudes on curtilage to gather evidence, a search within the meaning of the Fourth Amendment has occurred. Such conduct is thus presumptively unreasonable without a warrant." Collins, 138 S.Ct. at 1670. Griffin's intrusion into Mr. Lawton's residence, or the curtilage thereof, for the purpose of searching for evidence of DUI is accordingly in violation of Mr. Lawton's Fourth Amendment rights. See Id.

C. Officer Griffin entered Mr. Lawton's residence in the absence of exigent circumstances.

In the presence of exigent circumstances, it may be permissible for police officers to enter a private residence without a warrant. See Payton, 100 S.Ct. at 1373. "Exigent circumstances . . . include (1) the 'hot pursuit' of a fleeing felon; (2) threatened destruction of evidence inside a residence before a warrant can be obtained; (3) a risk that the suspect may escape from the residence undetected; and (4) a threat, posed by the suspect, to the lives or safety of the public, the police officers, or to [an occupant]." U.S. v. Montegio, 274 F.Supp.2d 190, 201 (D.R.I. 2003). An exigent circumstance also exists where officers must "render emergency assistance to occupants of private property who are seriously injured." Brigham City, Utah v. Stuart, 126 S.Ct. 1943, 1947 (2006).

1. The hot pursuit doctrine is inapplicable.

The hot pursuit doctrine allows a police officer to pursue a felony suspect from the public domain into a private residence in certain instances. Lange v. Cal., 141 S.Ct. 2011, 2016 (2021) (citing Ky. v. King, 131 S.Ct. 1849 (2011)). However, Mr. Lawton was not subject to felony arrest. He was merely guilty of a minor traffic infraction—failure to display a rear license plate. (Griffin Tr. ¶ 81; STETSON STAT. § 14-147.) Griffin's contention that he believed Mr. Lawton to be Mr. James, a felon if again driving under the influence, does not validate his entry. (Griffin Tr. ¶ 147;

STETSON STAT. § 14-227a(2)(b).) Upon visualizing Mr. Lawton face to face, it was immediately clear to Griffin that Mr. Lawton was not Mr. James. (Griffin Tr. ¶ 221.)

The Supreme Court has declined to announce a categorical exigency for all misdemeanant flights. Lange, 141 S.Ct. at 2024-25. Officers are instructed to consider exigencies on a case-by-case basis because misdemeanor charges are often issued for minor offenses. Id. The underlying severity of a DUI offense does not provide justification for warrantless entry into a suspect's home, even where significant evidence supports the probability that the suspect is intoxicated. See Welsh v. Wis., 104 S.Ct. 2091, 2099 (1984); Lange, 141 S.Ct. at 2024-25.

The DUI suspect in Welsh drove erratically, swerved off the road, abandoned his car in a field, and walked home. 104 S.Ct. at 2094. In contrast, Griffin has little support for his assertion that Mr. Lawton was driving under the influence in violation of STETSON STAT. § 14-227a. Griffin relies on a single mouthful of vomit and an alleged instance of Mr. Lawton's departure from his lane. (Griffin Tr. ¶ 147.) Applying Welsh, the scant evidence of DUI in Mr. Lawton's case does not support violating his Fourth Amendment rights. See 104 S.Ct. at 2099.

Admittedly, Wisconsin law classifies a first-time DUI as a noncriminal offense, Id. at 2100, while the State of Stetson declares a first-time DUI a misdemeanor. (STETSON STAT. § 14-227a(2)(b).) This statutory difference in severity is not dispositive. Misdemeanor traffic offenses which subject offenders to

imprisonment for up to ninety days are still "minor offenses [that] do not merit the extraordinary recourse of warrantless home arrest." Howard v. Dickerson, 34 F.3d 978, 982 (10th Cir. 1994). Therefore, Griffin's contention that he had "had a right to be there because [he] was investigating a DUI" remains meritless. (Griffin Tr. ¶ 239.)

The assertion that Mr. Lawton was a fleeing misdemeanant, in violation of STETSON STAT. § 14-223(b), is similarly worthless. By Griffin's own admission, Mr. Lawton did not increase his speed "in an attempt to escape or elude" Griffin. (Griffin Tr. ¶ 159.) He simply brought his speed up to the posted speed limit. (Griffin Tr. ¶ 159.) Moreover, Mr. Lawton was unaware that he was being "pursued" since Griffin failed to utilize his siren. (Griffin Tr. ¶¶ 155, 157; Lawton ¶ 21.) On these facts, an exigent circumstance justifying warrantless entry cannot be established. See Lange, 141 S.Ct. at 2024; Welsh, 104 S.Ct. at 2099; Howard, 34 F.3d at 982.

2. *Officer Griffin's actions were not justified by threatened destruction of evidence.*

In Welsh, police officers made a warrantless entry into an individual's home in pursuit of a suspected DUI. 104 S.Ct. at 2094. The State specifically attempted to justify the officers' actions by "the need to preserve evidence of the petitioner's blood alcohol level." Id. at 2099. The Court expressly rejected this contention because "there is probable cause to believe that only a minor offense, *such as the kind at issue in this case*, has been committed." Id. (emphasis added). Applying this line of reasoning to the case at bar, it follows that the "need" to preserve evidence of

Mr. Lawton's blood alcohol level did not justify Griffin's warrantless entry into his home. Id.

In Mitchell v. Wisc., the Supreme Court reiterated that "the constant dissipation of BAC evidence *alone* does not create an exigency." 139 S.Ct. 2525, 2537 (2019) (citing Mo. v. McNeely, 133 S.Ct. 1552, 1560 (2013)). An exigency does exist when a DUI suspect is unconscious, thus creating an emergent health issue of higher priority than a warrant application. Mitchell, 139 S.Ct. at 2537. Although Mr. Lawton was suffering from appendicitis, an emergent health issue, Griffin was unaware of this when he entered the residence. (Griffin Tr. ¶ 241.) Moreover, Mr. Lawton remained conscious and oriented through his interactions with Griffin, even in the hospital setting. (Griffin Tr. ¶ 305.) Therefore, the emergent health issue exception does not apply. See Mitchell, 139 S.Ct. at 2537.

3. Officer Griffin's actions were not justified by a threat to public safety.

Where a DUI suspect has arrived home and abandoned his car, "there [is] little remaining threat to public safety." Welsh, 104 S.Ct. at 2099. Mr. Lawton entered his residence, leaving his truck parked outside. (Griffin Tr. ¶ 161.) Therefore, no threat to public safety established an exigency. See Welsh, 104 S.Ct. at 2099. Although Mr. Lawton's vehicle was parked outside his home, while the Welsh petitioner's vehicle was abandoned in a field, this difference is obviated by the fact that Griffin

had the option to remain in the city-owned parking lot. Id. at 2099. If Mr. Lawton returned to his vehicle, Griffin could have legally intercepted him at that point.

4. Officer Griffin's actions were not justified by the emergency aid doctrine.

"The need to render emergency assistance to occupants of private property who are seriously injured or threatened with such injury" creates an exigency justifying warrantless entry. Brigham City, Utah v. Stuart, 126 S.Ct. 1943, 1947 (2006). Although Mr. Lawton was in visible distress, he ambulated into his residence unassisted. (Griffin Tr. ¶ 189.) Griffin entered Mr. Lawton's residence for the purpose of conducting a DUI investigation, not to administer or summon emergency medical assistance. (Griffin Tr. ¶ 167.) Griffin radioed for an ambulance only after Mr. Lawton stated that he was going to call one himself. (Griffin Tr. ¶¶ 235, 241.) Therefore, Mr. Lawton's medical emergency cannot justify Griffin's egregious behavior.

II. THIS COURT SHOULD SUPPRESS ALL EVIDENCE BECAUSE OFFICER GRIFFIN VIOLATED MR. LAWTON'S FOURTH AMENDMENT RIGHTS BY UNLAWFULLY SEARCHING MR. LAWTON'S RESIDENCE

"Evidence obtained in violation of the Fourth Amendment cannot be used in a criminal proceeding against the victim of the illegal search and seizure." U.S. v. Calandra, 94 S.Ct. 613, 619 (1974).

A. The plain view doctrine is inapplicable.

"It is . . . an essential predicate to any valid warrantless seizure of incriminating evidence that the officer did not violate the Fourth Amendment in arriving at the place from which the evidence could be plainly viewed." Horton v. Cal., 110 S.Ct. 2301, 2308 (1990) (citing Coolidge v. N.H., 91 S.Ct. at 2038 (1971)). The item must be in plain view and its incriminating character must be "immediately apparent." Id.

Griffin's presence in Mr. Lawton's residence was already in violation of Mr. Lawton's Fourth Amendment rights. Arguably, the cocaine was not in plain view. Griffin claims that he spotted "the edge of something light-colored wrapped in plastic wrap and packing tape . . . partially covered by a tarp" from approximately six to eight feet away. (Tr. Griffin ¶¶ 271, 273.) The incriminating character of the package was not readily apparent given its location amidst surrounding junk. (Ex. 7, 8, 9.) To confirm his suspicion that the concealed object was illegal, Griffin had to remove the tarp to reveal the illicit nature of the item. (Tr. Griffin ¶ 277.)

Griffin has a proven history of fabricating falsehoods to benefit his career. (Tr. Griffin ¶ 315; Ex. 15.) It is simply incongruous to suggest that Griffin spotted a concealed package of cocaine across the room within the same year of his remaining oblivious to the deposit of one hundred hours of unearned overtime wages into his bank account. (Tr. Griffin ¶ 315.)

B. Search incidental to arrest is inapplicable.

A warrantless search incident to arrest is limited to the defendant's person and the area within the defendant's reach. Chimel v. Cal, 89 S.Ct. 2034, 2040 (1969). Griffin was not arrested until he was released from the hospital, making this exception inapplicable. See Id.; (Griffin Tr. ¶¶ 299, 313.)

C. The subsequent emergency search warrant does not validate the evidence seized.

The Fourth Amendment does not require the suppression of evidence initially discovered during police officers' illegal entry of private premises, if that evidence is also discovered during a later search pursuant to a valid warrant that is wholly independent of the initial illegal entry. Murray v. U.S., 108 S.Ct. 2529, 2531 (1988). Here, the warrant was not granted "independent of the illegal entry," but granted based upon Officer Griffin's discovery of the cocaine "in plain sight." (Vann Tr. ¶ 67.) Therefore, Murray is inapplicable, and the evidence must be suppressed. See 108 S.Ct. at 2531.

CONCLUSION

For the foregoing reasons, the Defendant respectfully requests that this Court grant this Motion to Suppress all evidence obtained during or as a result of the illegal entry and unlawful search.

Dated: September 1, 2023

Respectfully Submitted,

/s/ TEAM 107

Attorneys for Defense
Team 107