TEAM: 108

Case No: 2023-CR-812

IN THE
UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF STETSON
September 4, 2023

THE UNITED STATES OF AMERICA,

Prosecution,

v.

JAMIE LAWTON,

Defendant.

DEFENDANT'S MOTION TO SUPPRESS EVIDENCE OBTAINED FROM UNLAWFUL SEARCH AND SEIZURE

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INTRODUCTION

Jamie Lawton files this motion for the suppression and exclusion of all evidence obtained or derived as a result of Officer Taylor Griffin's unlawful search and seizure which occurred on June 8th, 2023 at Mr. Lawton's home located at 900 49th Street Petersburg, Stetson 33711. This motion should be granted because Officer Griffin's actions violated Mr. Lawton's Fourth Amendment right to be free from unreasonable search and seizure. Officer Griffin violated the Fourth Amendment in two ways. First, Officer Griffin's entry into Mr. Lawton's home was made without a valid warrant and without probable cause and exigent circumstances. Second, the seizure of evidence by Officer Griffin was the fruit of an illegal search and was not found in plain view. Accordingly, this Court should suppress the evidence collected by Officer Griffin as a result of their illegal search and seizure.

STATEMENT OF FACTS

Lawton is a railroad conductor, bartender, a citizen without a prior DUI conviction or probation sentence, and a citizen whose license is not suspended. (Sworn Statement of Jamie Lawton, dated July 20, 2023, at ¶¶1-3 ("Stmt. Lawton"); Transcript of Grand Jury Proceeding for Taylor Griffin, dated July 6, 2023, at 27 ("Tr. Griffin")). On July 7, 2023, Lawton was indicted on three counts. (Indictment

of Jamie Lawton, dated July 7, 2023 ("Indict.")). Lawton was indicted for allegedly possessing with intent to distribute 5 kilograms or more of cocaine, allegedly conspiring to distribute 5 kilograms or more of cocaine, and allegedly operating a motor vehicle while under the influence of alcohol and/or drugs while holding a federally issued common carrier license. (Indict.) The alleged violating events took place on or about January 1, 2023 to on or about June 8, 2023. *Id.*

On June 8, 2023, Lawton was at Right on Cue: Pool House & Casino with a couple of friends. (Stmt. Lawton at ¶9). After consuming half of a beer and some jalapeño poppers, Lawton got into his cousin Kevin's truck to drive himself home. (*Id.* at ¶¶10-13). Soon thereafter, Lawton started to feel ill and spit out onto the pavement the remnants of a sour burp while stopped at a red light. (*Id.* at ¶¶14-15). Lawton proceeded to drive at or under the speed limit for the entire drive home. (Tr. Griffin at 24, 28). During the entire drive, he was in an incredible amount of pain. (Stmt. Lawton at ¶¶16-17). Once Lawton got back to his home, which at one time had been a warehouse, he parked his cousin's truck and went inside. (*Id.* at ¶17). As soon as Lawton was inside, he went to the kitchen where his friend, Kell Halstead, happened to be. (*Id.* at ¶19). While the two of them were discussing how much pain Lawton was in, Officer Taylor Griffin appeared in Lawton's kitchen and began interrogating him. (*Id.* at ¶20). Officer Griffin had not been invited into Lawton's

house. (*Id.)*. Thus, this Indictment is predicated on evidence that is the fruit of an illegal search that was conducted after an illegal entry into Lawton's residence.

ARGUMENT

A. OFFICER GRIFFIN VIOLATED JAMIE LAWTON'S FOURTH AMENDMENT RIGHT BY ILLEGALLY ENTERING HIS HOME.

Officer Griffin's unauthorized entry into Jamie Lawton's home was in violation of the Fourth Amendment's protection against unreasonable search and seizure and thus any evidence collected following the illegal entrance must be excluded. Mr. Lawton had a reasonable expectation of privacy because the property Mr. Lawton owned, located at 900 49th Street, was his home where he was residing. Because Mr. Lawton had a reasonable expectation of privacy in his home, Officer Griffin's entry was an intrusion and required either a warrant or probable cause to believe a crime was committed and the existence of exigent circumstances. At the time he entered Mr. Lawton's home, Officer Griffin had satisfied none of these requirements. There was no warrant allowing for entry, there was no probable cause to believe an offense had been committed, and there were no exigent circumstances compelling Officer Griffin to make an unauthorized entry. Thus, any evidence obtained after this unconstitutional entry is inadmissible.

1. Jamie Lawton Had a Reasonable Expectation of Privacy in His Home.

An individual who owns or is in legal possession of property has a reasonable expectation of privacy protected by the Fourth Amendment. *Byrd v. United States,* 138 S. Ct. 1518, 1524 (2018). In order to prove a reasonable expectation to privacy exists, an individual must show that they had a subjective expectation of privacy in their property and that expectation is one society recognizes as reasonable. *California v. Ciraolo,* 476 U.S. 207, 210 (1986). When evaluating this expectation a court weighs a number of factors including whether there was (1) a recognized property interest, (2) a right to exclude others, (3) and evidence of an expectation that the property would be free from government intrusion. *Byrd,* S. Ct. at 1527; *Rawlings v. Kentucky*, 448 U.S. at 105 (1980).

Mr. Lawton is the legal owner of his home located at 900 49th Street, Petersburg, Stetson. (Exhibit 16). He purchased the property six months ago and has been investing his time and money into renovating the property. (Stmt. Lawton at 5). Mr. Lawton has taken steps to transform the property into a home by adding a kitchen and furniture. (Exhibit 6 & 14). Mr. Lawton has continued to reside at his home while performing his renovations. (Stmt. Lawton, at ¶ 4).

A person has a recognized property interest when they have a legitimate and legally validated claim. *Board of Regents of State Colleges v. Roth,* 404 U.S. at 577 (1972). Mr. Lawton's Quit Claim deed and subsequent residency establish a legal claim and thus a recognized interest in his property.

As the legal owner of the property, Mr. Lawton possessed the right to exclude others from his property. *Kaiser Aetna v. United States,* 444 U.S. 164, 176 (1979) (recognizing the right to exclude as an essential property right stemming from legal ownership). Mr. Lawton acted on this right by placing two signs which stated "No Trespassing" and "Private Property" on the doors to his home. (Tr. Griffin at 30); (Exhibit 11).

Finally, Mr. Lawton had an expectation that his property would be free from government intrusion. Mr. Lawton took deliberate steps to prevent trespassers from entering his home. He placed "No Trespass" signs on both entrances (*Id),* kept his door locked when he was out (*Id* at 31), and locked the entrance with a deadbolt while he was home. (Stmt. Lawton, at ¶ 4). Mr. Lawton's actions in securing his property from unwanted trespassers, including government officials such as Officer Griffin, demonstrate a clear expectation that his home would be free from government intrusion.

Because Mr. Lawton (1) had a legally recognized property interest, (2) had and acted on his legal right to exclude others, and (3) demonstrated evidence of an expectation that his property would be free from government intrusion, he is entitled to a reasonable expectation of privacy and is protected by the Fourth Amendment. Thus, Officer Griffin's unauthorized entry into Mr. Lawton's home can be categorized as a Fourth Amendment "search" and must be justified.

2. Officer Griffin's Entry into Mr. Lawton's Home Was Illegal and Violated the Fourth Amendment Protection Against Unreasonable Search.

An officer who enters a person's home to conduct a Fourth Amendment search can only do so if (1) the officer has a valid warrant or (2) the officer has probable cause and exigent circumstances compel the entry. *Katz v. United States,* 389 U.S. 347, 354 (1967). A warrantless search is "per se unreasonable under the Fourth Amendment and it is the burden of the state to show the search was constitutional. *Id; McClish v. Nugent*, 483 F.3d 1231, 1241 (11th Cir. 2007).

a. Officer Griffin Did Not Have a Warrant to Search Mr. Lawton's Home Prior to His Illegal Entry.

Officer Griffin suspected Mr. Lawton committed a DUI when he noticed him showing signs of sickness and having difficulty operating his vehicle. (Tr. Griffin at 27). Officer Griffin then followed Mr. Lawton for three miles until he arrived at Mr. Lawton's residence. (*Id).*He then observed Mr. Lawton struggle to get out of his car and go inside his home.(*Id* at 28-29). Instead of taking the time to obtain a warrant to enter the premises, or knocking on the door and alerting himself to Mr. Lawton, he called in for back up. (*Id* at 28). Officer Griffin was then explicitly told not to enter the premises by another officer, and he ignored those orders and illegally entered Mr. Lawton's residence to make a "big time arrest" (*Id* at 27-28). The only time Officer Griffin even thought about obtaining a warrant was when he discovered

evidence following his illegal entry. (*Id* at 40); *See also* Transcript of Grand Jury Proceeding for Samy Vann, dated July 6, 2023, at 59 ("Tr. Vann")). Because Officer Griffin chose not to obtain a warrant prior to entering Mr. Lawton's home, his search was "per se unreasonable" under *Katz* and thus the state must show the existence of probable cause and exigent circumstances. *Katz,* 389 U.S. at 351.

b. Officer Griffin Lacked Probable Cause to Search Lawton's Home.

Probable cause to enter without a warrant exists when an officer can objectively conclude that there is a fair probability that evidence of a crime will be found in a particular place. *Hardigree v. Lofton,* 992 F.3d 1216, 1225 (11th Cir. 2021). Probable cause is determined by examining the totality of the circumstances and a court should not examine one fact in isolation of the others. *See United States v. Cortez,* 449 U.S. 411, 416 (1981).

Officer Griffin based his illegal entry into Mr. Lawton's home on the belief that he was driving under the influence in violation of State of Stetson Statute 14-227a and to preserve evidence of this alleged crime. (Tr. Griffin at 28-29). Officer Griffin based this belief on his observations of Mr. Lawton's driving. (*Id* at 22-27). These observations included Mr. Lawton: spitting out a "liquid" (*Id* at 22*),* taking "three to four seconds" to react to a green light (*Id* at 24), going five miles under the speed limit (*Id* at 25), drifting into the emergency lane (*Id* at 26), and not seeing the police cars flashing lights (*Id).*

In *Williams v. Vasquez* the 7th Circuit held that a state officer did not have probable cause to arrest an individual for a suspected DUI. *Williams v. Vasquez,* 62. Fed.Appx. 689, 693 (7th Cir. 2003). Similar to this case, the evidence in *Williams* to arrest based on DUI was based primarily on observed traffic violations and suspicious behavior. *Id* at 689, (stating the "only undisputed facts known to [the] defendant at [the] time of the arrest are that plaintiff lost consciousness while driving, crossed the center lane and drove onto the curb"). The 7th Circuit held that based on the totality of the circumstances known to the officer, he did not have probable cause to make an arrest for DUI. (*Id* at 690).

Like *Williams,* Officer Griffin based his belief that Mr. Lawton had committed a DUI on similar observations of Mr. Lawton's driving and behavior. (Tr. Griffin at 22-27). At no point did Officer Griffin confirm drugs or alcohol on Mr. Lawton until after he illegally entered his home.The State may counter by arguing that one of the factors which differentiates *Williams* from this case is that Officer Griffin believed Mr. Lawton was Kevin James, an individual whom Officer Griffin had arrested numerous times for alcohol and drug offenses including a DUI. (*Id* at 20). This belief would change the totality of the circumstances and make it more likely that the driver of the car was committing a DUI because they had done so before. However, this argument is invalid in light of what Officer Griffin learned prior to his illegal entry. Officer Griffin was informed by a DEA agent that "there is no Kevin James

connected to the warehouse" and "not to enter". (Tr. Vann at 54). Because of this, any notion that it was Kevin James was dispelled prior to Officer Griffin illegally entering Mr. Lawton's home and can not be factored into determining whether there was probable cause. When the totality of the circumstances are considered in light of the evaluation done in *Williams*, it's evident that Officer Griffin did not have probable cause and thus his illegal entry violated the protections of the Fourth Amendment.

3. Even if Officer Griffin Had Probable Cause, There Were No Exigent Circumstances to Compel His Immediate Entry.

No amount of probable cause can justify warrantless search absent the existence of exigent circumstances. *Hopkins v. Nichols* 37 F.4th 1110, 1119 (6th Cir. 2022). There are numerous categories of exigent circumstances that courts have recognized, and the State will likely argue Officer Griffin was in hot pursuit of Mr. Lawton.

a. Officer Griffin's Search Was Not Made While in "Hot Pursuit."

The Supreme Court has recognized "hot pursuit" as an exigent circumstance which justifies warrantless entry into a home when an officer is pursuing a fleeing suspect. *Kentucky v, King*, 563 U.S. 452, 460 (2011). However, the Court has also stressed that the entry must be objectively reasonable under the Fourth Amendment

in light of the needs of law enforcement. *Id* at 460. In *Lange v. California*, the Court further refined the "hot pursuit" category of exigent circumstances. *Lange v. California*, 141 S. Ct. 2011, 2025 (2021).

In *Lange*, the Court examined the validity of an officer's warrantless entry into a suspect's home on the theory that he had probable cause and was acting in hot pursuit. *Id.* The suspect had been observed by an officer driving and blasting music while repeatedly honking his horn. *Id* at 2016. The officer turned on his lights, but the suspect failed to stop and continued to drive until he was home. *Id.* The officer followed the suspect into his garage and began questioning him on the suspicion that he had committed a DUI misdemeanor offense. *Id*. The Court explicitly rejected the notion that the pursuit of misdemeanor is always a qualified exigent circumstance. *Id* at 2024. The existence of a valid hot pursuit necessitating warrantless entry depends on if the situation was a law enforcement emergency. *Id* at 2021. The Court listed several examples of when hot pursuit would be justified including to prevent imminent harms of violence, destruction of evidence, or escape from the home. *Id.*

When applying the analysis done by the Court in *Lange*, it is apparent that Officer Griffin's warrantless entry did not qualify as a hot pursuit. The crime committed both in *Lange* and in the current case were misdemeanor DUIs. *Lange*, 141 S. Ct. at 2015; State of Stetson Statute 14-227(2)(a). Mr. Lawton's drive home and then subsequent entry into his home would not qualify as a law enforcement

emergency requiring an immediate warrantless entry by Officer Griffin. Further, none of the examples in which warrantless entry in hot pursuit was valid apply to Mr. Lawton. There is no evidence of any threats of violence, potential destruction of evidence, or escape from the home. Officer Griffin can point to no circumstances which required his immediate entry and allowed him to forgo obtaining a valid search warrant or at the very least knocking and asking to speak with Mr. Lawton. Because of this, Officer Griffin's entry does not qualify as hot pursuit and thus is not an exigent circumstance allowing for warrantless entry.

b. Officer Griffin's Search Was Not Done To Prevent the Destruction of Evidence.

Preventing the destruction of evidence is recognized as an exigent circumstance that justifies warrantless entry. *United States v. Young,* 909 F.2d 442, 446 (11th Cir. 1990). The State may argue, based on Officer Griffin's observations, that the immediate entry was necessary to prevent a potential decline in Lawton's Blood Alcohol Content ("BAC") and thus preserve the evidence from being lost. (TR. Griffin at 29).

However warrantless entry to prevent the dropping of a suspect's BAC on the belief that they've committed a misdemeanor DUI has been held by the Supreme Court to not be a valid exigent circumstance justifying warrantless entry. *Welsh v. Wisconsin,* 466 U.S. 740, 754 (1984). In *Welsh,* the Court explicitly stated that

"warrantless home arrest cannot be upheld simply because evidence of the petitioner's blood-alcohol level might have dissipated" and that to allow such an illegal entry would "would be to approve unreasonable police behavior that the principles of the Fourth Amendment will not sanction". *Id* at 754. Thus, the State's argument that Officer Griffin's entry was valid based solely on the concern that Lawton's BAC would drop, flies in the face of established law and is unconstitutional.

In sum, there were no exigent circumstances which would have justified Officer Griffin's warrantless search, and thus his entry and subsequent "search" was in violation of the Fourth Amendment.

B. THE EVIDENCE AGAINST LAWTON IS THE FRUIT OF AN ILLEGAL SEARCH.

Officer Griffin entered Lawton's residence illegally, and thus, any evidence collected after that illegal entry is the fruit of the poisonous tree. *See Wong Sun v. United States,* 371 U.S. 471 (1963). If, however, the Court finds that there were exigent circumstances validating Officer Griffin's entry into Lawton's residence, the motion to suppress should still be granted because the three packages of cocaine that were seized were the fruit of an illegal search. The only conceivable arguments the Government could make for the seizure of this evidence is that it was either discovered during a protective sweep or visible in plain view. It was neither. A

protective sweep only warrants a search for people hiding, and Officer Griffin had Lawton in custody. *See Maryland v. Buie*, 494 U.S. 325 (1990). The three prongs of the plain view doctrine do not apply to the cocaine either: Officer Griffin (1) violated the Fourth Amendment by entering Lawton's residence, (2) Officer Griffin could not see the cocaine in plain view, and (3) the incriminating character of the cocaine was not immediately apparent.

1. The Plain View Doctrine Did Not Apply to the Evidence That Was Seized.

The plain view doctrine has its genesis in the *United States v. Harris* Supreme Court case of 1968 but was refined over the years to require three prongs for its analysis. *United States v. Harris*, 390 U.S. 234 (1968). "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. There are…two additional conditions that must be satisfied to justify the warrantless seizure. First, not only must the item be in plain view; its incriminating character must also be 'immediately apparent.'" *Horton v. California*, 496 U.S. 128, 136-37 (1990) (citing *Arizona v. Hicks*, 480 U.S. at 326-27). None of the conditions for the plain view doctrine as set forth by the Court in *Horton* are satisfied in this case.

a. Officer Griffin Violated the Fourth Amendment in Entering Lawton's Residence.

As is stated in Part A of the Argument of this Memorandum, Officer Griffin violated the Fourth Amendment by entering Lawton's residence illegally. Thus, the motion to suppress should be granted. Regardless, the other two prongs of the plain view doctrine are not satisfied either.

b. Officer Griffin Did Not Observe the Cocaine That Was Seized From Lawton's Residence in Plain View.

In *United States v. Cooks*, a defendant was charged with two counts of unlawful possession of firearms. *United States v. Cooks*, 920 F.3d 735, 739 (11th Cir. 2019). The defendant filed a motion to suppress the two firearms found in a warrantless search of the crawlspace in the defendant's home. *Id.* The defendant argued that going into the crawlspace exceeded the bounds of the protective sweep which officers conducted to look for victims. *Id.* The defendant conceded that once inside the crawlspace, the firearms were in plain view. *Id.* at 741. The firearms were partially covered by a tarp, but the butts of several guns could be readily observed as the officer descended into the crawlspace essentially on top of the tarp. *Id.* at 739. The court affirmed the decision to deny the motion to suppress. *Id.* at 746.

In *United States v. Pericles*, the defendant was also indicted with possession of a firearm. *United States v. Pericles*, No. 09-20324-CR, 2009 WL 1490576, at *1

(S.D. Fla. May 27, 2009). The responding officers also conducted a protective sweep of a backyard. *Id.* at *5. While in the backyard, the officer lifted up a tarp to look for a third individual involved in a shootout and discovered firearms. *Id.* at *4-5. The magistrate judge recommended that the motion to suppress be denied. *Id.* at *6.

Here, the Court should grant the motion to suppress because the cocaine was not in plain view. First of all, Officer Griffin was not authorized to conduct a protective sweep of the premises which may have granted him access to what was underneath the tarp. No one was possibly in danger as in *Cooks*, and Officer Griffin himself was not in danger as in *Pericles.* His job at the scene was done because paramedics had already wheeled Lawton out on a gurney. In fact, Officer Griffin was exiting the building just before he decided to look under the tarp. Furthermore, he observed "the item in plastic" from "about six-eight feet away." (Tr. Griffin at 39). While an officer may adjust his position slightly to get a better view of incriminating evidence, walking away from an officer's exit path about six-eight feet is hardly what the court had in mind. (*See Texas v. Brown*, 460 U.S. 730, 734 (1983) (holding that an officer's actions of adjusting his stance and shining a flashlight into a stopped vehicle to see tied-up balloons full of narcotics in the defendant's hand satisfied the plain view doctrine)).

It is also unclear that Officer Griffin could see anything until he lifted the tarp up because he claims that only "about three inches thick by about four inches in

length" of the package was visible to him. (Tr. Griffin at 40). On the other hand, Kell Halstead said that "the packages were over on a pallet by a shelf **covered** by a tarp."(Statement of Kell Halstead, dated June 27, 2023, at ¶ 13 ("Stmt. Halstead")) (emphasis added). Additionally, Exhibit 8a gives the Court a clear idea of just how unclear the evidence would have been to Officer Griffin from his vantage point. The evidence was hardly in plain view, and thus, the motion to suppress should be granted.

c. It Was Not Immediately Apparent That the Evidence Was Cocaine.

The three prongs of the plain view doctrine are inextricably linked, but each one should be evaluated separately. In *United States v. McLevain,* the court wrestled with the meaning of "immediately apparent." *United States v. McLevain,* 310 F. 3d 434, 441 (6th Cir. 2002). The court concluded that none of the factors were dispositive, but they were instructive. *Id.* "The factors include (1) a nexus between the seized object and the items particularized in the search warrant, (2) whether the intrinsic nature or appearance of the seized object gives probable cause to believe that it is associated with criminal activity, and (3) whether the executing officers can *at the time* of discovery of the object on the facts then available to them determine probable cause of the object's incriminating nature." *Id.* (internal citations omitted). "[T]he Supreme Court does not require that officers know that evidence is contraband. Instead, 'probable cause is a flexible, commonsense standard. It merely

requires that the facts available to the officer would 'warrant a man of reasonable caution in the belief' that certain items may be contraband or stolen property or useful as evidence of a crime." *Id.* (citing *Texas v. Brown*, 460 U.S. 730, 742, 103 S.Ct. 1535, 75 L.Ed.2d 502 (1983)).

In *McLevain*, officers entered McLevain's residence with a search warrant to look for two individuals including one who had failed to return from work release. *Id.* at 437. While exploring the residence looking for the named individuals, officers discovered four items that appeared to be drug paraphernalia: a twist tie, a cut cigarette filter,a spoon with residue, and an empty prescription bottle filled with clear liquid. *Id.* at 438. The defendant filed a motion to suppress, arguing that the evidence failed the plain view test because it was not immediately apparent that the items were incriminating. *Id.* The court agreed with the defendant, and reiterated another Sixth Circuit case's holding that "when an item appears suspicious to an officer but further investigation is required to establish probable cause as to the association with criminal activity, the item is not immediately incriminating." *Id.* at 443. This case is analogous to the case at hand.

There was no search warrant executed to search Lawton's residence, so a true nexus cannot be established or contemplated, but the reason that Officer Griffin alleged that he entered Lawton's residence was for a suspected DUI. A DUI and cocaine are in no way related.

Secondly, a three inch by four inch section of plastic seen from six to eight feet away is not intrinsically incriminating whether an officer is in a suspected stash house or not. Officer Griffin has had some drug training, though little field experience with narcotics. During this training, Officer Griffin claims to have learned that drug packages are often taped up in the way that the seized packages were. But again this does not matter because these items were under a tarp and hardly visible. Additionally, in the *McLevain* case, the responding officers had some information that one of the men had a previous narcotics offense. Here, Officer Griffin's superior officer, Lieutenant Vann, had told him that Lawton's residence may be a stash house. That fact did not overcome the probable cause standard for the court in *McLevain*, and it should not help Officer Griffin here either. Furthermore, in *McLevain*, the court distinguishes the items found from the balloons found in *Brown*. The four items found (a twist tie, cut cigarette filter, spoon with residue, and an empty prescription bottle filled with clear liquid) were much more innocuous than tied-up balloons. This Court can make the same distinguishment. The tied-up balloons that the officer clearly saw in the defendant's hand in *Brown* are more obviously drug paraphernalia than a small piece of plastic under a tarp which may or may not have been seen by Officer Griffin. Officer Griffin did not have probable cause to believe the plastic was a part of an illegal activity.

Lastly, and most importantly, the officers must be able to determine the incriminating nature of the item *at the time* of discovery under the probable cause standard. Officer Griffin's suspicions do not rise to the level needed for probable cause. Officer Griffin claims that Kell Halstead "kept looking over toward [a] wooden pallet that was kind of behind a shelf." (Tr. Griffin at 36). If the pallet was behind a shelf, it would be impossible for Officer Griffin to have any idea what Halstead may have been looking at or if he was looking at anything at all. Furthermore, as mentioned above, Officer Griffin could see so little from his vantage point that he did not have probable cause to know the plastic or whatever may have been under the tarp was contraband. Instead, Officer Griffin walked away from his exit path, stood over the tarp, and lifted it up. He then exclaimed, "[t]hat's exactly what I thought I'd find." (Stmt. Halstead at ¶15). Before Officer Griffin lifted up the tarp, he did not have probable cause to believe the plastic was incriminating. Thus, Officer Griffin's actions violated the third prong of the plain view doctrine as well.

In sum, Officer Griffin attempted to use the plain view doctrine to search until something incriminating was found, but "the 'plain view' doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges." *Horton v. California,* 496 U.S. at 136. (citing *Coolidge v. New Hampshire,* 403 U.S. at 465-66).

CONCLUSION

For the reasons stated above, the Government obtained the evidence against Lawton illegally. Accordingly, in the interest of justice, the motion to suppress should be granted on both counts.

Dated: September 4, 2023

Respectfully submitted,

/s/ TEAM 108

Attorneys for Defendant

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