TEAM: 109

Case No: 2023-CR-812

IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF STETSON
WESTVIEW DIVISION
September 1, 2023

THE UNITED STATES OF AMERICA,
Prosecution,

v.

JAMIE LAWTON,
Defendant

PROSECUTION'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENSE'S MOTION TO SUPPRESS

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INTRODUCTION

The Motion to Suppress should be denied because Defendant Jamie Lawton's Fourth Amendment rights were not violated and the seized evidence was in plain view. When Officer Taylor Griffin entered the warehouse, they had probable cause to believe they were pursuing a felony arrest for violation of probation and operating a motor vehicle while under a DUI suspension. Additionally, the Defendant did not have a subjective or objective reasonable expectation of privacy in what looked like an abandoned warehouse. Therefore, he was not entitled to Fourth Amendment protection that would support the movant's Motion to Suppress. Once lawfully inside the Defendant's warehouse, Officer Griffin observed the Defendant's cocaine in plain view. The cocaine's incriminating character was immediately apparent and exigent circumstances gave him a lawful right of access to the cocaine. No illegal seizure occurred to support the movant's Motion to Suppress.

Accordingly, we respectfully request this Court deny the movant's Motion to Suppress evidence lawfully seized by Officer Griffin.

STATEMENT OF FACTS

On June 8, 2023, Officer Taylor Griffin was on DUI patrol when they spotted a red Chevrolet S10 pickup truck that they recognized as belonging to Kevin James based on a distinctive bumper sticker. (Police Report at 45). While at

the light, Officer Griffin watched the driver, who resembled a previous offender named Kevin James, open the driver-side door, lean out of the truck, and vomit onto the road. (Police Report at 46). At this point, Officer Griffin began to follow the vehicle. (Police Report at 46). While following the vehicle, Officer Griffin observed that the driver was unable to maintain a constant speed and was having trouble keeping it within the lanes. (Police Report at 46).

Subsequently, Officer Griffin attempted to initiate a traffic stop, turning on their lights, with the belief that they were pulling over Kevin James for felony Driving Under the Influence (DUI). (Taylor Griffin Transcript of Grand Jury Proceeding, "Griffin," at 27). The driver ignored Officer Griffin's lights and continued driving for three miles until pulling into a parking lot next to what appeared to be an abandoned warehouse. (Griffin at 28). The warehouse had two entrances, multiple broken windows, and appeared uninhabitable. (Griffin at 30). At this point, the driver exited his vehicle and hurriedly walked inside, prompting Officer Griffin to radio for backup. (Griffin at 28).

After radioing for backup, Officer Griffin received a phone call from Lt. Sammy Vann. (Griffin at 28). Lt. Vann informed Officer Griffin that the building was under surveillance by a joint task force as it was believed to be used as a stash house for large quantities of cocaine. (Griffin at 28). Taking this under advisement, Officer Griffin pursued the suspect into the warehouse. (Griffin at 28-29). After

walking through the warehouse door, which was left wide open and swinging in the wind, Officer Griffin observed a wide-open empty space, reaffirming their belief that the building was abandoned and uninhabitable. (Griffin at 31-32). Once inside, Officer Griffin located the driver, who they identified as Jamie Lawton, and another individual, later identified as Kell Halstead. (Griffin at 35); (Vann at 58).

While questioning Lawton, it became apparent that Lawton needed medical attention, prompting Officer Griffin to call for EMTs. (Police Report at 48). Additionally, Officer Griffin observed Halstead continually looking over towards a pallet on the ground, alerting his suspicion to potential contraband. (Police Report at 48). While leaving the building with Lawton and EMTs, Officer Griffin passed the pallet and observed an object three inches thick by four inches in length, light-colored, wrapped in plastic wrap and packing tape, and partially covered by a tarp, which, based on his experience, he recognized as cocaine packaged for distribution. (Griffin at 39-40); (Police Report at 48). Concerned Halstead would destroy the evidence if left alone, Officer Griffin seized it and discovered a total of thirty-one pounds of cocaine. (Griffin at 40).

ARGUMENT

I. THE DEFENDANT'S WAREHOUSE WAS NOT ENTITLED TO FOURTH AMENDMENT PROTECTION

The Defense's Motion to Suppress should be denied because Officer Griffin lawfully entered the defendant's warehouse. The Fourth Amendment protects people's right to be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," and as such, requires law enforcement to obtain a warrant before entering a home without permission. U.S. CONST. amend. IV. *Riley v. California*, 573 U.S. 373, 382 (2014). Fourth Amendment jurisprudence therefore presumes that a search and seizure inside a home without a warrant is unreasonable. *Brigham City v. Stuart*, 547 U.S. 498, 403 (2006). However, this Fourth Amendment protection requires a showing of a reasonable expectation of privacy in the area searched. *Katz v. United States,* 389 U.S. 347, 361 (1967) (Harlan, J., concurring).

In this case, Officer Taylor Griffin's entry was into a warehouse that did not appear to be a home, thereby making his entry lawful and reasonable. (Griffin at 28). There is neither an objectively nor subjectively reasonable expectation of privacy in a building that appeared to be abandoned. (Griffin at 32). The Defendant therefore lacks standing to claim Fourth Amendment protection, as he can not show a reasonable expectation of privacy in the area searched.

An officer may also make a warrantless entry when there are exigent circumstances that create a compelling need to enter, thereby making the search reasonable. *Missouri v. McNeely*, 569 U.S. 141, 142 (2013). The Supreme Court

has explained that exigent circumstances are case-specific and based on the totality of the circumstances. *Id.* Precedent shows, however, that the Court tends to recognize certain exigencies as being sufficient justification for warrantless home entry, including when an officer must act to prevent the destruction of evidence and when they have probable cause to believe they are in hot pursuit of a fleeing suspect. *Kentucky v. King*, 563 U.S. 452, 460 (2011); *Warden, Md. Penitentiary v. Hayden*, 387 U.S. 294, 310 (1967).

In this case, both of these exigencies were present. When Officer Griffin entered the warehouse, he had probable cause to believe he was pursuing Kevin James after James committed a felony in his presence. (Griffin at 28). Although he was ultimately mistaken about the identity of the driver, based on the car's description, its distinct bumper sticker, and the driver's physical description, Officer Griffin was in pursuit of someone who reasonably appeared to be driving under the influence, violating his probation, and operating a motor vehicle while under a DUI suspension. (Griffin at 21, 28). After following the car for miles and even turning his lights on, Officer Griffin reasonably believed that the suspect was fleeing. (Griffin at 32). Further, when Officer Griffin learned that the warehouse was being used to move large quantities of cocaine, he had reason to believe that he needed to act quickly to prevent the destruction of evidence. (Griffin at 28). There were two exigent circumstances that created a compelling and urgent need

for Officer Griffin to enter the warehouse without a warrant. *See McNeely*, 569 U.S. at 142.

A. There Was No Manifestation of a Reasonable Expectation of Privacy

In order for the Defendant to have Fourth Amendment standing, there must be a reasonable expectation of privacy in the property searched. *Katz*, 389 U.S. at 360. There is both an objective and a subjective prong to this analysis. *United States v. Correa*, 653 F.3d 187, 190 (3d Cir. 2011). The objective prong is an inquiry about whether society would recognize the expectation of privacy as a reasonable one. *Id.* The subjective prong inquires whether the specific individual "has exhibited an actual expectation of privacy." *Id.*

For example, in *Correa*, the defendant sought Fourth Amendment protection after a Fugitive Task Force entered the common area of a locked, multi-unit apartment building and seized him. *Id.* The Court laid out several considerations in their legitimate expectation of privacy analysis, including whether the individual has control over the area, the amount of people who have access to the area, and the ability to lock an exterior door. *Id.* at 190-91. The defendant in *Correa* did not have an objectively reasonable expectation of privacy because it was a common area, and also lacked a subjectively reasonable expectation of privacy because he did not have control over the common areas such that he would be free of intrusions, even with a locked exterior door. *Id.*

Clarifying that this legitimate expectation of privacy analysis does not turn on theories of property or trespass, the Court ultimately held that there is no objectively reasonable expectation of privacy in such a common area. *Id.* The defendant also did not subjectively manifest an expectation of privacy because he did not control the areas. *Id.* For these reasons, he was not entitled to Fourth Amendment protection. *Id.* at 192.

Similarly, in *United States v. Miravalles*, the 11th Circuit Court of Appeals held that the defendant could not demonstrate reasonableness in an expectation of privacy in a common area of a multi-unit high-rise building. 280 F.3d 1328, 1333 (11th Cir. 2002). On the day in question there was an "undependable" and "inoperable" lock on the front door, which meant the lobby was open and completely accessible to the public. *United States v. Miravalles*, 280 F.3d at 1333. Because there was nothing preventing anyone from "walking in the unlocked door and wandering freely about the premises," there was no reasonable expectation of privacy and the defendant was not entitled to Fourth Amendment protection. *Id.*

Here, the several storied building that Officer Griffin approached looked abandoned, not like anyone's residence (Griffin at 32). There were two entrances and several broken or missing windows that did not suggest the warehouse was habitable or occupied by residents (Griffin at 30; Exhibit 4). As Officer Griffin followed the Defendant towards the door, the door was left "wide open and

swinging in the wind." (Griffin at 31). There was no objectively reasonable expectation of privacy, in terms of Fourth Amendment protection, in what appeared to be a dilapidated building. *See Correa*, 653 F.3d at 192. Officer Griffin entered through a wide open door and observed a giant, empty space, as opposed to a living room, for example. *See Miravalles,* 280 F.3d at 1333; (Griffin at 32). The Defendant in this case also did not subjectively manifest a reasonable expectation of privacy, as leaving the door open meant there was nothing preventing the public at large from wandering freely about the premises. *See Miravalles*, 280 F.3d at 1333. Because there was no reasonable expectation of privacy, the Defendant is not entitled to Fourth Amendment protection. *See Miravalles*, 280 F.3d at 1333.

B. Exigent Circumstances Warranted Officer Griffin's Entry

Courts justify warrantless entry into a home when there are certain exigent circumstances that are well-recognized, such as hot pursuit of a fleeing suspect and preventing the imminent destruction of evidence. *Kentucky v. King*, 563 U.S. at 460. These exigencies are justified on the theory that certain law enforcement needs are compelling enough to make a warrantless search "objectively reasonable." *Id.* However, to overcome the Fourth Amendment presumption of unreasonableness, there must be a showing that there was both probable cause and exigent circumstances. *Payton v. New York*, 445 U.S. 573, 584 (1980). Probable cause exists when there is a "fair probability that contraband or evidence of a crime

will be found in a particular place." *United States v. Mendoza*, 406 F. App'x 513, 515 (2d Cir. 2011) (citing *Illinois v. Gates*, 462 U.S. 213, 238 (1983).

For example, in *United States v. Mendoza*, the Second Circuit Court of Appeals found that the totality of the circumstances, including the defendant's flight, gave officers probable cause to enter his home. *Id.* Based on prior investigation, when officers observed Mendoza entering his apartment, they had reason to believe that there was a fair probability that further evidence of a crime would be found in a particular place– heroin in Mendoza's home. *Id.* Their experience and previous investigation supported both probable cause and exigent circumstances to make a warrantless entry into Mendoza's home. *Id.*

In *United States v. Santana*, the Supreme Court found that a warrantless entry into Santana's house was justified due to a "hot pursuit" exigency. 427 U.S. 38, 42 (1976). In *Santana*, the defendant, who was holding a paper bag with envelopes containing heroin, retreated into her home as soon as she saw law enforcement in an effort to escape being arrested and/or searched. *United States v. Santana*, 427 U.S. at 40. First, the Court determined that the defendant's warrantless arrest did not violate the Fourth Amendment because she was not in an area that had any expectation of privacy. *Id.* at 42. At the threshold of her house, where she was visible to the public, Court explained that because the police had probable cause to arrest her, their pursuit of her was justified. *Id.* The need to act

quickly justified the warrantless entry because once the defendant saw the police, it was likely that "any delay would result in destruction of evidence." *Id.* at 43. The Court held that a suspect may not evade arrest that began in a public place by escaping to a private place. *Id.*

In this case, Officer Griffin believed he was following Kevin James into what appeared to be an abandoned building (Griffin at 32). Because he recognized the truck to be James's with a distinctive bumper sticker, saw the driver had a similar build to James's, and observed the driver open his car door to vomit, it was reasonable for Officer Griffin to believe the driver was James, who was driving on a suspended license and in violation of his probation, thereby justifying pursuing him for possible arrest (Police Report at 45-46). With continuous observation of the car and years of experience investigating DUIs, several suspicious behaviors led Officer Griffin to pursue the car (Griffin at 16; Police Report at 46). Having arrested James for a DUI in the past and subsequently seeing the driver of James's vehicle vomit out of the car, unable to keep a consistent speed, and drifting into the emergency lane, all created a fair probability that the driver was under the influence, warranting a traffic stop. (Police Report at 46-47).

For these reasons, when the driver refused to stop even after Officer Griffin turned on his lights, then exited the vehicle and walked rapidly into the building, Officer Griffin had reason to believe that the Defendant was fleeing arrest.

Santana, 427 U.S. at 41; (Police Report at 47). There was a need to act quickly, not only because the driver's potential blood alcohol content was dissipating, but also because Officer Griffin had received information from another law enforcement officer that there was probable cause to believe there were drugs inside. *Mendoza*, 406 F. App'x at 515; Police Report at 47. This need to act quickly justified Officer Griffin's warrantless entry because, especially after the Defendant continued driving for miles even after Officer Griffin had turned on his lights, Officer Griffin had reason to believe that the Defendant was attempting to evade arrest by escaping to a public place. *Id.;* Police Report at 47. Even if this abandoned building had the appearance of being inhabited by residents, Officer Griffin's decision to enter was objectively reasonable as it was supported by both probable cause and exigent circumstances. *Kentucky v. King*, 563 U.S. at 460.

II. OFFICER GRIFFIN WAS ENTITLED TO SEIZE PROPERTY ASSOCIATED WITH CRIMINAL ACTIVITY FOUND IN PLAIN VIEW

The Government's seizure of the Defendant's cocaine fell squarely within its rights under the plain view doctrine. The plain view doctrine states that the government is lawfully allowed to seize property without a search warrant when: (1) police are lawfully in the position from which they view the object; (2) the object's incriminating character is immediately apparent; and (3) the officers had a lawful right of access to the object itself. *See Minnesota v. Dickerson*, 580 U.S.

366, 375 (1993). The rationale is that if there is probable cause to associate the property with criminal activity, seizing property in plain view "involves no invasion of privacy and is presumptively reasonable." *Payton*, 445 U.S. at 587. Further, the Supreme Court in *Texas v. Brown*, stated that requiring police to obtain a warrant after they have seen contraband, stolen property, or incriminating evidence themselves firsthand, would be a "needless inconvenience," that could pose a risk of danger to the police and public. 460 U.S. 740, 737 (1983) (citing *Coolidge v. New Hampshire*, 403 U.S. 443, 515 (1971) (White, J., dissenting)).

Here, the Government's seizure of the Defendant's cocaine was permissible. First, Officer Griffin was lawfully in the position from which they viewed the cocaine. *Dickerson*, 580 U.S. at 375. This first prong, regarding Officer Griffin's lawful entry, was addressed in the previous argument. Second, the cocaine's incriminating character was immediately apparent based on Officer Griffin's training, experience, and available information at the time of the seizure. *Id*. Finally, Officer Griffin had a lawful right of access to the cocaine itself because of the high probability that it would be destroyed if not seized immediately. *Id*.

A. The Incriminating Nature of the Items Seized was Immediately Apparent

The incriminating character of Jamie Lawton's cocaine was immediately apparent to Officer Griffin based on their experience, training, and information provided to them prior to entering the warehouse. When evaluating whether an

object's incriminating character was immediately apparent, "police must have probable cause to believe the object in plain view is contraband or evidence of a crime." *United States v. King*, 634 F. App'x 287, 290 (11th Cir. 2015) (citing *Dickerson*, 580 U.S. at 375). When examining whether a police officer has probable cause, courts draw on the totality of the circumstances to determine if there is a "fair probability that contraband or evidence of a crime will be discovered in a particular place." *United States v. Tobin*, 923 F. 2d 1506, 1510 (11th Cir. 1991) (en banc). The court's evaluation of this is based on the principal components of what events occurred leading up to the search and then whether the decisions made based on "these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to . . . probable cause." *Ornelas v. United States*, 517 U.S. 690, 696 (1996); *see also Ornelas*, 517 U.S. at 700 (holding "that a police officer may draw inferences based on his own experience in deciding whether probable cause exists").

For example, in *Brown*, the Supreme Court found that the seizure of tied balloons in the defendant's glove box was permissible because the officer had previously participated in other narcotics arrests and knew from discussions with other officers that "balloons tied in the manner of the one possessed by [the defendant] were frequently used to carry narcotics." 460 U.S. at 742-43. The Court in *Brown* held that even though the officer, from his lawful position, could not see

through the balloons to positively identify narcotics, the distinctive character of the balloon, combined with the officer's trained eye, gave the officer probable cause to seize the items. *Id*. In *Ornelas*, the Supreme Court further emphasized that an officer's training and experience is invaluable in determining probable cause, explaining that to a "layman . . . [a] loose panel below the back seat armrest in the automobile involved in [the] case may suggest only wear and tear, but to [the experienced officer in the case] . . . it suggested that drugs may be secreted inside the panel." 517 U.S. at 700; *see also United States v. Wrenn*, 2023 U.S. App. LEXIS 15848, at *17-18 (11th Cir. June 23, 2023) (finding that the officer's seizure of a laptop was reasonable based on his extensive experience that led to probable cause to believe it implicated a crime). However, the court does not give unfettered discretion to officers. In *Arizona v. Hicks*, the Supreme Court held that the seizure of stereo equipment was not valid under the plain-view doctrine because the item's incriminating nature was not immediately apparent, holding that probable cause only arose after officers manipulated the equipment to locate the serial numbers. 480 U.S. 321, 324 (1987).

In *Brown*, the officer seized tied balloons using his training, experience, and situational context to articulate probable cause. 460 U.S. at 742-43. Similarly, Officer Griffin relied on his DUI training course, which taught him how to identify cocaine packaged for shipment, personal experience on the force, and the

information provided by Lt. Sammy Vann that the warehouse occupants were suspected of drug trafficking, to establish probable cause. (Griffin at 40). Officer Griffin had probable cause to seize what turned out to be a large quantity of cocaine. *Id*.; (Griffin at 40). Additionally, like in *Brown*, in which "the distinctive character of the balloon itself spoke volumes as to its contents – particularly to the trained eye of the officer," the character of the object Officer Griffin saw and subsequently seized was nothing short of distinctive. *Id*. While walking out of the warehouse, Officer Griffin noticed "the edge of something light-colored wrapped in plastic and packing tape" about three inches thick by four inches in length, a shape and look unique to the transportation of narcotics. (Griffin at 39, 40). Analogous to the loose panel in the Court's dicta in *Ornelas*, in the case at hand, what appeared to a "layman" to be a pile of garbage with a tarp thrown over it, was in fact, evidence of a crime. 517 U.S. at 700. To the trained eyes of Officer Griffin, the shape and appearance of what the tarp partially covered was revealed to be three to four inches of packaged cocaine lying in plain view. (Griffin at 40). Finally, in contrast to *Hicks*, where law enforcement officers had to manipulate the items to obtain the probable cause required for seizure, Officer Griffin had to do no such thing. 480 U.S. at 324. As Officer Griffin approached the package, he was able to see something light-colored wrapped in plastic wrap because it was only partially covered by tarp. (Griffin at 39).

The incriminating nature of the Defendant's package was "immediately apparent" to Officer Griffin. *Dickerson*, 580 U.S. at 375. Officer Griffin went through drug training in the Police Academy, had ample experience on the force in criminal investigation, and Lt. Sammy Vann specifically informed him that at least one person in the location was using it as a stash house for cocaine. (Griffin at 40). Officer Griffin's seizure of the Defendant's cocaine was based on sufficient probable cause and, thereby, lawful, so the fruits of this seizure should not be suppressed.

B. Officer Griffin had a Lawful Right of Access to the Object Itself

Due to exigent circumstances, Officer Griffin did not have time to obtain a warrant prior to seizing the cocaine found in the Defendant's warehouse and subsequently had the lawful right of access to the narcotics. When considering whether officers have a lawful right of access to the object itself, courts examine whether an officer "could obtain a warrant prior to seizing the evidence found in plain view." *United States v. McLeavain*, 310 F. 3d 434, 443 (6th Cir. 2002) (citing *Horton v. California*, 496 U.S. 128, 137, fn. 7 (1990)). If officers are able to obtain a warrant prior to the seizure, then they cannot use the "plain view" exception for the seizure of evidence. *Id*. In considering whether an officer had time to obtain a warrant prior to the seizure of evidence, courts look to several factors. However, the most relevant consideration in the case at hand is exigent circumstances.

Officers can rely on the exigent circumstances exception for the "warrantless seizure of property" only when certain exigent circumstances, such as the "imminent destruction of evidence," exist. *Crocker v. Beatty*, 866 F. 3d 1132, 1136 (11th Cir. 2018) (citing *Minnesota v. Olson*, 495 U.S. 91, 100 (1990). To prove that sufficient exigencies existed to warrant evidence seizure, specifically in regard to the possible imminent destruction of evidence, the court will examine whether the "facts would have led a reasonable, experienced agent to believe that evidence might be destroyed before a warrant could be secured." *Beatty*, 866 F. 3d at 1136 (internal citations omitted).

For example, in *Beatty*, police officers seized a bystander's phone after they learned the bystander had taken photos and videos of a car accident they were investigating. F. 3d at 1134-36. They argued that the seizure was permissible under the doctrine of exigent circumstances, specifically the imminent destruction of evidence. *Id*. The United States Court of Appeals for the 11th Circuit held that the seizure was not supported by the exigent circumstance doctrine because there were no facts in the record to support the notion that a "reasonable, experienced agent would have thought destruction of the evidence was imminent." *Id*. at 1136. When the officer in *Beatty* approached the bystander, nothing suggested that the bystander would have soon deleted the photographs and videos he had just captured, and thus, no reasonable officer would have believed destruction of the

evidence was imminent. *Id*. The court in *Beatty* further held that the exigent circumstance of imminent destruction of evidence may only be found when the evidence is in the possession of a person who could be implicated in the crime or someone close to them because "evidence is more likely to be destroyed when it is in the possession of a person who may be convicted by it." *Id*.

Further, in *Kentucky v. King*, the Supreme Court of the United States held that law enforcement was within their rights to kick in the door of an apartment when they heard sounds that they believed were related to the destruction of evidence because law enforcement did not create the exigent circumstance in violation of the Fourth Amendment. 563 U.S. 452, 462 (2011). The Supreme Court in *Kentucky v. King* dispersed with lower court findings of the so-called "police created exigency doctrine," in which lower courts have held that when police action causes the exigency, they are not able to rely on the exigent circumstances doctrine for warrantless searches or seizures. *Id*. at 461. The Supreme Court reasoned that because drugs are easily destroyed, the exigent circumstance of destruction of evidence likely occurs most frequently in drug cases. *Id*. The Supreme Court in *Kentucky v. King* explained a rule preventing officers from making a warrantless search or seizure "whenever their conduct causes the exigency would unreasonably shrink the reach of this well-established rule exception to the warrant requirement." *Id*. at 461-62. They reasoned that since "[p]ersons in possession of

valuable drugs are unlikely to destroy them unless they fear discovery by the police," something as trivial as police announcing their presence could lead to the destruction of evidence. *Id* at 461.

Here, unlike in *Beatty*, where the evidence would not implicate the possessor or someone close to them, the cocaine in the Defendant's warehouse did implicate him of a crime. F. 3d at 1136. Furthermore, Kell Halstead, a close friend of the Defendant, remained in the building, and as stated by the court in *Beatty*, it would be reasonable for Officer Griffin to assume that Halstead may destroy the evidence as it implicated both himself and someone close to him in a serious crime. *Id*; (Griffin at 41). Further, unlike in *Beatty*, where there was no indication that evidence would be destroyed if the officer did not immediately seize it, Halstead continuously looked in the direction of the evidence, seemingly nervous behavior that would lead any reasonable officer to believe the evidence would likely be destroyed. *Id*; (Griffin at 36). Additionally, like in *Kentucky v. King*, where law enforcement did not create the exigent circumstances, Officer Griffin was lawfully in the position from which they viewed the cocaine and did not manufacture the exigent circumstances. 563 U.S. at 462. The exigent circumstances only fully materialized after Officer Griffin found themselves lawfully in the building, and they inadvertently viewed the cocaine in plain view as they exited the building with paramedics. (Griffin at 40). Faulting Officer Griffin for failing to halt his

activities and apply for a search warrant the moment probable cause, discovery of the cocaine in plain view, "imposes a duty [on law enforcement] that is nowhere to be found in the Constitution." *Id.* at 467.

Officer Griffin had a lawful right of access to the cocaine in the possession of the Defendant Jamie Lawton under the exigent circumstances doctrine because Officer Griffin did not create the exigency, and the seizure was to prevent the imminent destruction of evidence.

CONCLUSION

For the foregoing reasons, the Government respectfully requests this Court deny Defense's Motion to Suppress the Evidence. Both 1) the entry and 2) the seizure of the evidence by the officer was lawful, as supported by the evidence and the law. Therefore, the motion should be dismissed.

Respectfully submitted,

/s/ TEAM 109

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