TEAM NO: 110

CRIMINAL NO: 2023-CR-812

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA
UNITED STATES OF AMERICA

Prosecution,

vs.

JAMIE LAWTON

Defendant.

THE DEFENSE'S MEMORANDUM OF LAW IN SUPPORT OF A MOTION TO SUPPRESS TANGIBLE EVIDENCE

/S/ TEAM 110
TEAM 110

Attorneys for Defendant

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INTRODUCTION

The defendant, Jamie Lawton (hereinafter "Mr. Lawton"), through and by counsel, hereby makes and files his motion to suppress evidence obtained through a warrantless entry into, and subsequent warrantless search of, Mr. Lawton's residence, conducted by Peterson Police Department Patrol Officer Taylor Griffin (hereinafter "Officer Griffin") on June 8, 2023.

On July 13, 2023, the Defense filed a motion to suppress evidence seized from Mr. Lawton's residence on the basis that it was obtained through two illegal acts, namely the warrantless entry into, and resulting warrantless search of, Mr. Lawton's residence. Both of these acts were done in violation of the Fourth Amendment. The evidence shows that Officer Griffin entered and searched Mr. Lawton's residence absent a warrant or exigent circumstances, thereby violating Mr. Lawton's Fourth Amendment rights. Accordingly, the Defense's motion to suppress the evidence obtained through these illegal acts should be granted.

STATEMENT OF FACTS

On June 8, 2023, Mr. Lawton met a few friends at "Right on Cue: Pool House & Casino" at about 1:00pm. R. at 62. On this occasion, Mr. Lawton was feeling ill, and chose to limit his alcohol intake to half of a beer. R. at 62. Mr. Lawton ultimately left the pool house around 3:45pm, driving home in his cousin Kevin James' truck. R. at 63.

The same day, Officer Griffin, while conducting routine patrol, noticed a driver throwing up outside the driver's side door of a red truck. R. at 17. Although this driver

was actually Mr. Lawton, Officer Griffin mistakenly believed the driver to be Kevin James, an individual that Officer Griffin had arrested multiple times. R. at 20. Officer Griffin concluded that the driver was Mr. James, despite the fact that Officer Griffin could not see the driver's face, and that the driver had a different hairstyle and hair color from Mr. James. R. at 22. Officer Griffin wrongfully assumed that Mr. James had taken steps to change his appearance to avoid being charged with Operating with a Driving Under the Influence Suspension. R. at 23.

Eventually, Mr. Lawton, the driver, drifted into the emergency lane, prompting Officer Griffin to turn on his lights, but not his sirens, as to pull over the driver. R. at 26-27. Mr. Lawton, however, did not notice Officer Griffin behind him, as he was experiencing stomach pain and was focused on getting to his destination. R. at 64-65. Unbeknownst to Mr. Lawton, Officer Griffin followed him another three miles to Mr. Lawton's residence, a warehouse owned by Mr. Lawton at 900 49th Street North. R. at 28.

Ignoring orders from Lieutenant Vann to not interfere because the warehouse had already been placed under police surveillance, and because there was no Mr. James connected to the warehouse, Officer Griffin followed Mr. Lawton into his residence. *See* R. at 28. Upon entry, Officer Griffin heard two voices belonging to Mr. Lawton and Kell Halstead, which he followed. R. at 32-33. Upon seeing these individuals, Officer Griffin identified himself as a police officer, R. at 34, and suspecting that Mr. Lawton may have been driving under the influence, investigated further. R. at 34. Although Mr. Lawton asked Officer Griffin to leave, Officer Griffin did not oblige. R. at 35-36. However, seeing that Mr. Lawton was in pain, Officer Griffin called for an ambulance. R. at 36.

During this interaction, Officer Griffin noticed Kell Halstead looking at a pallet that was concealed behind a shelf. R. at 36.

Once Emergency Medical Treatment arrived at the scene, they determined that Mr. Lawton's symptoms were most likely explained by acute appendicitis, and transported him to a hospital. R. at 38. Officer Griffin then left the residence, following a path which passed by the pallet he noticed Kell Halstead looking at. R. at 38. On this pallet, Officer Griffin noticed multiple packages which were partially covered by a tarp. R. at 39. Believing these packages to contain cocaine, Officer Griffin seized them. R. at 40. Officer Griffin then proceeded to the hospital Mr. Lawton was brought to, where, after being told he was not under arrest, Mr. Lawton voluntarily submitted to a blood test. R. at 63. Following this, Officer Griffin placed a police hold on Mr. Lawton, meaning he was to be placed in custody upon his release from the hospital. R. at 43.

Mr. Lawton has since been charged with possession with intent to distribute five kilograms or more of cocaine, conspiracy to possess with intent to distribute five kilograms or more of cocaine, and operating a motor vehicle under the influence of alcohol while holding a federally issued common carrier license. R. at 5-6. The Defense now moves to suppress the evidence illegally seized by Officer Griffin.

ARGUMENT

The Fourth Amendment protects the right of the people to be free from unreasonable searches and seizures. *Davis v. United States*, 564 U.S. 229, 231 (2011); U.S. Const. Amend. IV. Indeed, "[f]ew protections are as essential to individual liberty as the right to be free from unreasonable searches and seizures." *Byrd v. United States*, 138 S. Ct. 1518,

1526 (2018). As such, the Fourth Amendment should be liberally construed in favor of the individual. *Coolidge v. New Hampshire*, 403 U.S. 443, 454 (1971).

To effectuate the Fourth Amendment's protection from unreasonable searches and seizures, the Supreme Court created the exclusionary rule. *Simmons v. United States*, 390 U.S. 377, 389 (1968). The exclusionary rule prohibits introduction into evidence of materials obtained in violation of the Fourth Amendment. *Murray v. United States*, 487 U.S. 533, 536 (1988); *United States v. Calandra*, 414 U.S. 338, 347 (1974). This prohibition also applies to the fruits of the illegally seized evidence–i.e., evidence found as a result of the first illegal search or seizure. *See Calandra*, 414 U.S. at 347; *Utah v. Strieff*, 579 U.S. 232, 237 (2016).

The Fourth Amendment is especially protective of the home. *See Payton v. New York*, 445 U.S. 573, 573 (1980) ("[T]he Fourth Amendment has drawn a firm line at the entrance to the house."). Accordingly, "[i]t is a `basic principle of Fourth Amendment law' that searches and seizures inside a home without a warrant are presumptively unreasonable." *Id.* at 586; *see also Georgia v. Randolph*, 547 U.S. 103, 109 (2006) (citations omitted) ("The Fourth Amendment ordinarily prohibit[s] the warrantless entry of a person's house as unreasonable per se.").

Because warrantless searches and seizures are per se unreasonable, "the Government bears a heavy burden to justify dispensing with the warrant requirement of the Fourth Amendment." *United States v. Hoffman*, 607 F.2d 280, 282 (9th Cir. 1979) (citing *Arkansas v. Sanders*, 442 U.S. 753 (1979)). As set forth below, the Government has failed to meet this burden. Accordingly, this Court should grant Mr. Lawton's motion to suppress

because Officer's Griffin's warrantless entry into, and resulting warrantless search of, Mr. Lawton's residence violated the Fourth Amendment.

I. OFFICER GRIFFIN'S WARRANTLESS ENTRY INTO MR. LAWTON'S RESIDENCE VIOLATED THE FOURTH AMENDMENT BECAUSE THERE WERE NO EXIGENT CIRCUMSTANCES JUSTIFYING ENTRY.

To make a lawful entry into a home or residence, "police officers need either a warrant or probable cause plus exigent circumstances." *Kirk v. Louisiana*, 536 U.S. 635, 638 (2002). Here, Officer Griffin had neither. Without a warrant, and absent the exigencies of threats of imminent harm or the imminent destruction of evidence, *see Carpenter v. United States*, 138 S. Ct. 2206, 2223 (2018), Officer Griffin unlawfully entered Mr. Lawton's residence. And although Officer Griffin may have mistakenly believed he was pursuing a fleeing felon, another recognized exigency, *see id.*, that belief was unreasonable. Thus, Officer Griffin's warrantless entry into Mr. Lawton's residence violated the Fourth Amendment, and the evidence seized as a result of that unlawful entry should therefore be suppressed.

A. Officer Griffin's misidentification of the driver was not a reasonable mistake of fact because the driver's physical characteristics were substantially different than those of Mr. James.

Officer Griffin's misidentification of the driver as Mr. James was not a reasonable mistake of fact because the driver's physical characteristics differed substantially from the characteristics Officer Griffin knew Mr. James to have.

The Fourth Amendment "permits warrantless searches based only on a reasonable mistake of fact." *United States v. Vasquez*, 724 F.3d 15, 26 (1st Cir. 2013) (citations omitted). Thus, while officers are allowed some room for error, any mistakes "must be

those of reasonable men, acting on facts leading sensibly to their conclusions of probability." *Brinegar v. United States*, 338 U.S. 160, 176 (1949). In other words, the Fourth Amendment prohibits warrantless searches or seizures based on an officer's unreasonable mistake of fact. *See id.*

An officer's misidentification and resulting arrest has been considered a reasonable mistake where the misidentified person was found at the suspect's address and fit the suspect's description. *See Hill v. California*, 401 U.S. 797 (1971). In *Hill*, officers, without a warrant, went to the verified address of a suspect that they had probable cause to arrest. *Id.* at 799. The person who answered the door, although ultimately not the suspect, matched the suspect's description "exactly." *Id.* The Supreme Court found that the officer's misidentification, and the resulting arrest, were reasonable mistakes of fact because the misidentified person was at the suspect's verified address and matched the suspect's description. *See id.* at 802-04.

While Officer Griffin allegedly believed he was pursuing Mr. James, an individual with prior convictions for driving under the influence, and therefore believed he was pursuing a felonious offense, this belief was unreasonable under the circumstances. Unlike *Hill*, the driver did not match Mr. James's physical description whatsoever. Officer Griffin knew Mr. James to have light brown hair, however, Mr. Lawton, the driver, was blonde. R. at 23. Officer Griffin also knew Mr. James to have a shaggy hair cut, however, the driver had longer hair that had been pulled back into a bun. R. at 22. In addition, Officer Griffin's view of the driver was limited to the back of the driver's head, shoulders, and neck from a two-car distance. R. at 19-23. This view was so unreliable that Officer Griffin

never saw the driver's face, and could not even ascertain the driver's gender. R. at 23. Despite the differing physical characteristics and unreliable view, Officer Griffin erroneously concluded that the driver was Mr. James. This mistake was not reasonable under the circumstances.

Because Officer Griffin's misidentification was not reasonable, the mistaken belief that Officer Griffin was pursuing a felonious offense also was not reasonable. Thus, the Government cannot justify Officer Griffin's warrantless entry and resulting search based on pursuit of a felonious offense.

B. Officer Griffin's warrantless entry cannot be justified by the hot pursuit exigency because the pursuit was not continuous.

The Government cannot justify Officer Griffin's warrantless entry based on a hot pursuit exigency because Officer Griffin's pursuit of Mr. Lawton was not continuous. Furthermore, even if Officer Griffin was in hot pursuit of Mr. Lawton, this is not one of those rare cases where pursuit of a fleeing misdemeanant creates an exigency because it involves a non-violent, relatively minor offense.

The exception to the warrant requirement for exigent circumstances applies only where "the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search [or entry] is objectively reasonable under the Fourth Amendment." *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403 (2006). In determining whether exigent circumstances were present, courts look at the totality of the circumstances faced by the officer at the time of the warrantless entry. *Lange v. California*, 141 S. Ct. 2011, 2018 (2021) (citation and internal quotation marks omitted). As such, courts may

consider only exigencies that existed at the moment of the warrantless entry, and cannot consider those that arose later. *See United States v. Johnson*, 256 F.3d 895, 907 (9th Cir. 2001); *Ewolski v. City of Brunswick*, 287 F.3d 492, 503 (6th Cir. 2002).

One recognized example of an exigent circumstance is the hot pursuit of a fleeing suspect. *Missouri v. McNeely*, 569 U.S. 141, 149 (2013). The hot pursuit exigency applies only when the officer's pursuit of the suspect from the scene of the crime is both "immediate" and "continuous." *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984); *Johnson*, 256 F.3d at 907.

1. Officer Griffin was not in hot pursuit of Mr. Lawton at the time of the warrantless entry because the pursuit was not continuous.

The Government cannot justify Officer Griffin's warrantless entry based on the hot pursuit exigency because Officer Griffin was not in hot pursuit of Mr. Lawton at the time of entry.

The hot pursuit exception requires both immediate and continuous pursuit of a suspect. *Welsh*, 466 U.S. at 740. While the hot pursuit exception does not need to "be an extended hue and cry in and about the public streets," the exception does require some sort of a chase. *United States v. Santana*, 427 U.S. 38, 43 (1976).

Here, Officer Griffin was not in hot pursuit of Mr. Lawton at the time of Officer Griffin's warrantless entry because the pursuit was not continuous. *See Welsh*, 466 U.S. at 740. Officer Griffin halted this pursuit both to observe Mr. Lawton enter his residence and to have a phone conversation with Lieutenant Vann. *See* R. at 38, 54. In addition, a necessary component of the hot pursuit exception is missing–the chase. *See Santana*, 427

U.S. at 43. While Mr. Lawton did not pull over after Officer Griffin activated his lights, he continued to drive at approximately the speed limit. R. at 27-28. And while Mr. Lawton immediately went inside his home after exiting the truck, he did so at a walking speed, rather than a run. *See* R. at 28, 56. Neither of these acts suggest evasiveness or flight on the part of Mr. Lawton. Under these circumstances, the hot pursuit exigency does not justify Officer Griffin's warrantless entry into Mr. Lawton's residence. *See* Welsh, 466 U.S. at 740; Santana, 427 U.S. at 43.

2. Even if Officer Griffin was in hot pursuit of Mr. Lawton, there is no exigency because Officer Griffin was pursuing a fleeing misdemeanant.

Even if Officer Griffin was in hot pursuit of Mr. Lawton, this is not an exigency justifying Officer Griffin's warrantless entry because Officer Griffin was pursuing a fleeing misdemeanant. While hot pursuit of a fleeing felon is usually sufficient to create an exigency justifying departure from the warrant requirement, hot pursuit of a fleeing misdemeanant creates such an exigency in only the "rarest" cases. *Stanton v. Sims*, 571 U.S. 3, 8 (2013).

Whether an officer's pursuit of a fleeing misdemeanant is one of those rare cases presenting an exigency depends on the totality of the circumstances. *Lange*, 141 S. Ct. at 2016. Common factors considered by courts include the nature of the crime, the nature of the flight, and the surrounding circumstances. *Id.* at 2021. This Court should find that these factors weigh against the existence of an exigency, and that, as a result, Officer Griffin was required to obtain a warrant before entering Mr. Lawton's residence. *See id.* at 2021.

The nature of the crime for which Officer Griffin was pursuing Mr. Lawton weighs against the existence of an exigency justifying Officer Griffin's warrantless entry into Mr. Lawton's residence. As explained by the Supreme Court, where a misdemeanor involving non-violent conduct is at issue, "officers can probably take the time to get a warrant." *Lange v. California*, 141 S. Ct. 2011, 2021 (2021) (citation omitted). This may be true "even when a misdemeanant has forced the police to pursue him (especially given that 'pursuit' may cover just a few feet of ground)." *Id.* (citation omitted).

Here, Officer Griffin was pursuing the driver, Mr. Lawton, for a first offense of driving under the influence, a misdemeanor in the State of Stetson. R. at 11. Rather than obtaining a warrant, Officer Griffin entered Mr. Lawton's residence to arrest Mr. Lawton for this relatively minor, non-violent offense. *See* R. at 28-29. Even more perplexing is that Officer Griffin made this warrantless entry after Mr. Lawton had already left his vehicle and, if driving under the influence, would have no longer presented a danger to the public. *See* R. at 27-29; *Welsh*, 466 U.S. at 753 (refusing to find exigent circumstances based on threat to public safety where the allegedly intoxicated driver had left his car at the scene of the accident). The non-violent and relatively minor nature of the offense, and the fact that Mr. Lawton posed no threat to public safety at the time of entry, weigh against application of the hot pursuit exception.

The nature of Mr. Lawton's "flight" also weighs against the existence of an exigency justifying Officer Griffin's warrantless entry into Mr. Lawton's residence. Mr. Lawton was not speeding away from Officer Griffin's patrol car. Although Mr. Lawton increased his speed slightly after Officer Griffin activated his lights, he was still driving at

approximately the speed limit. *See* R. at 28. In short, Mr. Lawton was not driving at a speed that would suggest evasiveness. Furthermore, there was no indication that Mr. Lawton was armed. *See Warden v. Md Penitentiary v. Hayden*, 387 U.S. 294, 298-99 (1967) (warrantless entry of home justified where police were notified that an armed robber had fled the scene and entered the home). The absence of high-speed flight, combined with the lack of indication that Mr. Lawton was armed, further weighs against application of the hot pursuit exception.

The Government cannot justify Officer Griffin's warrantless entry into Mr. Lawton's residence based on the hot pursuit exception because the pursuit was not continuous. Furthermore, even if there was hot pursuit, this is not one of those rare cases where pursuit of a fleeing misdemeanant creates an exigency. Because Officer Griffin was pursuing a non-violent, relatively minor offense, and because there was no high-speed flight, this Court should find that Officer Griffin's warrantless entry was not justified by the hot pursuit exigency.

C. Mr. Lawton's alleged fleeting blood alcohol content does not constitute an exigency justifying Officer Griffin's warrantless entry because Officer Griffin was pursuing him for a relatively minor offense.

Mr. Lawton's alleged fleeting blood alcohol content, on its own, does not constitute an exigency justifying Officer Griffin's warrantless entry because Officer Griffin was pursuing him for a relatively minor offense.

The natural dissipation of alcohol in the blood does not present a *per se* exigency justifying a deviation from the warrant requirement. *Missouri v. McNeely*, 569 U.S. 141, 145 (2013). Rather, exigency in the drunk driving context must be decided on a case by

case basis, looking at the totality of the circumstances at play. *Id.* In other words, while the metabolization of alcohol in the blood is a factor to be considered, it does not necessarily support a finding of exigency. *See id.* at 156, 165.

An officer's need to ascertain an individual's blood alcohol content does not create an exigency justifying a warrantless entry into a residence when the officer is entering to arrest for a minor offense. *See Welsh*, 460 U.S. at 754. In *Welsh*, a witness observed the defendant drive erratically and swerve off the road into an open field. *Id.* at 742. Because the defendant had left the scene before the police arrived, the police obtained the defendant's address from the vehicle's registration. *Id.* at 742-43. The police then, without a warrant, entered the defendant's home and arrested him for driving under the influence. *Id.* at 743. Because the offense was relatively minor, classified as a civil traffic offense, the Court explained that the "warrantless home arrest [could not] be upheld simply because evidence of the [defendant's] blood-alcohol level might have dissipated while the police obtained a warrant." *Id.* at 754. Therefore, the Court found that the warrantless entry and arrest violated the Fourth Amendment. *Id.*

Officer Griffin's need to ascertain Mr. Lawton's blood alcohol content does not create an exigency justifying the warrantless entry into Mr. Lawton's residence because Officer Griffin was pursuing Mr. Lawton for a relatively minor offense. *See id.* at 754. As in *Welsh*, Officer Griffin was pursuing Mr. Lawton for driving under the influence, which is classified as a misdemeanor for an individual's first violation. R. at 11. While driving under the influence was classified as a civil traffic offense in *Welsh*, a non-violent misdemeanor may also be classified as a relatively minor offense. *See Atwater v. City of*

Lago Vista, 532 U.S. 318, 323 (2001) (classifying a misdemeanor seatbelt violation as a "minor criminal offense"); *Lange*, 141 S. Ct. at 2020 (acknowledging that some misdemeanors, including non-violent offenses, may be "minor"); *Jiminez v. Wood Cnty.*, 660 F.3d 841, 848 (5th Cir. 2011) (finding a misdemeanor of hindering apprehension to be a "minor offense"). Because Mr. Lawton has never been convicted of driving under the influence, R. at 27, Officer Griffin was therefore pursuing a relatively minor offense, *see* R. at 11. Thus, Mr. Lawton's alleged fleeting blood alcohol content does not create an exigency justifying the warrantless entry of Mr. Lawton's home. *See Welsh*, 460 U.S. at 754.

Officer Griffin's entry into Mr. Lawton's residence was unlawful because Officer Griffin entered without a warrant, despite ample opportunity to obtain one, and without exigent circumstances. Because the initial entry was unlawful, the evidence seized as a result of that unlawful entry is inadmissible. *See Rodriguez v. Butler*, 536 F.2d 982, 985 (2d Cir. 1976) (citing *Sabbath v. United States*, 391 U.S. 585 (1968)). Accordingly, this Court should find that Officer Griffin's warrantless entry violated the Fourth Amendment.

II. OFFICER GRIFFIN'S WARRANTLESS SEARCH AND SUBSEQUENT DISCOVERY OF EVIDENCE IN MR. LAWTON'S RESIDENCE VIOLATED THE FOURTH AMENDMENT.

After illegally entering Mr. Lawton's residence, Officer Griffin executed an unlawful search, resulting in the subsequent seizure of evidence. Similar to the unlawful entry, the search was warrantless and not justified by exigent circumstances. A search conducted without a warrant is "unlawful notwithstanding facts unquestionably showing probable cause," even in circumstances in which officers have a well-founded belief that

evidence would be uncovered in such a search. *Agnello v. United States*, 269 U.S. 20, 33 (1925) (citations omitted); *see also Coolidge v. New Hampshire*, 403 U.S. 443, 468 (1971) ("no amount of probable cause can justify a warrantless search or seizure absent 'exigent circumstances.").

A search conducted without a warrant is presumed unconstitutional unless the prosecution proves that the search qualifies under one of "a few specifically established and well delineated exceptions." *Coolidge*, 403 U.S. at 455. One exception that would permit a warrantless and non-consensual search of an individual's residence includes evidence uncovered in plain-view "in a place where the officer has a right to be." *Washington v. Christman*, 102 S.Ct. 812, 816 (1982). Another example of such an exception is a search incident to a valid arrest of the "person and the area" around the arrestee where they could reach a weapon or evidence. *Chimel v. California*, 395 U.S. 752, 768 (1969). Neither of these exceptions are applicable to the present case. Therefore, Officer Griffin's search of Mr. Lawton's residence violated the Fourth Amendment and any uncovered evidence must be suppressed.

A. The plain view doctrine is not applicable because Officer Griffin did not have a legal right to be in Mr. Lawton's residence.

A search may be conducted without a warrant in instances where evidence is seen in plain-view "in a place where the officer has a right to be." *Christman*, 102 S.Ct. at 816. However, "plain view alone is never enough to justify the warrantless seizure of evidence." *Coolidge*, 403 U.S. at 468. For a search to be justified under the plain view doctrine, the Government must show that (1) the officers had "a prior justification for an intrusion," (2)

the discovery was inadvertent, and (3) it was "immediately apparent" that evidence was before the officers. *Id.* at 466.

The Fourth Amendment does not allow an illegal search to be "made lawful by what it brings to light" and "evidences of crime discovered by a federal officer in making a search without lawful warrant may be used against the victim of the unlawful search where a timely challenge has been interposed." *Byars v. United States*, 273 U.S. 28, 29, 30 (1927) (citations omitted). Evidence obtained in violation of the Constitution cannot be admitted as evidence against a criminal defendant in either federal or state court. *See Mapp v. Ohio*, 367 U.S. 643, 655 (1961) ("We hold that all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court.") "[T]he exclusion of the evidence which an accused had been forced to give by reason of the unlawful seizure" is an essential component of the American justice system. *Id.* at 656.

Here, Officer Griffin's discovery of the tangible evidence in Mr. Lawton's residence was not justified by the plain view doctrine for three reasons. First, Officer Griffin did not have a prior justification for being in Mr. Lawton's residence. Second, the discovery was not inadvertent. And third, the nature of the evidence was not immediately apparent.

Officer Griffin did not have prior justification for being in Mr. Lawton's residence. Rather, Officer Griffin was in Mr. Lawton's residence without a warrant, absent exigent circumstances. Because Officer Griffin's entry into Mr. Lawton's residence violated the Fourth Amendment, and was therefore unlawful, the subsequent search of Mr. Lawton's residence was a direct result of this unlawful entry, and was also unlawful.

For the evidence obtained in the search of Mr. Lawton's residence to be admissible, "the connection between the lawless conduct of the police and the discovery of the challenged evidence" must be "so attenuated as to dissipate the taint." *Wong Sun v. United States*, 371 U.S. 471, 488 (1963) (citations omitted). Here, there was no attenuation between Officer Griffin's lawless entry into Mr. Lawton's residence and the subsequent search. Officer Griffin did not notice the evidence as an inadvertent consequence of their presence in a place where they had a right to be. Rather, Officer Griffin had entered the residence illegally and intentionally left in a manner allowing Officer Griffin to walk past the area they were interested in searching, and then searched the area, resulting in the discovery of the evidence in question. R. at 39. Had there been no illegal entry, Officer Griffin would not have been able to uncover any evidence. Thus, the plain view doctrine does not justify Officer Griffin's unlawful search.

B. There was no valid arrest which would justify a search

Another exception to the Fourth Amendment's prohibition on warrantless searches is the search incident to arrest doctrine. *See Chimel*, 395 U.S. at 768. This doctrine permits officers who are executing a valid arrest to search the "person and the area from within which he might have obtained either a weapon or something that could have been used as evidence against him." *Id.* This exception is applicable only if an arrest is actually executed. *See Knowles v. Iowa*, 525 U.S. 113 (1998) (invalidating Iowa's "search incident to citation" rule, which permitted searches of individuals who are given citations but not actually arrested). An arrest is executed only when the suspect is "restrained and his

freedom of movement limited to such an extent that he did not feel free to leave." *Edwards v. Pretsch*, 180 F.Supp.2d 499, 507 (S.D.N.Y. 2002).

Here, the search incident to arrest doctrine does not apply because Officer Griffin had not executed a valid arrest at the time the search was conducted. *See Knowles*, 525 U.S. at 116-119. At no point while in Mr. Lawton's residence did Officer Griffin ever physically restrain Mr. Lawton or give him any indication that he was not free to leave. Officer Griffin's interaction with Mr. Lawton prior to the search was limited to asking a few questions and calling an ambulance. R. at 34-38. There is no indication that Mr. Lawton's communications with Officer Griffin were anything less than voluntary. Officer Griffin then executed a search while still in Mr. Lawton's residence, after Mr. Lawton had left in an ambulance. *See* R. at 38-41. Mr. Lawton was not placed under arrest until well after the search was conducted and Mr. Lawton had been taken to a hospital. R. at 43. At no point prior to this formal arrest did Officer Griffin ever restrain Mr. Lawton or otherwise indicate that Mr. Lawton was not free to leave. In short, the evidence was not found incident to Mr. Lawton's arrest. Rather, Officer Griffin conducted an unlawful search well before Mr. Lawton's arrest.

CONCLUSION

Officer Griffin's warrantless entry into, and warrantless search of, Mr. Lawton's residence were both executed in violation of the Fourth Amendment. Therefore, the Defense respectfully requests that this Court grant the Defense's motion to suppress the evidence obtained as a result of the unlawful entry and subsequent unlawful search.

DATED: September 3, 2023

BY: ***S/ Team No. 110***
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