TEAM 113

Case No.: 2023-CR-812

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

Aug. 30, 2023

THE UNITED STATES OF AMERICA,

Prosecution,

-against

JAMIE LAWTON,

Defendant.

DEFENSE'S MEMORANDUM OF LAW
IN SUPPORT OF MOTION TO DISMISS

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INTRODUCTION

The Motion to Suppress should be granted because the police illegally entered Lawton's home and carried out an unlawful search. The Fourth Amendment protects people and any place they may have a reasonable expectation of privacy from unreasonable searches and seizures. U.S. Const. amend. IV; *Katz v. United States*, 389 U.S. 347 at 361 (1967). Nowhere does the Fourth Amendment exert a more pronounced influence than within our homes, our utmost sanctum, which has long been recognized as "deserving of unique safeguarding." *Georgia v. Randolph*, 547 U.S. 103, 115 (2006); *Minnesota* v. *Carter*, 525 U.S. 83, 99 (1998) (Kennedy, J., concurring).

Griffin's warrantless and unconsented entry into Lawton's home was illegal because Griffin had neither probable cause to enter Lawton's home nor was there a present exigent circumstance that necessitated that Griffin act immediately.

Griffin's subsequent warrantless and unconsented search of Lawton's warehouse was also illegal because there was no safety concern to allow a search of weapons, the incriminating nature of the discovered drugs was not in "plain view," and the drugs would not have been "inevitably discovered" absent Griffin's unlawful conducts.

Accordingly, Lawton's motion to suppress should be granted.

STATEMENT OF FACTS

On June 8, 2023, Jamie Lawton, a railroad conductor with the West Coast Stetson Railway and a bartender, was driving home in his cousin Kevin James' truck after consuming half of a beer and jalapeño poppers at a bar with two other friends between the hours of 13:00-15:45. (Sworn Statement of Jamie Lawton ("V.S. Lawton"), ¶¶ 1:2; 2:9-11). Lawton bought the drinks for his friends but felt ill himself. (V.S. Lawton, ¶ 2:10). He got even sicker on his drive home, threw up in his mouth; and spat it out. (V.S. Lawton, ¶¶ 2:14-15). Lawton was experiencing symptoms of his emergent appendicitis. (V.S. Lawton, ¶ 4:24). As the pain got worse Lawton felt as if he was going to pass out so he drove straight home, mindful of the truck's poor condition and the speed limit. (V.S. Lawton, ¶ 3:16).

On the same day around 16:00 officer Taylor Griffin was patrolling alone on 49th Street in a marked vehicle. (Transcript of Grand Jury Proceeding, dated Jul. 6, 2023 ("Tr. Griffin"), ¶¶ 3:6-11). Griffin, who has had three years of experience at the Petersburg Police Department, was assigned to stop criminal activities, particularly DUIs. (Tr. Griffin, ¶¶ 2:2, 8). Griffin wishes to gain as much experience as possible and make a name for himself within the PPD. (Tr. Griffin, ¶ 2:8).

While on the center lane of the four-lane street, Griffin noticed a driver, who he would later learn was Jame Lawton, in a red truck on the next lane, two cars in front of him. (Tr. Griffin, ¶¶ 4:7-12, 5:7). The truck did not have a license plate on the back, an infraction subject to a penalty of no more than fifty dollars. (Tr. Griffin, ¶ 7:10; Stet.

Code § 14-147). Griffin saw Lawton open their door for about ten seconds, lean towards the ground, and spit out liquid once.

Griffin thought the driver was Kevin James, an average looking brunette local who Griffin knew of from previous arrests. (Tr. Griffin,¶¶ 6:9-14, 7:1-4, 12; 8:2-3). It had been six months since Griffin last saw James. (Tr. Griffin, ¶¶ 9:3-4). Griffin recognized the truck Lawton was driving as James' from its make, model, its after-market suspension, and a bumper sticker. (Tr. Griffin, ¶ 7:8). Griffin noticed the differences in appearance of James and Lawton — different hair color and hair style — but assumed the driver was James, even though he did not see Lawton's face and he did not verify that Lawton was of the same height or build as James. (Tr. Griffin, ¶¶ 8:9-13). In fact, Griffin was unsure of the truck driver's gender, as he only had the chance to see the back of Lawton's head, shoulders, and upper back. (Tr. Griffin, ¶¶ 9, 9-10). Griffin also was unsure whether Lawton was puking or rinsing his mouth and spitting but again assumed it was the former. (Tr. Griffin, ¶ 7:12).

Without checking for a front plate, Griffin followed Lawton after the traffic lights turned green. (Tr. Griffin, ¶¶ 9:7-8, 10:8-10). Lawton drove under the speed limit of 55 mph steadily with the speed variation of no more than 5 mph. (Tr. Griffin, ¶ 10:14). Due to his medical emergency, Lawton drove on the emergency lane a couple of times and leaned to the passenger seat; Griffin considered those as furtive movements and put on his lights to pull Lawton over, excited at the prospect of making a "bigtime arrest." (Tr. Griffin, ¶¶ 11:8, 13-14, 12:1, 7, 13:3). Griffin forgot to turn the siren as well as the dash camera video because it "slipped [his] mind" as he was getting ready for a chase, even

though Lawton's driving speed did not seem to be elusive or engage Griffin in pursuit. (Tr. Griffin, ¶¶ 12:7-13, 13:12-13, 14:1).

For three months, Lawton has been living at a rundown warehouse. (V.S. Lawton, ¶¶ 1:3-4). Lawton also allows his friend Kell Halstead to use his warehouse for storage purposes. (V.S. Lawton, ¶ 1:6). Currently the warehouse also contains many things that belonged to previous owners and squatters (V.S. Lawton, ¶¶ 1:7). Six months ago, Lawton was recruited by Halstead to do "off the books" work, which involved loading and unloading packages. (Sworn Statement of Kell Halstead, ("V.S. Halstead") ¶ 1:5). Lawton and Halstead never discussed what the job was about except for when Lawton once asked Halstead "(W)hat is this stuff? Frank Lucas product or Pablo Escobar product?" which Halstead did not answer but told Lawton to not ask questions. (V.S. Halstead, ¶¶ 1:5, 2:6).

After arriving at the warehouse, Lawton painfully rushed inside the warehouse. (V.S. Lawton, ¶ 3:17). Halstead, who was already inside the warehouse, heard the heavy door slam behind Lawton when it closed. (V.S. Halstead, ¶ 4:11). Griffin, who saw Lawton enter the warehouse,called for backup and received a call from Lieutenant Samy Vann, a veteran Drug Enforcement Agency agent with 18 years of experience. (V.S. Lawton, ¶ 3:17, Tr. Griffin, ¶¶ 14:4-7, (Transcript of Grand Jury Proceeding, dated Jul. 6, 2023 ("Tr. Vann"), ¶ 4:3). Vann ordered Griffin not to enter the warehouse because the warehouse was under surveillance for a joint cocaine investigation by the state and DEA and that "at least one person was purporting to live there". (Tr. Griffin, ¶ 14:7). Vann told Griffin that no Kevin James is involved in this investigation and that DEA was tracking a

large amount of cocaine that is likely inside. (Tr. Vann, ¶ 4:5). Vann was still building a case strong enough to get a search warrant as all he had was "reasonable suspicion". (Tr. Vann, ¶¶ 4:1, 5:7).

Griffin thought he "had probable cause to get the guy for a DUI," ignored Vann's orders and followed Lawton inside through one of the doors that had "No Trespassing Private Property" signs on it to prevent Lawton's blood alcohol content (BAC) from dropping. (Tr. Griffin, ¶¶ 14:9, 15:1-3, 16:4-8). Without announcing himself or asking Lawton to stop or come outside, Griffin went inside, noticed a kitchen and followed voices discussing Lawton's sickness. (Tr. Griffin, ¶¶ 17:6-7, 18:1-2, 9-10, 19:4-5).

Griffin finally announced his presence, loudly, shocking Lawton and Halstead. (Tr. Griffin, ¶ 20:5). Griffin realized then that Lawton was in fact not Kevin James and that he was severely in pain from a sickness. (Tr. Griffin, ¶ 20:5). Griffin was told to leave, first by Halstead and then by Lawton, but he refused. (Tr. Griffin, ¶¶ 21:7-9, 22:2-4). An ambulance was called since Lawton was pale, sweaty and unable to stand properly due to pain. (Tr. Griffin, ¶¶ 21:11, 22:8).

Griffin noticed Halstead looking at a wooden pallet behind a shelf, although he wasn't sure what Halstead was looking at. (Tr. Griffin, ¶ 22:10). After the ambulance arrived and Lawton left for the hospital on a gurney, Griffin stayed behind, detoured on his way out to where the pallet was, and noticed an edge of a package covered in tarp. (Tr. Griffin, ¶ 25:7, V.S. Halstead, ¶ 5:15). He then lifted the tarp and picked up the package wrapped in plastic and tape. (Tr. Griffin, ¶ 26:4).

Griffin then went to the hospital where Lawton was and requested a urine sample

which Lawton could not provide due to pain. (Tr. Griffin, ¶¶ 27:10, 28:1-10). Lawton volunteered to undergo a blood test; Lawton's BAC was .04, under the legal limit. (Tr. Griffin, ¶ 29:7, Stet. Code § 14-227a).

ARGUMENT

1. GRIFFIN'S WARRANTLESS AND UNCONSENTED ENTRY INTO LAWTON'S WAREHOUSE WAS ILLEGAL.

Griffin blatantly violated Lawton's Fourth Amendment rights when he illegally intruded into Lawton's home. The Fourth Amendment protects a citizen's homes and their personal effects from unreasonable searches and searches. U.S. Const. amend. IV. The court has historically and consistently considered "the freedom of one's house" to be one of the most vital liberties that citizens have, and as such, the court has maintained a firm stance ensuring that the privacy of citizen's personal residences is protected. *Payton v. New York*, 445 U.S. 573, 590, 596–97 (1980).

An officer unlawfully enters a residence when the premises are protected by the Fourth Amendment, and when the officer warrantlessly enters the premises without probable cause and a consequential exigency. 445 U.S. at 573; *United States v. McClain*, 444 F.3d 556, 562 (2005).

A. Lawton's warehouse is a home and covered by the Fourth Amendment.

Lawton's warehouse is a home and should be safe from warrantless intrusions. The Fourth Amendment not only blanketly protects "private dwelling[s]", but it also specifically protects warehouses from warrantless entries from government agents. *Welsh v. Wisconsin*, 466 U.S. 740, 748 (1984) (holding that a warrantless entry into a home, based on probable cause for a DUI, was illegal); *See v. City of Seattle*, 387 U.S. 541, 543 (1967). An open door does not negate Fourth Amendment protections. *McClain*, 444 F.3d at 564 (holding that officers' entry into a vacant home was illegal, even though the front

door was left open); 445 U.S. at 590 (holding that, "…the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant"); *Kyllo v. United States*, 533 U.S. 27, 40 (2001) (holding that the threshold established in *Payton* is a "firm but also bright" line).

Norman See refused to allow city inspectors into his warehouse without a warrant, even though his warehouse was only a commercial property. 387 U.S. at 541. In *See*, the Supreme Court held that "[t]he businessman, like the occupant of a residence, has a constitutional right to go about his business free from unreasonable official entries upon his private commercial property." *Id.* at 543. If the court finds that Lawton's warehouse is not a residence and is instead commercial property, *See*'s guidance is applicable. Lawton's warehouse should be protected by the Fourth Amendment in the same way that See's warehouse was protected.

However, Lawton's case is much simpler than that of *See*: a reasonable officer would have known that the warehouse was a personal residence. Not only did Griffin observe "No Trespassing, Private Property" signs, indicating that the property was not abandoned, but he was also told by Agent Vann that at least one person was living in the building. Griffin should have known that the building was a private dwelling, and thus entitled to all protections afforded to private dwellings.

Lawton's warehouse was protected by the Fourth Amendment, regardless of its classification as either a private dwelling or as a commercial warehouse. *Id.* at 546. Therefore, Griffin's warrantless entry onto the premises was unlawful, and the evidence seized during his unlawful entry ought to be suppressed.

B. Griffin did not have probable cause in addition to an exigent circumstance to justify his intrusion.

An officer's warrantless entry into a home must be supported by "probable cause plus exigent circumstances." *Kirk v. Louisiana*, 536 U.S. 635, 638 (2002). An officer must wait for a warrant, even if they have probable cause, if there is no exigent circumstance that would justify their entry. Griffin lacked probable cause to enter Lawton's warehouse, and regardless, no emergency necessitated his immediate entry.

1. Probable Cause

Griffin violated Lawton's Fourth Amendment rights by warrantlessly searching Lawton's home without probable cause. Reasonable suspicion allows officers to stop drivers, but to arrest motorists, officers need probable cause based on the facts presently available that a crime is taking place or has taken place. *United States v. Arvizu*, 534 U.S. 266, 273 (2002); *Williams v. Vasquez*, 62 Fed. Appx. 686, 690 (7th Cir. 2003). Officers have probable cause when, in consideration of the totality of the circumstances, a person of "reasonable caution" relying on "reasonably trustworthy information" would believe that an offense has been or is being committed. *Brinegar v. United States*, 338 U.S. 160, 176 (1949); *Maryland v. Macon*, 472 U.S. 463, 470 (1985). A driver traveling outside of their intended lane of traffic, in addition to other contributing factors, does not give an officer probable cause to arrest a driver for a DUI. 62 Fed. Appx. at 690.

Williams held that an officer lacked the probable cause necessary to arrest a driver for a DUI when, at the time of the arrest, the officer only knew that the driver lost consciousness, crossed the road's center lane, and drove onto the curb, damaging city

property. *Id.* at 687, 690. *Williams* is similar to Lawton's case. Lawton's medical emergency, his debilitating appendicitis, interfered with his ability to stay in his lane of traffic; as a result Griffin saw Lawton enter the emergency lane twice. Like *Williams*, the departure from a lane of traffic did not give Griffin probable cause.

Moreover, Griffin's belief that Kevin James was driving the truck is irrelevant. 472 U.S. at 470; 338 U.S. 160 at 176. The circumstances presented to Griffin, including the inability to identify the sex of the driver, the inability to see the driver's face, and noting that the driver had a demonstrably different hair color than James, do not support a conclusion that the truck was driven by Kevin James. Based on the totality of the circumstances, Griffin did not have probable cause to justify entry into Lawton's home.

2. Exigency

There was no clear exigency necessitating that Griffin act immediately instead of waiting for a warrant. Proving exigency is a heavy burden for the government, and is only possible when "'real immediate and serious consequences' would certainly occur if a police officer were to "postpone[ ] action to get a warrant.'" 444 F.3d at 562 (holding that officers' search of McClain's residence was illegal because they did not have probable cause to believe that a robbery was in progress and thus "there was no exigency as a consequence of the possible burglary … [to] support the warrantless entry") (quoting *Welsh*, 466 U.S. 740, 751). The exigency requirement is only to be used in serious cases and "should rarely be sanctioned when" a minor offense has been committed. 466 U.S. at 753. The only exigent circumstances that can fulfill this requirement are the hot pursuit of a fleeing felon or a misdemeanant who committed a grave offense, the imminent

destruction of evidence, a suspect's potential escape, or danger to officers or others. *United States v. Williams*, 354 F.3d 497, 503 (6th Cir. 2003); *Lange v. California*, 141 S. Ct. 2011, 2020 (2021). The dissipation of the BAC does not qualify as real immediate and serious consequences. 466 U.S. at 754 (1984).

The officers in *Welsh* entered Welsh's home without a warrant while investigating a DUI, asserting that they needed to conduct a BAC test before the alcohol metabolized, that they were in hot pursuit of a suspect, and needed to protect the public's safety. *Id.* at 753–54. *Welsh* held that the BAC test did not create an exigency, that the officers could not claim that a hot pursuit created the exigency as the DUI was only a civil offense that did not justify a home intrusion, and that there was no threat to the public's safety because Welsh was already home and not in his car. *Id.* at 753–54. The similarities to Lawton's case are stark, as the cases have almost exactly the same facts. Griffin followed Lawton to his home, and asserted that he needed to go in immediately to test his BAC and claimed that he was pursuing the driver for a DUI. Just like in Welsh, Griffin's asserted different theories of exigencies to justify his intrusion all fail. Griffin's desire to test Lawton's BAC is not enough to justify a warrantless intrusion into Lawton's home. *Id.* at 754.

Further, Griffin cannot assert that an exigent circumstance existed based on the imminent destruction of the cocaine inside of the building. Griffin did not have probable cause to support a belief that cocaine was in the building (Vann told him the DEA only had reasonable suspicion), and thus could not have been certain in the exigency of the cocaine destruction. 444 F.3d at 562.

Griffin's intrusion cannot be justified by the hot pursuit of a fleeing felon because Lawton is not a felon, nor did Griffin have probable cause to believe Lawton was a felon. 472 U.S. at 470. A first offense DUI, a civil misdemeanor, is not a high gravity offense that requires pursuit into the home. 466 U.S. at 750; 141 S. Ct. at 2020. Without probable cause to support a belief the driver was a felon nor the authority to enter a home for a civil traffic offense, Griffin cannot use the "hot pursuit" exception to support his entry.

Griffin needed probable cause and exigency in tandem to justify his warrantless intrusion into Lawton's home; neither probable cause nor exigency existed. Griffin's intrusion was illegal, violating Lawton's Fourth Amendment rights; the evidence he seized from Lawton's home should be suppressed accordingly.

VI. GRIFFIN'S WARRANTLESS AND UNCONSENTED SEARCH OF LAWTON'S WAREHOUSE WAS ILLEGAL.

A warrantless and unconsented search is illegal and therefore renders the items so obtained inadmissible upon objections by the defendant. U.S. Const. amend. IV.; *People v. Norris*, 35 Ill. 2d 240, 243 (1966).

Only upon fear of safety, a strictly limited frisk is allowed to the suspect himself and **t**he surrounding area where he might gain immediate control of weapons. *Michigan v. Long*, 463 U.S. 1032, 1049 (1983). Because Lawton's identity and illness was known to Griffin and Lawton was without a weapon or access to one, Griffin did not have a safety concern that warranted a search.

Probable cause that can associate the property with criminal activity in addition to having a lawful vantage point is required in order to allow seizure of property discovered

in plain view. 445 U.S. 573, 574. After making an illegal entry, Griffin was without probable cause to justify his search as he was oblivious to the DEA investigation until moments before he entered the warehouse, and the meager related knowledge he had lacked particularities.

The inevitable discovery doctrine that allows admission of illegally obtained evidence applies when the said evidence would have eventually been discovered by lawful means had it not first been seized unlawfully. *Nix v. Williams*, 467 U.S. 431, 444 (1984). Vann's admission of lack of sufficient information to acquire a search warrant in addition to his conversation with Griffin on what the DEA further needs to do for the drug investigation and the lack of connection to Kevin James prevents Griffin from making this argument.

Griffin executed an unlawful search when he lifted the tarp that was covering the discovered drugs because he had no safety concerns to justify an exigency that warrants a protective search, no lawful grounds to argue for a "plain view" exception and no reason to assert an "inevitable discovery" exception.

A. *Griffin Did Not Have An Objectively Reasonable Basis To Fear For His Safety.*

Warrantless and unconsented search at home cannot be justified under the officer and public safety exigency (the "protective-sweep doctrine") when the officer lacks lawful standing to be in a home or grounds to fear that the defendant is dangerous or when the officer himself creates a safety concern. *State v. Davila*, 203 N.J. 97, 102-03 (2010); *United States v. Hurtt*, 31 F.4th 152, 155.

In *Davila*, officers entered an apartment without probable cause of a crime or a warrant that was linked to a murder suspect and carried out a "safety sweep" which eventually led to narcotics in a bedroom. 203 N.J. 97, 104-105. The police argued that they had consent from a guest at the dwelling even though the guest asserted he was merely answering a knock. *Id.* at 105. The court held safety sweep exception requires officers to be "lawfully" in a home "for legitimate purposes" and the sweep is conducted quickly and it is restricted to places or areas where the person posing a danger could hide. *Id.* at 102. It was also emphasized that when an arrest is not the basis for officer entry, the legitimacy of the police presence must be carefully examined because the non-arrest context police presence poses too great a potential for a pretextual use of protective sweep, creating opportunities for an impermissible law enforcement raid. *Id.* at 103.

Here, Griffin had a lot less than the *Davila* officers as he was not pursuing a murder suspect but someone who he thought had committed a DUI offense. Griffin's illegal entry was also without consent while the *Davila* officers' consent was at least debated.

In *Hurtt*, while one officer was carrying out a sobriety test upon noticing a heavily intoxicated driver, another officer entered the vehicle in front and found Hurtt in the back seat illegally carrying a firearm, for which he was arrested. 31 F.4th 152 at 155. The court found the search unlawful because the second officer's off-mission conduct that created the exigency unreasonably extended the traffic stop. *Id.* at 163.

Likewise, if Griffin felt any discomfort being in the warehouse it was due to a self-created exigency when entered without prior announcement and refused multiple explicit

requests to leave. Griffin's interference with the DEA investigation of the warehouse by disregarding Vann's orders can be likened to *Hurtt*'s off-mission conduct as he strayed from his DUI investigation without reasonable suspicion to implicate Lawton on drug charges.

There was no safety concern that could vindicate Griffin's illegal search.

B. *Griffin's Search Does Not Qualify For A "Plain View" Exception To The Warrant Requirement.*

Valid warrantless seizure of incriminating evidence in plain view requires that the officer did not violate the Fourth Amendment in arriving at the place from which the evidence could be plainly viewed - that he has a lawful vantage point or right of access - and that the incriminating character of the evidence is "immediately apparent". *Horton v. California*, 496 U.S. 128, 136-137 (1990). Griffin did not meet any of these requirements.

1. *Griffin Was Without A Lawful Vantage Point To The Discovered Drugs.*

The police are without a lawful vantage point to discover evidence in "plain view" if consent to enter and search is revoked or the grounds for entry has been resolved. *Miller v. State*, 393 S.W.3d 255, 266-267 (Tex. Crim. App. 2012).

In *Miller*, officers entered an apartment to investigate domestic violence but they refused Miller's four requests to leave after they found no evidence of domestic abuse and discovered drug paraphernalia in plain view. 393 S.W.3d 255, 262, 266-267. The

court held that officers no longer had a sufficient legal basis for remaining in a residence once the initial investigation was completed over the objections of the resident. *Id.* at 267.

Likewise, Griffin's DUI investigation was completed once he identified Lawton. Griffin also repeatedly refused Lawton and Halstead's request to leave and it was during his overstay that he came to notice, approach and unwrap the package when he saw the edge of the drugs. Griffin, just like the *Miller* officers, did not have a lawful vantage point to the evidence.

2. *The Incriminating Nature Of The Drug Was Not Readily Apparent.*

Under the plain view doctrine, the incriminating nature of an object is generally deemed "readily apparent" where law enforcement have reason to believe it is or contains evidence of a crime. *Coolidge v. New Hampshire*, 403 U.S. 443, 465-466 (1971); *Arizona v. Hicks*, 480 U.S. 321, 325 (1987).

The *Coolidge* court held that vacuum sweepings obtained from the defendant's automobile seized upon lawful arrest are inadmissible under the plain view doctrine because their incriminating nature was not apparent in plain view; it was discovered after the car was seized based on the assumption that the automobile was implicated in the charged murder. 403 U.S. 443, 465-468.

Griffin had less grounds to suspect there were drugs in Lawton's warehouse than the *Coolidge* officers. Before his conversation with Vann, Griffin was unaware of the DEA investigation or anything about the warehouse. The existence and importance of the investigation was the only information Griffin had, which was received from Vann, a

DEA veteran whose expertise Griffin chose to ignore. Like *Coolidge*, the incriminating characteristic of the evidence was only obtained after making an assumption based on a suspicion rather than confirming the incriminating nature of the evidence in plain view. Furthermore, Griffin had less lawful standing than the *Coolidge* officers as his entry into the warehouse itself was illegal and beyond the scope any DUI investigation could allow.

In *Hicks*, the police obtained probable cause to believe that a stolen stereo was contraband only after lifting it to check its serial number. 480 U.S. at 323-24. Though the search of the stereo itself was lawful and the stereo did seem "out of place", because the police had no reasonable suspicion beyond a hunch, their moving of the stereo, even though it was a few inches, was held a substantial violation of the law. *Id.* at 323, 325.

Similarly, Griffin, with a mere suspicion, would not have discovered the incriminating nature of the drug if not for his uncovering the tarp which can be likened to the lifting of the stereo by the *Hicks*' police.

In addition to not having a prior justification for the illegal entry, Griffin also did not recognize the incriminating nature of the evidence in plain view with his limited visual of the drugs and as the incriminating nature of the wrapped package was covered. The "plain view" exception therefore does not apply to his unlawful search.

C. *Griffin's Search Does Not Qualify For An "Inevitable Discovery" Exception To The Warrant Requirement.*

The inevitable discovery doctrine requires that the police show that the evidence in question would have been discovered by lawful means but for the police misconduct and that rather than some later or future investigation the police already had leads making the

discovery inevitable at the time of the misconduct. *Rodriguez v. State*, 187 So. 3d 841, 846 (Fla. 2015).

In *Rodriguez,* bail bondsmen, in search of their client, entered the defendant's home and its locked bedroom where they discovered and reported Rodriguez's marijuana to the narcotics squad who then arrested Rodriguez. 187 So. 3d 841, 843-44. The court held that from the totality of the evidence, because there was no separate ongoing investigation on the marijuana and the officers were not in the process of obtaining a warrant when the illegal search occurred, the prosecution could not rely on the inevitable discovery doctrine.

Likewise, no search warrant was requested here. Vann's investigation was ongoing but he was unable to obtain a search warrant as he was still in the process of acquiring information. Without knowing how Vann's investigation would have unfolded, no inevitable discovery can be assumed.

* * *

By illegally searching Lawton's warehouse without a discernible safety threat and without grounds for the "plain view" or the "inevitable discovery" exceptions, Griffin further violated Lawton's Fourth Amendment rights after making an illegal entry.

CONCLUSION

Both Griffin's entry into and search of Lawton's warehouse were unconstitutional. For the foregoing reasons, the Defense respectfully requests this Court grant our Motion to Suppress.

Dated: September 1, 2023

Respectfully Submitted,

/s/ TEAM 113

Attorneys for Defense

Team 113