IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTEENTH CIRCUIT

STATE OF STETSON,

State,

v. Case No. 2023-CR-812

JAMIE LAWTON,

Defendant.

STATE'S MEMORANDUM IN OPPOSITION OF DEFENDANT'S MOTION TO SUPPRESS EVIDENCE

/s/ 114
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Counsel for the State

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INTRODUCTION

Defendant's Motion to Suppress Evidence fails as a matter of law. Defendant alleges evidence was obtained during an unconstitutional, warrantless Fourth Amendment search of his property; however, both the entry and search of the property were conducted pursuant to an exception to the warrant requirement. Therefore, the evidence should not be suppressed.

To succeed on his motion, Defendant has the burden to prove the warehouse is his home for Fourth Amendment purposes. Should the Defendant succeed, this Court would need to find the State acted without an exception to the warrant requirement. Further, the Court would need to find the evidence would not have been inevitably discovered.

Even if this Court considers Defendant's commercial property a home, law enforcement's entry was justified under the hot pursuit exception to the warrant requirement. Likewise, the search of that property was justified under the plain view doctrine. Alternatively, even if the Court does find a Fourth Amendment violation, the evidence should still be admitted under the inevitable discovery doctrine since it would have been seized as part of an ongoing DEA investigation. Altogether, the evidence was properly obtained, and this Court should deny Defendant's Motion to Suppress.

STATEMENT OF FACTS

A. Officer Griffin's Hot Pursuit of a DUI

On June 8, 2023, Officer Taylor Griffin ("Officer Griffin" or "Griffin") stopped at a traffic light and witnessed Defendant Jamie Lawton ("Lawton") open his door and drunkenly vomit out of the vehicle. Grand Jury Test. Tr. at 21-22. Griffin recognized this

vehicle as one driven by a well-known DUI offender. *Id.* at 21. Officer Griffin also noticed the vehicle did not have a license plate, constituting a misdemeanor under Stetson Statute 14-147(a), and was concerned it had been removed in an attempt to avoid another DUI encounter. *Id*. at 23. Due to Lawton's abnormal behavior, the vehicle's DUI history, and the failure to display a license plate, Officer Griffin suspected that she was observing a felony DUI take place. *Id.* at 21, 27. Officer Griffin's suspicions were further raised as she followed the truck from the intersection and observed Lawton leave the intersection, fluctuate speed, and drift into the emergency lane, all while hunched over the wheel. *Id.* at 24-28. At one point, the driver was also reaching toward the passenger seat in a suspicious manner. *Id*. at 24-25.

After the truck swerved into the emergency lane, Officer Griffin suspicions were all but confirmed, and she determined it would be proper to pull the driver over. *Id*. She turned her blue lights on but was ignored by the driver. *Id*. at 26. Instead of pulling over, Lawton increased her speed and a three-mile pursuit ensued before arriving at an abandoned warehouse. *Id*. at 27-28. As Officer Griffin turned in behind Lawton, she radioed for backup. *Id*. at 28.

While still calling for back up over the radio, Officer Griffin received a call from Sammy Vann ("Lieutenant Vann" or "Vann"), Petersburg Police Department Narcotics Unit Lieutenant and deputized agent for the Drug Enforcement Agency ("DEA"). Grand Jury Test. Tr. at 50-51. Lieutenant Vann informed Officer Griffin that he had reason to believe a large quantity of drugs were in the warehouse and that entering might compromise the ongoing DEA investigation into Lawton. *Id*. at 52. During Officer

Griffin's brief call with Lieutenant Vann, she observed Lawton quickly exit his vehicle and rush inside the warehouse, leaving the door open behind him. Grand Jury Test. Tr. at 31. Concerned that: (1) Lawton's BAC levels would drop, and (2) that Lawton saw her and was rushing to destroy any evidence of the drugs, Officer Griffin determined she needed to follow Lawton inside the house to prevent both. *Id*. at 28-29. Accordingly, Officer Griffin exited her vehicle and followed Lawton through the open door. *Id*. at 33.

B. Officer Griffin's Lawful Entry into the Warehouse

Upon entering the warehouse, Officer Griffin heard two voices and followed them to a kitchen. *Id*. at 32-33. There, she found the individual she saw leaning out of the driver door to throw up at the red light along with a second individual. *Id*. at 34. Officer Griffin informed the driver that he was under investigation for a suspected DUI and requested his driver's license. *Id*. at 35. The driver complied, and Officer Griffin first learned that his name was Jamie Lawton. *Id*. Officer Griffin requested the other individual also identify themselves. *Id*. That individual refused but was later identified as Kell Halsted ("Halsted") upon arrest for attempting to flee the scene *Id*. at 35, 41; Vann Grand Jury Test. Tr. at 58.

After producing identification, Lawton indicated he needed an ambulance due to severe stomach pain. Griffin Grand Jury Test. at 36. Officer Griffin called the ambulance and waited for it to arrive. *Id*. While waiting, Officer Griffin observed Lawton's watery and bloodshot eyes. *Id*. at 37. Officer Griffin also noticed highly suspicious behavior from Halstead. *Id*. Specifically, Halstead repeatedly looked nervously toward a partially covered pallet that Officer Griffin could easily observe from her position in the warehouse. *Id*. at 36.

The ambulance arrived and determined Lawton needed to be transported to the hospital. *Id.* at 38. As Officer Griffin followed Lawton out of the warehouse, Griffin observed, in plain view, a white powdery substance in saran wrap protruding from the partially covered pallet. Police R. at 48. Officer Griffin's training informed her that such packages usually contain drugs, a fact rendered further likely by her conversation with Lieutenant Vann. *Id*. So, Officer Griffin approached the pallet and, in moving the tarp to seize the protruding packing, revealed two more packages. Griffing Grand Jury Test. at 40. Officer Griffin proceeded to photograph the evidence before turning it over to Lieutenant Vann in the warehouse parking lot. *Id*. at 41. All three packages later tested positive for cocaine. Vann Grand Jury Test. at 58.

C. Lawton's DUI Arrest

After leaving the warehouse, Officer Griffin drove to the hospital to continue her DUI investigation into Lawton. Griffin Grand Jury Test. at 42. Once she arrived, Officer Griffin found doctors preparing Lawton for an appendectomy. *Id*. Before the surgery, Lawton voluntarily submitted to a blood draw, which was taken at 5:45 p.m. on June 8, 2023 and revealed a BAC of .04. *Id*. at 42-43. Defendant Lawton was then arrested on two drug related counts and a DUI count. Indict. at 5-6.

ARGUMENT

The central issue of this case is whether the Defendant's commercial property received proper Fourth Amendment protection. The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. Notably, the United States

Supreme Court has held that the "ultimate touchstone of the Fourth Amendment is 'reasonableness.'" *Lange v. California*, 141 S. Ct. 2011, 2018 (2021).

While a home is entitled to this protection, an abandoned property is not. *United States v. Wilson*, 472 F.2d 901, 902 (9th Cir. 1972). In the event a defendant moves to suppress evidence obtained in the search of an abandoned property, the defendant must successfully establish (1) an expectation of privacy in the property; and (2) that a search occurred without a warrant. *United States v. Bachner*, 706 F.2d 1121, 1126 (11th Cir. 1983). Only then does the burden shift to the State to prove an applicable exception to the warrant requirement and that the search was reasonable based on a totality of the circumstances. *Id*.

One exception is hot pursuit. *United States v. Santana*, 427 U.S. 38, 43 (1976). The Supreme Court has held that an arrest may not be thwarted, when suspect flees into their own home. *Id*. If some sort of chase has begun, then officers may pursue suspect until apprehended or have lost the chase. *Id*.

Once lawfully in a residence, the Supreme Court has held "police may seize evidence in plain view without a warrant." *Coolidge v. New Hampshire*, 403 U.S. 443, 465 (1971). Such seizures are still legitimate even when the initial intrusion that brings law enforcement within plain view of evidence is a lawful warrantless entry. *Id.* Further, even where there is a Fourth Amendment violation, the Supreme Court has recognized that evidence should not be suppressed when it would have been inevitably discovered. *See generally Nix v. Williams*, 467 U.S. 431 (1984).

In the instant case, the State asserts Lawton's warehouse was an abandoned property and is excluded from Fourth Amendment protection. Moreover, even if this Court determines Defendant has established an expectation of privacy in the warehouse, the warrantless entry and search were lawful. The entry was consistent with the Fourth Amendment since Officer Griffin entered through a voluntarily left-opened door while in hot pursuit of a suspected felon. Likewise, the search once lawfully inside was consistent with the Fourth Amendment since Officer Griffin observed cocaine in plain view. Further, even if this Court does determine the search was improper, this evidence would still be admissible under the inevitable discovery doctrine. Therefore, this Court should deny the Defendant's Motion to Suppress.

I. THE COURT SHOULD DENY THE MOTION BECAUSE OFFICER GRIFFIN ENTERED IN HOT PURSUIT OF A POTENTIAL FELON.

While the home is given protection under the Fourth Amendment, the Supreme Court has determined some circumstances limit that protection. One circumstance is where law enforcement is pursuing a fleeing felon who retreats into their home. Santana, 427 U.S. at 43. Likewise, law enforcement may also pursue a fleeing misdemeanant when the totality of the circumstances justifies the urgency of warrantless entry. *Lange*, 141 S. Ct. at 2018. In *Lange*, the Court specifically recognized the urgency in instances such as law enforcement attempting to prevent the imminent destruction of evidence. *Id*.

In defining the "hot pursuit" exception, the Court has held the pursuit must be immediate and continuous. *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984). Further, circuit courts have held that a reasonable mistaken identity does not make an officer's hot pursuit

any less justifiable. *United States v. Lopez*, 989 F.2d 24, 27 (1st Cir. 1993); *Blackwell v. Barton*, 34 F.3d 298, 304 (5th Cir. 1994).

Officer Griffin was pursuing Lawton for multiple moving-vehicle violations under Stetson law when Lawton entered his so-called residence. Even if the property had Fourth Amendment protection, which the State does not concede, Officer Griffin's entry was lawful since she was in hot pursuit of a suspect and attempting to prevent the imminent destruction of evidence. This fact remains true despite Officer Griffin's initial mistaken identity. Therefore, entry was justified based on the totality of circumstances and this Court should deny Defendant's Motion to Suppress.

A. Officer Griffin's Pursuit Started Immediately Upon Lawton's Suspicious Behavior and Continued Until She Secured the Endangered Evidence.

In *Santana*, the Supreme Court defined "hot pursuit" as some sort of a chase. *Santana*, 427 U.S. at 42–43. With *Welsh*, the Court expanded the definition to include the chase must be immediate or continuous from the scene of the crime. *Welsh*, 466 U.S. at 753. However, lower courts have found continuous does not mean continuous in every aspect. *United States v. Shmidt*, 403 F.3d 1009, 1013 (8th Cir. 2005). For example, calling for backup does not equate to interrupting continuity of a hot pursuit. *United States v. Webster*, 79 F. Supp. 3d 417, 422 (E.D.N.Y. 2015).

In *Santana*, officers were conducting a sting operation when the defendant fled from the police into their home. 472 U.S. at 40. The officers did not pursue the defendant immediately, opting instead to complete their sting operation and arrest their initial target. *Id*. Afterwards, the officers drove the two blocks to the defendant's home, entered without

a warrant, and arrested the defendant. *Id*. Nevertheless, the Supreme Court held warrantless entry was justified. *Id.*

Similarly, in *Shmidt*, a tribal officer reasonably suspected a defendant of underage drinking. 403 F.3d at 1012. The officer pursued the defendant, but the defendant fled inside his home. *Id*. The officer paused his pursuit to arrest other teens on the property before entering the residence to arrest the defendant. *Id*. The Eighth Circuit held that the officer was indeed in hot pursuit, and found the warrantless entry was justified due to the officer's reasonable belief that the defendant had committed a crime. *Id*. at 1015.

Just as the officer in *Webster*, Griffin was in hot pursuit of a suspect and paused briefly to call for backup. She then received a phone call from a superior regarding the situation she would be walking into. Officer Griffin learned from Lieutenant Vann that the area was being investigated for large amounts of drug trafficking, which prompted Griffin to document her pursuit before following Lawton into the warehouse. Even with the pause to speak with Lieutenant Vann, Officer Griffin's total "pause" in pursuit likely took substantially less time than the pauses in *Santana* and *Shmidt*. Therefore, like the Supreme Court and Eighth Circuit, this Court should find the pursuit was continuous.

B. The Reasonableness of Officer Griffin's Pursuit was Not Undermined by a Briefly Mistaken Identity.

Officer Griffin had a reasonable belief that the person she was pursuing was a potential felon, and this reasonable belief therefore justified her pursuit. The Fourth Amendment does not require certitude before police may act without a warrant, but requires a sufficient showing of probable cause. *Minnesota v. Olson*, 495 U.S. 91, 100

(1990). The Supreme Court has held that for a warrant exception to apply, an officer must reasonably believe that exigent circumstances are present. *Lange*, 141 S. Ct. at 2017.

Circuit courts have held that mistaken identity does not make an officer's pursuit any less justifiable if it is reasonable. *Lopez*, 989 F.2d at 27; *Blackwell*, 34 F.3d at 304. For example, the Fifth Circuit held that "discrepancies in hair and eye color or skin tone are not determinative in this day when hair dyes, cosmetic contact lenses, and tanning salons [are] relatively common." *Blackwell*, 34 F.3d at 304.

In *Lopez*, the First Circuit held that an officer's warrantless entry was justified because of a reasonable belief that the defendant matched the general description of a suspect. 989 F.2d at 27. There, officers were called to an apartment building after a man claimed he was threatened by another man with a shotgun. *Id* at 25. The officers saw the defendant walking out of the building, matching the description of the suspected gunman. *Id*. The officers pursued the defendant, who was not the actual suspect, into the defendant's apartment. *Id*. Once inside, they saw, in plain view, cocaine and a shotgun. *Id.* The court held that since the officers had a reasonable belief that the defendant was their proper suspect, and were in hot pursuit of said suspect, the warrantless entry was justified. *Id*. at 27.

Similar to the officer in *Lopez*, Officer Griffin thought she was in pursuit of Kevin James who was convicted of a DUI within the past twelve months, potentially making this his second DUI charge. Lawton was driving James's truck. Further, he was acting in a drunken manner consistent with James' past behavior. While Officer Griffin could tell the hair color and style of the driver were different than that of James', such discrepancies do

not undermine the reasonableness of Griffin's suspicion, just as they did not undermine the reasonableness of law enforcement's suspicions in *Blackwell*. It was not until Griffin was face-to-face with Lawton in the warehouse that Griffin realized Lawton was not James. Under the rationale of *Lopez,* this reasonable misunderstanding makes Officer Griffin's hot pursuit of Defendant Lawton lawful. Since this entry, and the subsequent seizure, were lawful, this Court should deny the Defendant's Motion to Suppress.

II. GRIFFIN OBSERVED THE COCAINE, WHICH ALSO COULD HAVE INEVITABLY BEEN DISCOVERED, IN PLAIN VIEW.

Officers may seize evidence in plain view, provided they have not violated the Fourth Amendment in arriving at the spot from which the evidence was observed. *Kentucky v. King*, 563 U.S. 452, 463 (2011) (citing *Horton v. California*, 496 U.S. 128, 136-140 (1990)). Further, even where an officer may have violated the Fourth Amendment, the evidence may still be admissible under the inevitable discovery doctrine. *Nix v. Williams*, 467 U.S. 431, 444 (1984). This doctrine, which serves as an exception to the exclusionary rule, makes evidence admissible if it would have been discovered independent of the constitutional violation. *Id.*

Here, Officer Griffin observed the cocaine in plain view while following Defendant Lawton and the first responders out of the warehouse. If this Court finds otherwise, the evidence still would have inevitably been discovered by the DEA and Lieutenant Vann through their ongoing investigation into Lawton. Therefore, the evidence should be admitted and the Motion to Suppress should be denied.

A. Officer Griffin legally entered the premises and seized cocaine that was in plain view.

In order to invoke the plain view doctrine, probable cause is required. *Arizona v. Hicks*, 480 U.S. 321, 326 (1987). Further, for the plain view doctrine to apply, the officer must be lawfully searching the area where the evidence is found, and the incriminatory nature of the evidence must be immediately apparent. *United States v. Brown*, 551 F. Supp. 2d 947, 950 (D. Ariz. 2008).

Specifically, this means the officer must have a reasonable belief that a crime has been, is being, or will be committed. *Beck v. Ohio*, 379 U.S. 89, 91 (1964). Further, for the plain view doctrine to apply, the officer must be lawfully searching the area where the evidence is found, and the incriminatory nature of the evidence must be immediately apparent. *Brown*, 551 F. Supp. 2d at 950. If an article is already in plain view, neither its observation nor its seizure would involve any invasion of privacy. *Horton*, 496 U.S. at 134. As long as this prerequisite is satisfied, it does not matter that the observing officer may have gone to the spot where the evidence was seen with the hope of viewing and seizing the evidence. *Beck*, 379 U.S. at 91 (citing *Horton*, 496 U.S. at 136-37).

In *Miller*, a federal agent observed, in plain view, a clear plastic bag, partially wrapped in masking tape, fall from the defendant's suitcase. *United States v. Miller*, 769 F.2d 554, 555 (9th Cir. 1985). The bag was punctured, and a white powder spilled out. *Id.* Without a warrant, the agent delivered the package to federal agents who performed a field test that was negative for cocaine. *Id.* The agent squeezed the bag and found it felt solid, unlike loose powder. *Id.* He proceeded to poke his finger into the punctured part of the bag

and felt a second container. *Id.* The agent then used a knife to enlarge the hole and peeled away the layers and masking tape to expose the second container, which emitted an odor consistent with cocaine. *Id.* He cut the second container open and discovered a white, crystalized powder inside that tested positive for cocaine. *Id.*

The Ninth Circuit found the initial seizure in *Miller* lawful, but found the subsequent search unlawful and reversed the denial of the petitioner's motion to suppress. *Id.* at 556. The court reasoned that, during the initial search, the agent simply looked at the plastic bag after it had been inadvertently exposed, which did not intrude into any place in which the petitioner had a reasonable expectation of privacy. *Id.* at 556-57. Further, the court explicitly found that the agent had probable cause to believe the plastic bag contained contraband based on the presence of the white powder, the manner in which the package was taped, and the presence of other similar packages in the suitcase. *Id.*

Here, Officer Griffin was not actively searching for drugs. Much like the officer's initial search in *Miller*, Officer Griffin observed, in plain view, a white powdery substance in clear plastic packaging partially wrapped in tape. Just as the agent in *Miller*, Officer Griffin's training and experience, in addition to the knowledge she obtained from Lieutenant Vann, gave her probable cause to believe the packages were cocaine. The clearly incriminating nature of this evidence was immediately apparent.

Unlike in *Miller*, the initial substance was positively identified as cocaine and Officer Griffin did not conduct any intrusive, secondary search. Officer Griffin's action of pulling the tarp back was only made in effort to seize evidence already observed in plain view, complying with the Supreme Court's ruling in *Horton*. Lawton and Halstead had no

reasonable privacy expectation in drugs that were clearly visible to anyone who walked by the pallet. Accordingly, this Court should find the cocaine was properly seized and deny Defendant's Motion to Suppress.

B. Even if the Court Finds the Plain View Doctrine Inapplicable, the Cocaine is Still Admissible Under the Inevitable Discovery Doctrine.

The evidence at issue would have inevitably been discovered as part of the DEA's investigation into Lawton's drug trafficking regardless of any alleged unlawful conduct by Officer Griffin. In order to overcome a motion to suppress using the inevitable discovery doctrine, the State must establish "by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means." *Nix*, 467 U.S. at 444. The Supreme Court has firmly held that the State is not, however, required to prove the absence of bad faith on the part of law enforcement. *Nix*, 467 U.S. at 445.

Currently, circuit courts are following various tests to determine when the inevitable discovery doctrine restores evidence obtained pursuant to a constitutional violation. The Fifth and Eleventh Circuits adopted a three-prong test, requiring the State to prove (1) a reasonable probability that the evidence in question would have been discovered by lawful means but for police misconduct, (2) that the leads making the discovery inevitable were possessed by the police at the time of the misconduct, and (3) that the police, also prior to the misconduct, were actively pursuing the alternate line of investigation. *United States v. Cherry*, 759 F.2d 1196, 1204 (5th Cir. 1985); *see also United States v. Hernandez-Cano*, 808 F.2d 779, 784 (11th Cir. 1987); *see also United States v. Virden*, 488 F.3d 1317, 1322 (11th Cir. 2007).

This three-prong test applied by the Fifth and Eleventh Circuits remains one of the most stringent, with other Circuits opting to only follow parts of the test. For example, the Eighth Circuit only requires the State to prove prongs one and three, emphasizing "that the government prove that there was, at the time of the search…an actual other investigation that would have led to discovery of the otherwise unconstitutionally obtained evidence." *United States v. James,* 353 F.3d 606, 617 (8th Cir. 2003). In contrast, the Ninth Circuit does not demand an alternate line of investigation as required by prong three. *United States v. Boatwright,* 822 F.2d 862, 864 (9th Cir. 1987). For purposes of this Motion, the State will analyze the inevitable discovery doctrine's application under that most stringent test of the Fifth and Eleventh Circuits and as applied in *U.S. v. Watkins*, 981 F.3d 1202, 1210 (11th Cir. 2021).

In *Watkins,* federal agents found cocaine hidden in United States Postal Service packages and replaced the drugs with GPS tracking devices and fake cocaine before shipping them on to their original destinations. *Id.* at 1205. After neither package reached its final destination and the tracking devices went silent, police began to suspect a USPS supervisor. *Id.* After an interaction with the defendant supervisor, who was acting extremely anxious and nervous, the agents surveilled the post office and noticed the defendant was the last to leave. *Id*. at 1206. The agents decided to enter and search for the packages after the post office closed. *Id.* The agents' next step would have been to conduct and knock and talk at the defendant's home–located at an address they had already identified–since the defendant was their only suspect. *Id.* at 1207. While the agents were in the post office, one of the tracking devices that had gone silent suddenly turned on, and

its location was pinged at the defendant's house. *Id.* The agents immediately left the post office and arrived at the defendant's home where they knocked on the door. *Id.* The agents eventually made their way inside and conducted a protective sweep that revealed marijuana and the two packages in plain view. *Id*. at 1207-8.

The court held the inevitable discovery doctrine applied since, regardless of whether the GPS tracking had gone live again, the agents would have conducted a knock and talk at the defendant's house for various reasons. *Id*. 1213. First, the packages had been taken out of the normal mail stream and scanned at odd times and in odd places–all of which could have only been done by a post office supervisor, like the defendant. *Id*. Second, the defendant was the supervisor on the day in question and was known to have "issues" with the postal service. *Id.* Third, the defendant exhibited highly suspicious behavior throughout her interaction with the agents at the post office. *Id.* Fourth, the agents had procured the defendant's address to conduct the knock and talk prior to learning the GPS device had gone live again. *Id.* Altogether, the *Watkins* court found these facts satisfied the three-prong test for when the inevitable discovery doctrine applies. *Id*. 1215-16.

Similarly, this Court should find that the facts in the instance case satisfy the three-prong test since: (1) the discovery of the cocaine in Lawton's warehouse was probable, (2) Vann's leads regarding the cocaine were known by Griffin before the alleged misconduct, and (3) the DEA was actively pursuing the drugs in its own investigation.

(1) Discovery was probable, independent of police misconduct.

Similar to the agents in *Watkins,* the DEA and Lieutenant Vann were surveilling Lawton prior to his interaction with Officer Griffin. They were aware of Lawton's

suspicious activity and behavior, and, more specifically, that drugs were likely in the warehouse. Lawton was spotted by the DEA's confidential informant loading large bags onto trains during his off hours at the railyard. The only reason Vann and the DEA had not intercepted the cocaine was because they planned to follow it to the suppliers. This made the discovery of the cocaine in question not only probable, but inevitable. All of this information, plus the intel the DEA had received while surveilling Lawton over three months, would have been put in the warrant request the DEA would have used to properly seize the evidence. Just like the agents in *Watkins,* the DEA had a plan, making discovery probable by a preponderance of the evidence and satisfying prong one.

(2) The Leads were Possessed Before the Alleged Misconduct.

While the defendant in *Watkins* was only surveilled for a short time, Lawton was closely watched for three months while the DEA and Vann worked to prepare their case and obtain a search warrant. Thus, establishing and even stronger case than that of *Watkins.* Further, Griffin was informed of all of these facts *before* she entered the warehouse and came into plain view of the cocaine. This clearly shows that all leads were possessed by law enforcement before Officer Griffin's alleged misconduct, thereby satisfying prong two.

(3) Police were Actively Pursuing the Cocaine in the DEA Investigation.

Just as the agents in *Watkins* were pursuing cocaine linked to the post office drug smugglers, the DEA and Vann were actively pursuing the drugs linked to Lawton. In fact, they were in the evidence and fact-gathering process, hoping to obtain a warrant long before Officer Griffin became involved with the case. The DEA's interactions with a confidential informant, three-month long surveillance period, and knowledge of what was

taking place in the warehouse firmly establish an active investigation of Lawton and the evidence in question, thereby satisfying prong three.

Altogether, the facts at bar establish the evidence in question was lawfully obtained pursuant to the plain view exception to the warrant requirement. Notwithstanding, if this Court disagrees, the evidence should still be admitted pursuant to the inevitable discovery doctrine since the facts clearly satisfy all three prongs as seen in *Cherry* and *Watkins*. Therefore, this Court must deny the Defendant's Motion to Suppress.

CONCLUSION

No evidence was obtained in violation of the Fourth Amendment, and Defendant's Motion to Suppress should be denied. Neither the warrantless entry nor the warrantless search of Defendant's commercial property was unconstitutional. Officer Griffin entered the warehouse in hot pursuit of Lawton and seized the evidence in accordance with the plain view doctrine. Should this Court find otherwise, the thirty-one pounds of cocaine should still be admitted under the inevitable discovery doctrine. For these reasons, the Defendant Motion to Suppress should be denied.

CERTIFICATE OF SERVICE

We, counsel for the State, do hereby certify that a true and correct copy of the foregoing memorandum of law has been served by electronic mail to all attorneys of record on this the 4th day of September 2023.

Respectfully submitted,

/s/ 114

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Counsel for the State