

Criminal No.: 2023-CR-812

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF STETSON
September 2, 2023

THE UNITED STATES OF AMERICA,

Prosecution,

v.

JAMIE LAWTON,

Defendant.

**DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF DEFENDANT'S MOTION TO SUPPRESS**

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INTRODUCTION

This Court should grant Defendant Jamie Lawton's (hereinafter "Jamie") Motion to Suppress because (I) Officer Taylor Griffin's (hereinafter "Officer Griffin") warrantless entry into Jamie's residence was unlawful and (II) Officer Griffin's discovery of the cocaine within Jamie's residence was fruit of the poisonous tree. In the interest of upholding the United States Constitution and deterring future unconstitutional conduct like Officer Griffin's, this Court should GRANT Jamie's Motion to Suppress.

STATEMENT OF FACTS

On June 8, 2023, Jamie Lawton went to the Right On Cue: Pool House & Casino with two friends from approximately 1:00 p.m. until 3:45 p.m. (Sworn Statement of Jamie Lawton (hereinafter "Stmt. J.L."). ¶9). After a while, Jamie began feeling ill, and although he did purchase a few beers for his friends, Jamie consumed only half of one beer. (Stmt. J.L. ¶10). At approximately 3:45 p.m., Jamie left the pool house driving his cousin's truck and headed towards his home at 900 49th Street in Petersburg, Stetson. (Stmt. J.L. ¶4, ¶13).

On his way home, Jamie stopped at a red light at the intersection of 49th and Raymond, where he drew the attention of Officer Taylor Griffin. (Transcript of Grand Jury Proceeding, Officer Taylor Griffin, dated July 6, 2023 (hereinafter "Tr. Ofc. Griffin") 17:22-23, 19:22-20:14, 21:20-22:1.) Officer Griffin had been with the Traffic Enforcement Division of the Petersburg Police Department for just three years and took a special interest in DUI investigation. (Tr. Ofc. Griffin 16:1-16). Officer Griffin noticed the truck Jamie was driving and immediately became suspicious because he knew the

truck belonged to Jamie's cousin, Kevin James, an individual he'd previously arrested for driving while intoxicated. (Tr. Ofc. Griffin 21:6-8).

Five minutes into Jamie's drive, the pain which caused him to leave the pool house grew substantially worse. (Stmt. J.L. ¶14). While stopped at the red light, Jamie's stomach pain continued to worsen, and he had a sour burp and even vomited a little in his mouth. (Stmt. J.L. ¶15). Disgusted, Jamie searched for something inside of the truck to spit into, but when he couldn't find anything, he quickly opened the truck door and spit out the vomit that was in his mouth onto 49th Street. (Stmt. J.L. ¶15).

Meanwhile, Officer Griffin continued to suspect the driver of the truck was Kevin James, even after watching Jamie lean out the truck to spit on the ground. (Petersburg Police Department Police Report #222500612, dated June 8, 2023 (hereinafter "Police Report") ¶3). After seeing who he believed to be Kevin James "spit a small amount of liquid out" onto the street, Officer Griffin suspected the truck's driver was under the influence and began following him down 49th Street. (Tr. Ofc. Griffin 21:20-25, 23:26-24:15). After driving through the intersection, Jamie's pain worsened on his right side and he was worried that he might pass out or vomit a second time. (Stmt. J.L. ¶ 16)

Officer Griffin began following the truck and, although Officer Griffin turned on his flashing lights, he never turned on his sirens which would have automatically activated his dashcam. (Tr. Ofc. Griffin 26:10-27:1). Jamie was so focused on the excruciating pain he was in that he never saw Officer Griffin's lights as he continued to drive home. (Stmt. J.L. ¶21). Officer Griffin followed Jamie for three miles without turning on his sirens until they reached Jamie's residence at 900 49th Street. (Tr. Ofc.

Griffin 26:13-15). Jamie subsequently got out of his car and walked into his home, pain shooting through his abdomen with each step. (Stmt. J.L. ¶17). As he unlocked his front door and went inside, he contemplated calling an ambulance for himself, and by the time he reached his kitchen he was doubled over in pain. (Tr. Ofc. Griffin 31:6-7, Stmt. J.L. ¶17, 19).

Officer Griffin sat in his car for about a minute to radio for backup and was immediately contacted by Lieutenant Samy Vann, who ordered Officer Griffin not to enter Jamie's residence. (Police Report ¶5). Lieutenant Vann also advised Officer Griffin that "there is at least one person purporting to live in the warehouse." (Police Report ¶5). Nevertheless, Officer Griffin disobeyed this order and after about a minute, followed Jamie inside. (Police Report ¶6). Officer Griffin approached Jamie's home and walked through a door with a "No Trespassing" sign plastered to the front. (Police Report ¶4). Officer Griffin never yelled at Jamie to stop, nor did he announce himself to the occupants inside Jamie's home as he entered without a warrant. (Tr. Ofc. Griffin).

Upon Officer Griffin's entry, he walked approximately thirty yards through the residence towards the sound of voices. (Tr. Ofc. Griffin 32:14-25). When he reached Jamie's kitchen, Officer Griffin saw Jamie for the first time, announced himself to Jamie and Kell Halstead, and realized that Jamie was *not* Kevin James after all. (Tr. Ofc. Griffin 33:5-34:20). Once Jamie and Halstead realized Officer Griffin was inside the building, Jamie immediately apologized to Officer Griffin and advised him that he was "really sick" and that he needed a doctor. (Tr. Ofc. Griffin 34:27-35:2) Thereafter, Kell Halstead told Officer Griffin to "get out," that the warehouse was "Jamie's place" and "private

property,” but Officer Griffin refused to leave Jamie’s home. (Tr. Ofc. Griffin 35:9-36:16) Jamie advised Officer Griffin that he was not alright, that he was going to call himself an ambulance, and that he wanted Officer Griffin to leave. (Tr. Ofc. Griffin 35:25-36:3) Still, Officer Griffin refused to leave and eventually radioed for an ambulance. (Tr. Ofc. Griffin 36:4-15).

While waiting for the ambulance to arrive, Officer Griffin continued questioning Jamie and discovered Jamie had no criminal history. (Tr. Ofc. Griffin 37:13-24). Eventually, EMTs arrived and took Jamie to the hospital, and as Officer Griffin was following the EMTs out of Jamie’s home, he decided to take a look around Jamie’s residence. (Tr. Ofc. Griffin 39:16-20). From six to eight feet away, Office Griffin noticed a three-inch by four-inch piece of plastic wrap sitting under a tarp. Officer Griffin pulled the tarp off of the pallet, and discovered three saran wrapped bricks that, after further investigation, were revealed to contain thirty-one pounds of cocaine. (Tr. Ofc. Griffin 39:24-40-21).

Ultimately, a grand jury was convened on July 6, 2023, where Officer Griffin and Lieutenant Vann testified under oath. (Tr. Ofc. Griffin 15:1-44:12; Tr. Ofc. Vann 50:1-60:2). The next day, on July 7, 2023, the grand jury returned an indictment on three counts: (1) possession with intent to distribute five kilograms or more of cocaine; (2) conspiracy to contribute five kilograms or more of cocaine; and (3) operation of a motor vehicle while under the influence of alcohol and/or drugs by a person who holds a federally issued common carrier license. (Indictment of Jamie Lawton, dated July 13, 2023 at ¶ 1-3). On July 13, 2023, Jamie was arraigned, his bond was remanded, and

Attorney Noa, Jamie's attorney subsequently filed the Motion to Suppress at bar. (Arraignment Transcript; Stipulation 9).

ARGUMENT

Because Officer Griffin entered Jamie's residence without first obtaining a warrant, and because Officer Griffin's entry into Jamie's home was unreasonable, Officer Griffin's entry into Jamie's home violated the Fourth Amendment and any evidence discovered as a result of Officer Griffin's unlawful entry should be suppressed as fruit of the poisonous tree.

The United States Constitution provides citizens with the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. Amend. IV. The Fourth Amendment also requires law enforcement officers to obtain a warrant based upon probable cause in order to search an individual's person, home, papers, or effects. *Id.* Further, "[a]ll evidence obtained by searches and seizures in violation of the Constitution is inadmissible." *Mapp v. Ohio*, 367 U.S. 643, 655 (1961).

I. OFFICER GRIFFIN'S ENTRY INTO JAMIE'S RESIDENCE WAS UNLAWFUL.

In order to prove a Fourth Amendment violation, a defendant must prove first, that the government conducted a search, and second, that the government's search infringed upon a citizen's reasonable expectation of privacy. *Katz v. United States*, 389 U.S. 347, 360 (1967) (Harlan, J. concurring).

A. *Officer Griffin's Entry Into Jamie's Home Was An Impermissible Governmental Intrusion That Violated Jamie's Reasonable Expectation Of Privacy.*

It is well settled that a physical intrusion by the government into one's home for the purpose of obtaining information constitutes a search within the meaning of the Fourth Amendment. *Florida v. Jardines*, 569 U.S. 1, 6 (2013); *United States v. Jones*, 565 U.S. 400, 407-08 (2012). Because "physical entry of the home is the chief evil against which [the Fourth Amendment] is directed," the Supreme Court has drawn a firm line at citizens' doors. *Payton v. New York*, 445 U.S. 573, 585-90 (1980).

Because Officer Griffin physically intruded upon Jamie's home by following him inside without a warrant, without knocking and announcing his presence, and without first obtaining a warrant for the purpose of obtaining information related to a suspected DUI, Officer Griffin's conduct constitutes an impermissible search within the meaning of the Fourth Amendment.

To determine whether or not a Defendant had a reasonable expectation of privacy, courts have long applied the two prong *Katz* test: first, the individual must have had a subjective expectation of privacy in the area searched, and second, the individual's subjective expectation of privacy must have been one which society is prepared to accept as objectively reasonable. *Katz* at 360.

Here, Jamie possessed a subjective expectation of privacy inside of the warehouse because it was his primary residence. Jamie had constructed a kitchen and bedroom and was occupying the premises as his residence on a full-time basis. Jamie had also posted multiple "no trespassing" signs on the entrances to his home and his shock when Officer

Griffin entered his home without warning further evidenced that he, like most others, expected his home to be private.

Moreover, Jamie's expectation of privacy in his home is one which society is prepared to accept as reasonable. Fourth Amendment jurisprudence has long held that "searches and seizures inside a home without a warrant are presumptively unreasonable." *Payton v. New York*, 445 U.S. 573, 586 (1980). In *Payton v. New York*, detectives had probable cause to believe that the defendant committed murder, but they did not obtain a search warrant before searching the defendant's home. *Id.* at 576. The Supreme Court held that the Fourth Amendment "prohibits the police from making a warrantless and nonconsensual entry into a suspect's home in order to make a routine felony arrest." *Id.* at 586. The Court reasoned that the Fourth Amendment favors protecting the sanctity of the home, and that it "applies equally to seizures of persons and to seizures of property" in the home. *Id.* at 585. Thus, a warrantless entry into a home to search for evidence of a felony, even with probable cause, is presumptively unconstitutional. *Id.*

Here, as in *Payton*, the Court should find that the nature of Jamie's alleged crime - a misdemeanor DUI - is not sufficient to rebut the presumption that the warrantless entry into Jamie's home was unconstitutional. Officer Griffin entered Jamie's home without a warrant to obtain evidence for a misdemeanor DUI investigation. Contrasting the facts of *Payton* - wherein law enforcement entered the defendant's home because they suspected he'd committed felony murder - with Jamie's alleged misdemeanor DUI, this Court should find Officer Griffin's conduct violated the Fourth Amendment. Stated simply, if the Court did not consider searching for evidence for a murder a sufficient reason to rebut

the presumption that the warrantless search of a home is unconstitutional, this Court similarly should not rebut the presumption for a mere misdemeanor DUI.

Because Officer Griffin's physical entry into Jamie's home constitutes an impermissible search within the meaning of the Fourth Amendment under both the physical trespass and the *Katz* test, this Court should find that Officer Griffin's conduct violated the Fourth Amendment and that the warrantless search of Jamie's home was unlawful.

B. There Are No Exigent Circumstances Which Justify Officer Griffin's Presumptively Unreasonable Search.

Although warrantless searches are presumed to be unreasonable, there are a few carefully delineated exceptions. *United States v. United States Dist. Court*, 407 U.S. 297, 318 (1972). However, "the police bear a heavy burden when attempting to demonstrate an urgent need that might justify warrantless searches or arrests." *Welsh v. Wisconsin*, 466 U.S. 740, 749-50 (1984). To be excepted from the warrant requirement of the Fourth Amendment, the prosecution bears the burden of proving both probable cause and the existence of an exigent circumstance. *Kentucky v. King*, 563 U.S. 452, 460 (2011).

Any purported probable cause here is irrelevant because no exigent circumstances exist which serve to except the presumptively unlawful warrantless search of Jamie's home.

Exigent circumstances provide an exception to the warrant requirement only if "the needs of law enforcement [are] so compelling that a warrantless search is objectively reasonable." *Id.* The Supreme Court has identified potential destruction of evidence, hot pursuit or flight, a medical emergency, and imminent injury as exigent circumstances.

Brigham City v. Stuart, 547 U.S. 398, 403 (2006). However, “[when] facts present no such exigency, officers must respect the sanctity of the home – which means that they must get a warrant.” *Id.* (emphasis added.)

1. *Officer Griffin Was Not In “Hot Pursuit” of Jamie.*

“Under the hot pursuit doctrine, police officers may enter premises without a warrant when they are in hot pursuit of a fleeing suspect.” *United States v. Santana*, 427 U.S. 38, 42-43 (1976). The hot pursuit doctrine requires an immediate and continuous pursuit of the fleeing suspect. *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984).

The Eleventh Circuit, for example, previously held that the hot pursuit did not apply where the officer in pursuit let several minutes elapse before entering the building. *Hazelton v. Trinidad*, 488 Fed. Appx. 349, 353 (11th Cir. 2012). There, the defendant ran inside his home while being pursued by an officer. *Id.* at 352. The officer paused, attempted to radio for backup, then entered the suspect’s home without a warrant. *Id.* The Court held that the hot pursuit doctrine did not apply because there was no immediate or continuous pursuit of the suspect. *Id.* at 353.

Here, as in *Hazelton*, because Officer Griffin sat in his vehicle for more than a minute radioing for backup before entering the Defendant’s residence, it cannot be said that there was a continuous pursuit of the suspect. Because Officer Griffin’s decision to wait in his vehicle effectively severed the immediate and continuous pursuit of the Defendant, the hot pursuit doctrine cannot except Officer Griffin’s presumptively unlawful warrantless entry from the Fourth Amendment’s warrant requirement.

2. *There Was No Risk Of Destruction of Evidence.*

If probable cause exists, an officer can perform a warrantless search so long as there is “an objectively reasonable basis for concluding that the loss or destruction of evidence was imminent.” *United States v. Radka*, 904 F.2d 357, 361 (6th Cir. 1990). However, “[t]he mere possibility of loss or destruction of evidence is insufficient justification.” *Id.* at 361; (quoting *United States v. Hayes*, 518 F.2d 675, 678 (6th Cir. 1975)).

In *U.S. v. Radka*, a suspect was apprehended for possession of narcotics after officers witnessed the suspect drive away from a house suspected of having a drug operation inside. *Radka* at 359. After arresting the driver, an officer entered the suspected drug house, without a warrant, to prevent the destruction of evidence. *Id.* The Court held that the warrantless entry was not justified by the destruction of evidence doctrine because the Government “merely established the possibility that evidence would be destroyed,” not that the destruction of evidence was imminent. *Id.* at 361. Because the Government failed to establish that the destruction of evidence was imminent, the Sixth Circuit declined to except the warrantless search from the Fourth Amendment’s warrant requirement.

Here, too, Officer Griffin had only established a mere *possibility* of the destruction of evidence when he decided to enter Jamie’s residence. The government has failed to establish that the destruction of evidence was imminent.

C. Even If Probable Cause And Exigent Circumstances Are Present, The Nature Of Jamie's Alleged Offense Cannot Justify Officer Griffin's Presumptively Unlawful Search.

In order to except law enforcement conduct from the Fourth Amendment's warrant requirement, after a finding of probable cause and exigent circumstances, courts must also weigh the exigent circumstance against the underlying offense. *Welsh* at 753. In *Welsh*, law enforcement officers entered the Defendant's home without a warrant after they suspected him of driving under the influence, which was, at the time, a civil violation in Wisconsin. *Id.* The Government argued that the entry was supported by both probable cause and exigent circumstances - hot pursuit, public safety, and destruction of evidence. *Id.* at 748. The Supreme Court disagreed, instead holding that "application of the exigent circumstances exception in the context of a home entry should rarely be sanctioned when there is probable cause to believe that only a minor offense has been committed." *Id.* at 753. In other words, even though there was probable cause and exigent circumstances, the court declined to extend the exigent-circumstances exception to the facts of *Welsh* because a civil traffic violation could not justify extending the exception. *Id.*

The facts of this case are analogous to those in *Welsh*. Here, as in *Welsh*, the alleged offense is driving under the influence. Although a DUI is a criminal offense in Stetson, whereas it was a civil infraction in *Welsh*, for Jamie, driving while intoxicated would have only been a first-degree misdemeanor. In Stetson, a first offense DUI is classified as a first-degree misdemeanor unless the defendant has been charged with DUI in the preceding three years. Stetson Gen. Stat. § 14-227a(2). Simply put, a first-degree

misdemeanor is not of sufficient gravity to justify a warrantless entry, irrespective of the existence of probable cause or exigent circumstances. Allowing Officer Griffin to escape the Fourth Amendment's warrant requirement "simply because evidence of the petitioner's blood-alcohol level might have dissipated while the police obtained a warrant" would be to "approve unreasonable police behavior that the principles of the Fourth Amendment will not sanction." *Welsh* at 754. Officer Griffin's purpose of entering Jamie's home was insufficient under *Welsh* to except Officer Griffin from the Fourth Amendment's warrant requirement.

Although Officer Griffin also claimed that he wanted to prevent the destruction of evidence of the possible drugs inside the house, Griffin had no reason to believe that Jamie was tied to the alleged drug activity in the house or that Jamie would destroy evidence of any drugs. Lieutenant Vann, even while conducting the investigation, did not yet have enough information to obtain a warrant, or to take any action to search for or seize any drugs in the house. This shows that even Lieutenant Vann not only did not have sufficient evidence that there were, in fact, drugs in Jamie's home, but also that he did not have reason to believe that such evidence would be destroyed. If that were the case, Lieutenant Vann would have obtained a warrant or already searched the warehouse. Officer Griffin did not gain any new information while standing outside the Defendant's residence that would suggest the destruction of evidence of drugs was imminent. As a result, similar to *Radka*, the exigent circumstance of the destruction of evidence did not exist when Officer Griffin entered the Defendant's residence.

Even if the Court finds that Officer Griffin had probable cause to search Jamie's home, any finding of probable cause would be irrelevant here because neither the hot pursuit doctrine, nor the risk of destruction of evidence serves to except Officer Griffin's conduct from the Fourth Amendment's warrant requirement.

Because Officer Griffin's physical entry into Jamie's home constitutes an impermissible search within the meaning of the Fourth Amendment under both the physical trespass and the *Katz* test, and because the nature of Jamie's alleged crime - a misdemeanor DUI - does not serve to rebut the presumption that the nonconsensual warrantless entry into Jamie's home was unconstitutional, and because there are no exigent circumstances which serve to except Officer Griffin's conduct from the Fourth Amendment's warrant requirement, this Court should find that Officer Griffin's warrantless entry into Jamie's home was unlawful and GRANT Jamie's Motion to Suppress.

II. OFFICER GRIFFIN'S DISCOVERY OF THE COCAINE WITHIN JAMIE'S HOME WAS FRUIT OF THE POISONOUS TREE.

Because the benefits derived from deterring conduct like Officer Griffin's warrantless search outweigh the cost of excluding the evidence uncovered during Officer Griffin's warrantless search, and because the totality of the surrounding circumstances indicate that a reasonably well-trained officer would have known that Officer Griffin's warrantless search was illegal, this Court should grant Jamie's Motion to Suppress the cocaine as "fruit of the poisonous tree."

All evidence obtained by searches and seizures in violation of the Constitution is inadmissible. *Mapp v. Ohio*, 367 U.S. 643, 655 (1961). The purpose of this rule is to “deter deliberate, reckless, or grossly negligent conduct.” *Herring v. U.S.*, 555 U.S. 135, 144 (2009). The court must ask whether the benefits of deterring future similar conduct outweighs the costs of excluding the challenged evidence. *Id.* at 141. The court must also consider the surrounding circumstances to determine “whether a reasonably well-trained officer would have known that the search was illegal.” *Id.* at 145.

It has been established that the circumstances surrounding Officer Griffin’s search of the warehouse indicate that a reasonable officer would have believed his conduct to be illegal. At the time he made entry into the warehouse, Officer Griffin was well aware, or should have been aware, that someone was, at a minimum, purporting to live there. Nevertheless, Officer Griffin proceeded to enter Jamie’s home without obtaining a warrant, and without heeding the request of Officer Vann who told him not to enter.

Officer Griffin further exacerbated the violation of Jamie’s Fourth Amendment rights by conducting a search while he was within Jamie’s home. “The scope of a warrantless search based on probable cause is no narrower -- and no broader -- than the scope of a search authorized by a warrant supported by probable cause.” *United States v. Ross*, 456 U.S. 798, 800 (1982). A reasonable officer would know the requirements for a search warrant, and that the probable cause in the absence of a warrant has the same requirements. *Id.*

Further, the cost of excluding the evidence located during Officer Griffin’s unlawful search is outweighed by allowing officers to search the entirety of one’s home

without a warrant, based largely on a case of mistaken identity. The warrant requirement serves the purpose of protecting the sanctity of one's home by requiring neutral magistrates to evaluate the facts from an objective lens. By allowing officers like Officer Griffin to usurp the warrant process, officers would tend to employ the same methodology to avoid the "red tape" that obtaining a warrant requires, eviscerating the warrant requirement.

Because the initial entry to Jamie's home was unlawful, because the totality of the circumstances indicate that a reasonable officer would have believed Officer Griffin's conduct to be unlawful, and because the cost of excluding the evidence in this case is far outweighed by the risk posed by ratifying conduct like Officer Griffin's, this Court should grant Jamie's Motion to Suppress.

A. The Evidence Found Inside Jamie's Home Is Not Too Attenuated From The Illegal Entry.

The attenuation doctrine is an exception to the exclusionary rule that applies only when "the connection between unconstitutional police conduct and the evidence is remote or has been interrupted by some intervening circumstance, so that 'the interest protected by the constitutional guarantee that has been violated would not be served by suppression of the evidence obtained.'" *Utah v. Strieff*, 579 U.S. 232, 238 (2016) (quoting *Hudson v. Michigan*, 547 U.S. 586, 593 (2006)). In order to determine whether the attenuation doctrine applies, three factors must be considered: (1) the temporal proximity between the violation and the discovery of evidence, (2) the presence of intervening circumstances, and (3) the purpose and flagrancy of the official misconduct.

Id.

With regard to temporal proximity, it is undisputed that the cocaine was found shortly after Officer Griffin illegally entered the residence. The ambulance arrived in less than ten minutes, and as soon as the ambulance left, Officer Griffin discovered the cocaine on his way out of the building with no intervening factors or interruptions. The purpose of this entry was not substantial enough to justify a warrantless entry into Jamie's residence and can be considered flagrant and reckless because of the Officer's strong but mistaken belief that Jamie was somebody who had previously been charged with driving under the influence. The purpose and flagrancy of Officer Griffin's conduct supports the conclusion that the discovered evidence was not too attenuated from the illegal entry.

Because Officer Griffin's illegal entry was close enough in time to the discovered evidence, his time inside the residence was not met with intervening circumstances, and the purpose and flagrancy of his illegal entry all point to the conclusion that the discovered evidence was not too attenuated from Officer Griffin's illegal entry, this Court should find that the doctrine of attenuation does not apply and grant Jamie's Motion to Suppress.

B. Officer Griffin Did Not Have Probable Cause To Search For The Cocaine.

Even if the Court assumes that Officer Griffin's initial entry into Jamie's house was legal, he still did not have probable cause to search for and seize the cocaine. "The scope of a warrantless search based on probable cause is no narrower -- and no broader -- than the scope of a search authorized by a warrant supported by probable cause." *Ross* at 800. Therefore, Officer Griffin's probable cause to enter Jamie's house cannot extend to

the search and seizure of the cocaine, and he must prove probable cause for this separate issue.

Whether or not a police officer had probable cause to enter someone's home is measured under the totality-of-the-circumstances test. *Illinois v. Gates*, 462 U.S. 213, 230 (1983). This test deals not with “hard certainties, but with probabilities. . . . [f]ormulated [by] certain common sense conclusions about human nature[.]” *United States v. Cortez*, 449 U.S. 411, 418 (1981). It is a fluid concept, “turning on the assessment of probabilities in particular factual contexts – not readily, or even usefully, reduced to a neat set of legal rules.” *Gates*, 462 U.S. at 232.

In *Giordenello v. United States*, for example, a narcotics agent swore in a warrant affidavit that the defendant received and concealed narcotics, and received an arrest warrant. 357 U.S. 480, 485 (1958). The officer later testified that he derived the information in the affidavit “entirely from information given him by law enforcement officers and other persons.” *Id.* The court held that the facts “[did] not provide any basis for the . . . probable cause.” *Id.* at 486. The court reasoned that because the officer who submitted the affidavit did not have personal knowledge of the statements in the affidavit, it should not be left for the Commissioner to “assess independently the probability that petitioner committed the crime charged.” *Id.* at 487-88.

Here, the facts are similar because Officer Griffin did not have personal knowledge of the alleged existence of drugs inside Jamie's home. Lieutenant Vann briefly told Officer Griffin, moments after arriving at Jamie's house, that he was conducting a drug investigation on the location. Officer Griffin himself did not witness

any factors that would cause him to believe that there would be drugs located inside the building, and his only information was hearsay. Therefore, Officer Griffin did not have probable cause to search or seize the cocaine because he did not have personal knowledge of any facts that, even under the totality of the circumstances, would amount to probable cause.

For the aforementioned reasons, this Court should find that the evidence obtained by Officer Griffin's presumptively unlawful warrantless search is fruit of the poisonous tree and GRANT Jamie's Motion to Suppress.

CONCLUSION

For the foregoing reasons, Defendant's Motion to Suppress should be granted because (I) Officer Taylor Griffin's (hereinafter "Officer Griffin") warrantless entry into Jamie's residence was unlawful and (II) Officer Griffin's discovery of the cocaine within Jamie's residence fruit of the poisonous tree. WHEREFORE Defendant respectfully prays this court GRANT Defendant's Motion to Suppress.

Dated: September 1, 2023

Respectfully submitted,

/s/ Team 115

Attorney for Defendant Jamie Lawton