Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

460

KA 15-01195

PRESENT: SMITH, J.P., CARNI, NEMOYER, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V MEMORANDUM AND ORDER

CURTIS MCLAURIN, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (ELIZABETH RIKER OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (JAMES P. MAXWELL OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Anthony F. Aloi, J.), rendered April 23, 2015. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the fourth degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: On appeal from a judgment convicting him, upon his guilty plea, of criminal possession of a controlled substance in the fourth degree (Penal Law § 220.09 [1]), defendant contends that County Court erred in denying that part of his omnibus motion seeking to suppress cocaine on the ground that the search of his anal cavity was not authorized. We affirm. On September 18, 2013, members of the Onondaga County Sheriff's Office obtained a warrant to search defendant's Syracuse residence and all persons present after an investigation revealed that defendant was selling cocaine at and around the premises. Shortly before the warrant was executed by the police that day, a detective observed defendant exit his residence and pull away in a gold minivan. The minivan rolled through a stop sign at a nearby intersection, and the detective initiated a traffic stop. Upon approaching the vehicle, the detective identified the driver and sole occupant of the vehicle as defendant, whom he recognized as the same person who had previously sold crack cocaine during three controlled buys that were conducted by the police in August and earlier in September 2013. The detective noticed that defendant was squirming around in the driver's seat, and he directed defendant to exit the vehicle. When defendant failed to comply with the directive, the detective opened defendant's door and took him into custody. At that time, the detective observed a white rock-like substance on the driver's seat and the floor beneath the driver's seat. The detective field tested the substance, which revealed the presence of cocaine.

Defendant was arrested, and the police executed the search warrant at his residence, which resulted in the seizure of various types of drug paraphernalia with white powdery residue that the police believed to be cocaine. Defendant was "very verbal" with the police during the execution of the search warrant, and the detective noticed that he was "constantly shifting as if he had something down his pants." Defendant refused to be searched, and he began to complain of shortness of breath and pain in his abdomen. An ambulance was summoned to transport defendant to the hospital for evaluation. While inside the ambulance, defendant agreed to be searched but then refused to allow the search to include his pants, underwear, or the area of his groin or buttocks. He "would intentionally move his buttocks away from view and would clench his buttocks and stiffen up his body so as not allow the visual search of his person." Based on his observations of defendant, the detective suspected that defendant had secreted cocaine in or on his body, and he therefore applied for another search warrant (second warrant) so that he could search defendant for cocaine. In his second warrant application, the detective set forth the above facts and specifically alleged, inter alia, that there was reasonable cause to believe that cocaine "may be found in or upon . . . a black male, known as Curtis L. McLaurin," giving defendant's date of birth and approximate height and weight. After the second warrant was issued, the detective delivered it to the hospital where defendant was being evaluated. The staff at the hospital performed an X-ray examination of defendant's body, which allowed for a visual cavity inspection, and confirmed the presence of an object inside defendant's anal cavity. A doctor thereafter removed 13 grams of cocaine from defendant's rectum.

Contrary to defendant's contention, the court properly refused to suppress the cocaine that was removed from his anal cavity. The specific facts set forth in the application for the second warrant supported the detective's articulated suspicion that defendant had secreted cocaine *in or upon* his person. The facts provided probable cause to believe that drugs were hidden inside defendant's body, and the second warrant, which specifically directed a search of defendant for cocaine, was properly obtained prior to any physical intrusion (*see Schmerber v California*, 384 US 757, 770 [1966]; *see also People v Mothersell*, 14 NY3d 358, 367 [2010]; *People v Hall*, 10 NY3d 303, 311 [2008], *cert denied* 555 US 938 [2008]).

Contrary to defendant's further contention, we conclude that the descriptions contained in the second warrant and the underlying warrant application were sufficiently particular and definite "to enable the searcher to identify the persons, places or things that the [court] ha[d] previously determined should be searched or seized" (*People v Nieves*, 36 NY2d 396, 401 [1975]; *see generally Brigham City, Utah v Stuart*, 547 US 398, 403 [2006]; *Bell v Wolfish*, 441 US 520, 558 [1979]). It was reasonable for the suppression court to determine, "from the standpoint of common sense" (*Nieves*, 36 NY2d at 401), given the nature of the evidence sought to be seized, i.e., cocaine, and the description of the area requested to be searched, i.e., "in or upon . . . Curtis L. McLaurin . . . ," that the second warrant authorized the search of defendant's rectum and the removal of the cocaine therefrom

(*see generally People v Robinson*, 68 NY2d 541, 551-552 [1986]; *People v Hanlon*, 36 NY2d 549, 559 [1975]; *People v Rodriguez*, 181 AD2d 1049, 1049-1050 [4th Dept 1992]).

Entered: April 27, 2018

Mark W. Bennett
Clerk of the Court

Supreme Court
APPELLATE DIVISION
Fourth Judicial Department
Clerk's Office, Rochester, N.Y.

I, **Mark W. Bennett,** *Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.*

SUPREME COURT APPELLATE DIVISION • FOURTH DEPARTMENT •

IN WITNESS WHEREOF, *I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this* APR 27 2018

Clerk

Exhibit B

STATE OF NEW YORK
COUNTY OF ONONDAGA COUNTY COURT

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Indictment Number: 14-027-1
Index Number: 13-1317

CURTIS L. MCLAURIN,

Defendant.

APPEARANCES: WILLIAM J. FITZPATRICK, ESQ.,
Onondaga County District Attorney's Office
MICHAEL E. FERRANTE, ESQ. of counsel
Attorney for the People

CURTIS L. MCLAURIN
Pro Se Defendant

ALOI, ANTHONY F., Presiding

DECISION/ORDER

Pursuant to the defendant's motion to suppress certain evidence, the Court has held a hearing and as a result makes the following **FINDINGS OF FACT** and **CONCLUSIONS OF LAW**:

FINDINGS OF FACT

The Court finds from the credible testimony presented upon this hearing that on September 18th, 2103 at approximately 6 pm, Detective Sean Clere, with the Onondaga County Sheriff's Office Special Investigation Unit, was conducting surveillance of the residence located at 2504 Lodi Street in the City of Syracuse. Detective Clere further testified that at that time, he had a search warrant for that residence and a black male known as "Curtez" signed

by Judge Dougherty in his possession. Prior to September 18th, 2013, Detective Clere had been to 2504 Lodi Street on three occasions with a confidential informant who made three separate controlled buys of crack-cocaine from the defendant which formed the basis for the issuance of the search warrant.

Detective Clere testified that at approximately 6:30 pm on September 18th, 2103, he observed the defendant pull into the driveway in a gold Dodge minivan. The defendant was the only person in the van and he went into the residence at 2504 Lodi Street. Detective Clere testified that he waited and at about 7:40 pm the defendant exited the residence and got back into the van. The defendant drove down Lodi Street and Detective Clere followed him in an unmarked police car. After following the van for 3 to 4 blocks, Detective Clere observed the defendant fail to make a complete stop at a stop sign and pulled him over for a violation of the vehicle and traffic law. Detective Clere testified that he then approached the driver's side door of the defendant's van and the defendant was sitting in the car swearing. Detective Clere asked him for a form of identification and he informed the defendant that he pulled him over for failing to stop at a stop sign. Detective Clere testified that he then told the defendant to get out of the car at which time he observed beige chunky objects on the driver's seat of the minivan which appeared to be cocaine and later field tested positive for cocaine. The defendant was taken into custody and transported to 2504 Lodi Street.

Detective Clere testified that using the key on the defendant's key

chain, he executed the search warrant for the residence and gained entrance through the front door. Present in the residence at the time was a woman and a child who were both upset. During the search of the residence, the police found cocaine residue, bags, scales, and blades with cocaine residue. Detective Clere testified that the defendant was brought into a front room of the residence where the police attempted to search the defendant's person however, the defendant became very agitated, unsettled, and was squirming so that the police could not perform the search. Detective Clere further testified that the defendant was acting as if something was in his pants and clenching his buttocks, leading the police to believe that he might be hiding something inside his buttocks. Due to the defendant's complaints that he could not breath and he was having pain in his abdomen, the police called an ambulance.

Detective Clere testified that an ambulance arrived at 2504 Lodi Street and the defendant was taken to Upstate Hospital. While the defendant was at the hospital, Detective Clere applied for a search warrant for the defendant's person based upon the totality of the facts and circumstances and the information gleaned from the search of the defendant's residence, his car and the defendant's behavior which was indicative that the defendant was concealing cocaine on his person. Syracuse City Court Judge Bogan signed the search warrant for the person of Curtis L. McLaurin at approximately 10:49 p.m. Detective Clere arrived at Upstate with the search warrant and went into a room with the defendant, medics, and three other police officers. He gave the

doctors the search warrant and they conducted a manual removal of an object from the defendant's anal cavity. This object was a bag, within which were three smaller bags containing cocaine.

Detective Clere testified that at this point the defendant was taken back to the sheriff's department and placed in a holding cell during which time the defendant threatened several police officers. The defendant also stated that he had hurt an officer before.

Detective William June, with the Onondaga County Sheriff's Office Special Investigation Unit, testified that on September 18th, 2013 he was involved in executing a search warrant for 2504 Lodi Street in the City of Syracuse. Detective June entered the residence after it was secured and was assigned to search the living room of the residence. He testified that the defendant, Curtis McLaurin, was in the kitchen of the residence with other detectives who were attempting to perform a search of his person incident to his lawful arrest. Detective June testified that the defendant did not allow his person to be search and stated that he was ill and having trouble breathing. As a result, an ambulance was called. When the ambulance arrived, the defendant was handcuffed and carried out to the ambulance. Detective June rode in the ambulance with the defendant to University Hospital.

Detective June testified that when they arrived at the emergency room, the defendant was taken to a room in the back of the emergency room, which was a private one-person room with a door. At this point in time,

Detective June's assignment was to keep an eye on the defendant while Detective Clere was assigned to apply for a search warrant for the defendant's person. During this time, the defendant was x-rayed and was talking and making conversation. Detective June testified that he did not initiate any conversations with the defendant however, the defendant talked about family and friends and asked about what happened at the house. Detective June informed the defendant that he believed the female that lived in the house was under arrest for possession of crack cocaine and a scale. The defendant said that she had nothing to do with that and that he would take the blame. The defendant also mentioned that he smokes marijuana, but doesn't do dope.

Detective June testified that when the doctors took x-rays of the defendant's body, it appeared there was something in his anal cavity. When Detective Clere returned with the search warrant, authorizing the search of the defendant's person, the doctors had the defendant lay on his side and removed a bag from his rectum, which contained crack cocaine. After the bag was recovered the defendant stated that it wasn't his. Detective June testified that the defendant was then transported to the Sheriff's Department for arrest processing. Upon arriving at the Sheriff's Department, the defendant was placed in a processing cell and was only asked pedigree questions at this time. Detective June testified that the defendant became very upset and made threats to the officers and their families. Detective June also testified that the defendant was yelling, smashing his face against the cage, and was very

uncooperative.

Additionally, this Court has previously held in prior decisions dated September 2nd, 2014 and October 7th, 2014 that the Search Warrants issued on September 18th, 2013 by Judge Dougherty for the residence at 2504 Lodi Street and by Judge Bogan for the person of Curtis L. McLaurin respectively were lawfully issued upon a finding of probable cause for the issuance thereof.

CONCLUSIONS OF LAW

> "Any inquiry into the propriety of police conduct must weigh the degree of intrusion which it entails against the precipitating and attending circumstances which created the encounter (**People v DeBour**, 40 NY2d 210, 223; **People v Powell**, 246 AD2d 366, 368). The court's focus must be on whether the police conduct was reasonable in view of the totality of the circumstances (**People v Batista**, 88 NY2d 650, 653, **People v Montilla**, 268 AD2d 270) for, as we have stated in the past, reasonableness is the touchstone by which police-citizen encounters are measured (see, e.g., **People v Alexander**, 218 AD2d 284, 288)" **People v Brown** , 277 AD2d 107, 108.

In the present case, the defendant, Curtis McLaurin, contends that the Court should suppress any and all evidence recovered from his car, his residence and his person upon the grounds that the police conduct constituted an illegal search and seizure of the defendant. This Court disagrees.

The Court is of the opinion, under the facts and circumstances of this case, that the stop of the defendant's vehicle and subsequent detention of the defendant, Curtis McLaurin, as well as the search of his residence and of his person resulting in the recovery of the cocaine, was proper and lawful in all

respects.

The Court of Appeals has made it "abundantly clear" (**People v Sobotker**, 43 NY2d 559) that "police stops of automobiles in this State are legal only pursuant to routine, non-pre-textual traffic checks to enforce traffic regulations or where there exists at least a reasonable suspicion that the driver or occupants of the vehicle have committed, are committing, or about to commit a crime" (**People v Spencer**, 84 NY2d 749, 753; see **People v May**, 81 NY2d 725, 727) or where the police have "probable cause to believe that the driver ... has committed a traffic violation" **People v Robinson**, 97 NY2d 341, 350; see also, **People v Washburn**, 309 AD2d 1270).

Based upon the credible testimony adduced at this hearing, the Court finds that the stop of the vehicle in which the defendant was driving was justified by the traffic violation observed by Detective Clere (see, **People v Sobotker**, 43 NY2d 559, 563-564; **People v Ingle**, 36 NY2d 413, 414-415; **People v Robinson**, 97 NY2d 341, 350; **People v Washburn**, 309 AD2d 1270). Officer Clere testified that he observed the defendant's vehicle leave the residence at 2504 Lodi Street at which time he proceeded to follow the vehicle. Detective Clere followed the vehicle for three to four blocks at which time he observed the vehicle fail to stop at a stop sign in violation of the Vehicle and Traffic Law. The Court is of the opinion that based upon that observation, the police had probable cause to believe that the driver of the vehicle had committed a traffic infraction and, therefore, the stop of the vehicle was lawful.

The Court further finds that once the vehicle was stopped, the officer's conduct, in detaining the defendant, was reasonably related in scope and intensity to the circumstances to justify the detention in the first instance (see, **People v Robinson**, 74 NY2d 773, 774; see also, **People v Mundo**, 99 NY2d 55, 58; **People v Carvey**, 89 NY2d 707, 710).

In the present case, the Court finds in the first instance that the vehicle in which the defendant was the driver was lawfully stopped based upon the officer having probable cause to believe that the driver had committed a traffic violation. Again, Detective Clere testified that he observed the driver of the vehicle fail to stop at a stop sign in violation of the vehicle and traffic law. Additionally, at the time the defendant's vehicle was stopped, the police were in possession of a search warrant for the defendant's residence and for which he was the object thereof. Therefore, the information known to the police at the time couple with the fact that the police had a search warrant authorizing the search of the defendant's residence, the officers conduct in approaching the defendant, asking him to step out of the vehicle and his subsequent detention, in view of in view of the totality of the circumstances presented, was reasonable.

The credible testimony presented upon this hearing revealed that once the vehicle was stopped, Detective Clere approached the driver's side of the vehicle and advised the driver that he had failed to stop at a stop sign. Detective Clere then asked him for identification and to step out of the vehicle. At that point, Detective Clere observed a beige substance on the driver's seat

and on the driver's side floor board was then observed in plain view. The defendant was then taken into custody and transported to his residence for the execution of the search warrant.

Based upon the totality of the facts and circumstances of this case, the Court is of the opinion that the stop of the defendant's vehicle and his subsequent detention was proper and lawful in all respects.

Additionally, the Court finds that subsequent search of the defendant's anal cavity by the doctors at the hospital resulting in the recovery of additional contraband from the defendant's anal cavity was lawful in all respects as such search was authorized pursuant to the search warrant signed by Judge Bogan for the person of Curtis L. McLaurin and further that such search was conducted in a reasonable manner and was justified by the reasonable suspicion that the defendant was in possession of contraband based on the sworn affidavit of Detective Clere relative the controlled buys involving this defendant, the contraband recovered from both the defendant's vehicle and residence and based upon the defendant's behavior while in police custody.

The case law is clear that while a strip search must be founded on a reasonable suspicion that the defendant is concealing evidence underneath clothing, and a visual cavity inspection must be founded on a specific articulable factual basis supporting a reasonable suspicion to believe the defendant has secreted evidence inside a body cavity, the Fourth Amendment threshold for a manual body cavity search requires the finding of probable cause absent exigent circumstances. Because a manual body cavity search is more intrusive and gives

rise to heightened privacy and health concerns, when weighed against the legitimate needs of law enforcement, it should be subject to a stricter legal standard. Therefore, absent exigent circumstances, a warrant authorizing a manual body cavity search founded on probable cause to believe contraband is concealed in a defendant's body is required (see, *People v Hall*, 10 NY3d 303, 311 citing *Schmerber v California*, 384 US 757).

Based upon the foregoing proposition and based upon the facts and circumstances of this case and the sequence of events leading up to the defendant being taken to the hospital, the Court is of the opinion that the police had probable cause to believe that contraband was concealed in the defendant's body and as a result a warrant for the search of the defendant's person was applied for. The Court is also of the opinion that once the warrant was issued, the manual body cavity search of the defendant's body was authorized.

Based upon the foregoing, the Court is of the opinion that the issuing magistrate was clearly informed regarding the underlying circumstances, ie, that cocaine was recovered from the defendant's vehicle, that the defendant was moving around as if he was hiding something, that the defendant requested to go to the hospital and that he refused the police to perform a search of his person, supported the conclusion and belief of Detective Clere that the defendant was hiding cocaine on his person sufficient to establish probable cause (see, *People v Hall*, 10 NY3d 303; *People v Butler*, 105 AD3d 1408; *People v Lowman*, 49 AD3d 1262).

Moreover, the Court is of the opinion that the issuance of the search

warrant authorizing the search of the defendant's person included the search of the defendant's anal cavity (see, *People v Butler*, supra; *People v Lowman*, supra; *People v Mothersell*, 14 NY3d 358).

Lastly, the Court finds that any statements made by the defendant during the course of this encounter were not taken in violation of the defendant's constitutional rights, nor the product of a custodial interrogation or the fruit of any prior illegal police conduct but were spontaneously made and held to be admissible upon the trial of this matter.

Relative to the defendant's statements while at the hospital, the Court is of the opinion that such statements were truly spontaneous and were not initiated by police conduct nor the result of police questioning. The credible testimony clearly revealed that Detective June was in the hospital room with the defendant while waiting for Detective Clere to return with a search warrant. Detective June had not said anything to the defendant nor asked him any questions however, the defendant talked about family and friends and at one point asked about what happened at the house. Detective June stated that he believed the female that lived in the house was under arrest for possession of crack cocaine and a scale. The defendant said that she had nothing to do with that and that he would take the blame. The defendant also mentioned that the smokes marijuana, but doesn't do dope. A short time later, when the doctors removed a bag containing drugs from his rectum, the defendant stated that the bag was not his.

Relative to any statements the defendant made while at the sheriff's

department, the Court further finds that the defendant's statements made while at booking were also truly spontaneous and were not initiated by the detectives in that no questions were asked of the defendant while at booking. The credible testimony presented upon this hearing revealed that but for obtaining pedigree information from the defendant, the defendant became irrate and uncooperative and made several threatening comments toward the police and their families.

Based upon the foregoing, the Court is of the opinion under the facts of this case that the statements made by the defendant were clearly volunteered in that the defendant spoke with genuine spontaneity and was neither induced nor provoked by the police into making such statements (see, **People v Gonzales**, 75 NY2d 938; **People v Rivers**, 56 NY2d 476; **People v Lanahan**, 55 NY2d 711; **People v Lucas**, 53 NY2d 678; **People v Rogers**, 48 NY2d 167; **People v Maerling**, 46 NY2d 289; **Rhode Island v Innis**, 446 US 291).

Moreover, the Court further finds that the statements were not the result of police questioning or an interrogation environment (see, **People v Bolarinwa**, 258 AD2d 827, citing, **People v Gonzales**, 75 NY2dd 938; **People v Harris**, 57 NY2d 335; **People v Dunn**, 195 AD2d 240). Clearly, the police are not required to take affirmative steps to prevent a talkative person in custody from making incrimination statements (see, **People v Snide**, 256 AD2d 812).

Based upon the foregoing, the Court is of the opinion under the facts of this case that the statements made by the defendant were clearly volunteered in that the defendant spoke with genuine spontaneity and was neither induced nor provoked by the police into making such statements

In conclusion, the Court finds under the totality of the facts and circumstances of this case that the police conduct in the instant case was lawful in all respects, and therefore, the defendant's Motion to Suppress is **denied**.

The decision herein constitutes the Order of this Court.

ANTHONY F. ALOI
Judge of County Court

Dated: Syracuse, New York
December 9th, 2014

AFA/bab

Exhibit C

Exhibit C

State of New York
Court of Appeals

BEFORE: LESLIE E. STEIN, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

ORDER DENYING LEAVE

CURTIS McLAURIN,

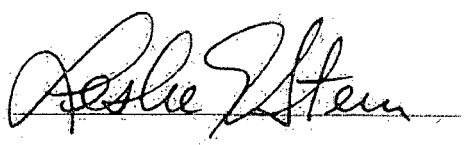
Appellant.

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is denied.

Dated: August 21, 2018
at Albany, New York



Associate Judge

*Description of Order: Order of the Appellate Division, Fourth Department, entered April 27, 2018, affirming a judgment of the Onondaga County Court, rendered April 23, 2015.

Exhibit D

Exhibit D

UNIFORM SENTENCE & COMMITMENT UCS-854 (8/2011)

STATE OF NEW YORK

County **COURT, COUNTY OF** Onondaga

PRESENT: HON. Anthony F. Aloi

Court Part: 3

Court Reporter: Valerie Waite

Superior Ct. Case #: 2014-0427-1

The People of the State of New York vs.

CURTIS MCLAURIN

Defendant

SEX	D.O.B.	NYSID NUMBER	CRIMINAL JUSTICE TRACKING NUMBER
male	06/30/ 80	08355691Q	6625504 5P

Accusatory Instrument Charge(s):	Law/Section & Subdivision:
1 CPCS 3rd	PL 220.16-1
2 CPCS 4th	PL 220.09-1
3 CPCS 7th (2 counts)	PL 220.03
4 CUDP 2nd	PL 220.50-3

Date(s) of Offense: 09 / 18 / 13

To / /

THE ABOVENAMED DEFENDANT HAVING BEEN CONVICTED BY [☒ PLEA *OR* ☐ VERDICT], THE MOST SERIOUS OFFENSE BEING A [☒ FELONY *OR* ☐ MISDEMEANOR *OR* ☐ VIOLATION], IS HEREBY SENTENCED TO:

Crime	Count Number	Law/Section & Subdivision	SMF, Hate or Terror	Minimum Period	Maximum Term	☐ Definite (select: D, M or Y) ☒ Determinate (in years) **		Post-Release Supervision
1 CPCS 4th	2	PL 220.09-1		years	years	6	years	1 1/2 years
2				years	years			years
3				years	years			years
4				years	years			years
5				years	years			years

** NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

☐ Counts _____ shall run **CONCURRENTLY** with each other ☐ Count(s) _____ shall run **CONSECUTIVELY** to count(s) _____

☐ Sentence imposed herein shall run **CONCURRENTLY** with _____ and/or **CONSECUTIVELY** to _____

☐ Sentence imposed herein shall include a **CONSECUTIVE** _____ term of [☐ **PROBATION** *OR* ☐ **CONDITIONAL DISCHARGE**], with an Ignition Interlock Device condition, that shall commence upon the defendant's release from imprisonment **[PL § 60.21]**

☐ Conviction includes: **WEAPON TYPE:** _____ and/or **DRUG TYPE:** _____

☐ Charged as a **JUVENILE OFFENDER** - age at time crime committed: _____ years

☐ Adjudicated a **YOUTHFUL OFFENDER** [CPL § 720.20]

☐ Court certified the Defendant a **SEX OFFENDER** [Cor. L § 168-d]

☐ Execute as a sentence of **PAROLE SUPERVISION** [CPL § 410.91]

☐ **CASAT** ordered [PL § 60.04(6)]

☐ Re-sentenced as a **PROBATION VIOLATOR** [CPL § 410.70]

☐ **SHOCK INCARCERATION** orderded [PL § 60.04(7)]

As a: ☒ Second ☐ Second Violent ☐ d Drug ☐ Second Drug w/prior VFO ☐ Predicate Sex Offender ☐ Predicate Sex Offender w/prior VFO ☐ Second Child Sexual Assault ☐ Persistent ☐ Persistent Violent **FELONY OFFENDER**

Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])			Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])		
☐	☐	☒	Mandatory Surcharge	$ $300.00	☐	☐	☒	Crime Victim Assistance Fee	$ $25.00
☐	☐	☐	Fine	$	☐	☐	☐	Restitution	$
☐	☐	☒	DNA Fee	$ $50.00	☐	☐	☐	Sex Offender Registration Fee	$
☐	☐	☐	DWI/Other:	$	☐	☐	☐	Supplemental Sex Off. Victim Fee	$

THE SAID DEFENDANT BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE:

☒ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older not presently in the custody of NYSDOCS, the [**COUNTY SHERIFF** *OR* **NEW YORK CITY DEPARTMENT OF CORRECTION**] is directed to deliver the defendant to the custody of NYSDOCS as provided in 7 NYCRR Part 103.

☐ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older presently in the custody of NYSDOCS, defendant shall remain in the custody of the NYSDOCS.

☐ NYS Office of Children and Family Services in accordance with the law, being a person less than sixteen (16) years of age at the time the crime was committed.

☐ _____ County Jail/Correctional Facility

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS: All fees are deferred until the Defendant is released. DR#13-451220 is dismissed in satisfaction.

092F1157

Pre-Sentence Investigation Report Attached: ☒ YES ☐ NO ☐ **Amended Commitment:**

Order of Protection Issued: ☐ YES ☒ NO **Original Sentence Date** / /

Order of Protection Attached: ☐ YES ☒ NO

04 / 23 / 15 **Date** | Kelly Meacham **Clerk of the Court** | by: Kelly Meacham **Signature** | Court Clerk **Title**

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated:

Official Name

Shield No.

Exhibit E

Search Warrant - Application

C.P.L. 690.35 13-397768

State of New York: County of Onondaga

Criminal Court City of Syracuse

Det. S.M. Clere #1345, police officer of the
Onondaga County Sheriff's Office,
Syracuse, New York

does hereby make application for a search warrant pursuant to the provision of Article 690 of the Criminal Procedure Law and in connection therewith states as follows. First: That there is reasonable cause to believe that certain property, of a character described in Section 690.10 sub. 2 & 4 of the Criminal Procedure Law, to wit:

Cocaine, in violation of article 220.00 of the Penal Law of the State of New York and paraphernalia, apparatus and utensils used to possess, sell or traffic cocaine and any papers, written or printed, associated, with the use, possession and/or sale of cocaine indicating or depicting names or identities of co-conspirators, types and quantities of cocaine, monies owed or paid co-conspirators and records depicting or revealing how monies gleaned from the trafficking of cocaine are spent or dispersed all of which is property pursuant to section 690.10 sub. 2 & 4 of the Criminal Procedure Law of the State of New York.

may be found in or upon the following designated or described place, vehicle or person, to wit;

A black male known as Curtis L. Mclaurin, described as being approximately 6'00", 180 pounds, with a date of birth of 06/30/1980. Also, any motor vehicle that Curtis Mclaurin is operating and/or has custody and control over, and/or being a passenger in at the time the warrant is being executed, to include any handbags and/or carrying items that he could reasonably conceal cocaine and any other illegal substances.

Second: The following allegations of facts are submitted in support of the above statement:

That on September 18th, 2013, it was ascertained in the form of sworn affidavits from Detective S. M. Clere of the Onondaga County Sheriff's Office, that the aforementioned property may be found at the above location.

SEARCH WARRANT AFFIDAVIT **7 - 9**

Affidavit Onondaga County Sheriff's Department

State of New York Case Complaint # 13-397768
County of Onondaga
City of Syracuse

I, Det. S.M. Clere, being duly sworn, deposes and says:

That I am 47 years of age with a date of birth of May 24th, 1966. I am a Deputy Sheriff employed by the Onondaga County Sheriff's Office, assigned to the Criminal Division and have been so employed since April 1st, 1989. I am currently assigned to the Special Investigations Unit as a Narcotics Detective and my duties include enforcing and investigating violations of Sections 220 and 221 of the New York State Penal Law.

That during my tenure with the Sheriff's Department and the Special Investigations Unit, I have been actively involved with numerous drug investigations that have resulted in numerous arrests for violations of Article 220 and 221 of the Penal Law of the State of New York. I have received formal instruction in this field through the Central New York Regional Police Academy, a K9 officer for approximately 10 years, and have attended narcotics training from the United States Department of Justice Drug Enforcement Administration, dealing with narcotics investigations, drug identification and investigation techniques. During my assignment to the Special Investigations Unit, I have become knowledgeable of packaging and trafficking techniques commonly used to distribute controlled substances and marihuana.

On 09/18/2013 at approximately 1800hrs I was conducting surveillance of the residence located at 2504 Lodi St, City of Syracuse, regarding an ongoing drug investigation involving a black male known as "Curtez". Three controlled purchases of crack cocaine had been conducted on different dates. During the purchases I observed a black male in his late twenties early thirties conduct drug transactions with a confidential informant. The black male whom the confidential informant knew as "Curtez", conducted the drug transactions at or close by to his residence at 2504 Lodi St.

As a result of the three controlled purchases of crack cocaine from the black male known as "Curtez" I obtained a lawful search warrant for the residence at 2504 Lodi St and any persons at that location. At approximately1830hrs I observed a Gold Dodge Grand Caravan minivan, bearing NY registration GHD-2129, pull into the driveway of 2504 Lodi St. The minivan was being operated by a sole black male driver whom I recognized as the black male known as "Curtez" who had conducted the three crack cocaine purchases. The black male known as "Curtez" got out of the minivan and walked to the front door of 2504 Lodi St and entered the target residence.

At approximately 1940hrs same date, I observed the same black male known as "Curtez" walk out of the front door of 2504 Lodi St and get back into the drivers seat of the Gold Dodge Grand Caravan and back out of the driveway. I subsequently conducted a traffic stop of the Gold Grand Caravan on Danforth St at Park St in the City of Syracuse. Upon approach of the vehicle I asked the driver his name at which time he stated, "Curtis Mclaurin". The male was the same black male whom I observed conduct the three crack cocaine purchases as part of this investigation. I told Mr. Mclaurin to exit the vehicle however he began squirming in the driver's seat and refused to get out of the vehicle. I opened the driver's door and took Curtis Mclaurin into custody. As Curtis exited the vehicle I observed several small white rock-like items that appeared to be crack cocaine all over the driver's seat and the driver's floor in plain view. I subsequently field tested a portion of the white rock-like items I believed to be crack cocaine utilizing a NIK cocaine swipe and a positive result for the presence of cocaine was obtained. I took the keys out of the minivans ignition and observed a house key on the key chain.

Affidavit — Onondaga County Sheriff's Department

State of New York — Case Complaint # 13-397768

County of Onondaga

City of Syracuse

I, Det. S.M. Clere, being duly sworn, deposes and says:

Myself and other members of OCSO SIU, then responded to 2504 Lodi St to conduct the lawful search warrant that had been signed by the Honorable Judge S. Dougherty on 09/18/2013. Upon approach to the residence I utilized the house key on the minivan key chain to unlock the front door. The warrant was executed.

While in custody Curtis Mclaurin was very verbal, and constantly shifting as if he had something down his pants. While at the residence Mr. Mclaurin complained that he needed to go to the hospital after he was told that he was going to be searched as a result of the search warrant/arrest. Mr. Mclaurin was advised he had to be searched prior to going to the hospital. Several attempts were made to try and search Mr. Mclaurin however, he would refuse every time, and would turn his body away, he began limping and complaining of shortness of breath. Rural Metro was notified and responded. Mr. Mclaurin was subsequently transported to Upstate Hospital for evaluation. Prior to leaving for the hospital Mr. Mclaurin was advised he would have to be searched prior to the ambulance leaving the scene. Mr. Mclaurin agreed to the search, however while attempting to search him he continually refused to allow his pants, underwear, or his groin and buttocks area to be searched. Mr. Mclaurin would intentionally move his buttocks away from view and would clench his buttocks and stiffen up his body so as not to allow the visual search of his person.

Based on my twenty-four years plus experience as a narcotics detective and a police officer I can say that it is common and consistent for persons who traffic in illegal narcotics and marihuana, to keep drugs at a different location, "Stash Houses" or "Stash Places", other than at the place that they deal the drugs from as to prevent the police from finding large quantities of drugs. It is common that "drug dealers" often conceal illegal drugs in places other than their residence, but still has easy access to, as to prevent police from arresting that person for the illegal substances.

That based on my twenty-four plus years training and experience as a Deputy Sheriff/Detective I can say that any person who traffics/sells illegal drugs often keep records, written or printed, associated with the use, possession and/or sale of narcotics/illegal drugs and indicating or depicting the names and/or identities of co-conspirators, quantities of narcotics/illegal drugs and monies, owed and paid co-conspirators as well as how monies gleaned from the trafficking of narcotics/illegal drugs are spent and dispersed. It has been my experience that the method used to sell drugs out of this location described requires more then one person to maintain the operation and the presence of at least one person at all times to allow different shifts to keep the operation running. It is also common for suspected drug dealers/traffickers to conceal narcotics, paraphernalia or money on their person in an attempt to prevent the police from detecting such items.

Affidavit Onondaga County Sheriff's Department

State of New York
County of Onondaga
City of Syracuse

Case Complaint # 13-397768

I, Det. S.M. Clere, being duly sworn, deposes and says:

There is reasonable cause to believe that narcotics, specifically crack cocaine is being illegally sold and/or possessed on the person of a black male named Curtis Mclaurin, DOB 06/30/1980, based on three controlled purchases of confirmed crack cocaine from the target and the crack cocaine that was located in the vehicle that Curtis Mclaurin was operating,

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I have read this four-page affidavit and swear that it is the truth to the best of my knowledge and recollection. I know the meaning of perjury, it is the telling of a lie while under oath and I know that false statement is punishable as a Class Misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Subscribed to and sworn before me
this 18th day of September, 2013.

Det. C.P. Dai #1413
Witness

Det. S.M. Clere #1345

Exhibit F

Search Warrant
C.P.L. 690.45 13-397768

State of New York: County of Onondaga

City of Syracuse

To any Police Officer of the
Onondaga County Sheriff's Department,
Syracuse, New York

You are hereby directed to search:

A black male known as Curtis L. Mclaurin, described as being approximately 6'00", 180 pounds with a date of birth of 06/30/1980. Also, any motor vehicle that Curtis Mclaurin is operating and/or has custody and control over, and/or being a passenger in at the time the warrant is being executed, to include any handbags and/or carrying items that he could reasonably conceal cocaine and any other illegal substances.

the following property:

Cocaine, in violation of article 220.00 of the Penal Law of the State of New York and paraphernalia, apparatus and utensils used to possess, sell or traffic cocaine and any papers, written or printed, associated, with the use, possession and/or sale of cocaine indicating or depicting names or identities of co-conspirators, types and quantities of cocaine, monies owed or paid co-conspirators and records depicting or revealing how monies gleaned from the trafficking of cocaine are spent or dispersed all of which is property pursuant to section 690.10 sub. 2 & 4 of the Criminal Procedure Law of the State of New York.

IF ANY SUCH PROPERTY IS FOUND, you are directed to seize the same and, without delay, return and deliver to this court such property together with this warrant.

YOU ARE DIRECTED TO EXECUTE THIS WARRANT: AT ANY TIME OF THE DAY OR NIGHT
* YOU ARE AUTHORIZED, IN THE EXECUTION OF THIS WARRANT, TO ENTER THE PREMISES TO BE SEARCHED WITHOUT GIVING NOTICE OF YOUR AUTHORITY AND PURPOSE.

*YOU ARE AUTHORIZED, IN THE EXECUTION OF THIS WARRANT, TO ENTER THE PREMISES TO BE SEARCHED WITHOUT GIVING NOTICE OF YOUR AUTHORITY AND PURPOSE.

The search warrant issued this day of September 18th, 2013

(JUDGE)

Judge
(TITLE)

2249 hours

Exhibit G

Exhibit G

May 8, 2018

Honorable Janet DiFiore
Chief Judge
New York Court of Appeals
20 Eagle Street
Albany, New York 12207-1095

Attn: John P. Asiello, Clerk of the Court

Re: *People v Curtis McLaurin*, application for leave to appeal

Dear Chief Judge DiFiore:

Appellant Curtis McLaurin respectfully requests permission, pursuant to CPL 460.20 (3) (b), to appeal the order of the Appellate Division, Fourth Department dated April 27, 2018, which unanimously affirmed the judgment of conviction of the Onondaga County Court rendered April 23, 2015. The judgment convicted Mr. McLaurin, upon his plea of guilty, of criminal possession of a controlled substance in the fourth degree (Penal Law § 220.09 [1]).

This case presents the Court with the opportunity to resolve an interdepartmental conflict about whether, after *Groh v Ramirez* (540 US 551 [2004]), a defective search warrant can be cured by an unincorporated warrant application, as stated in dictum in *People v Nieves* (36 NY2d 396, 401 [1975]).

In this case, the police arrested Mr. McLaurin and then searched his apartment for drugs pursuant to a warrant (Appendix ["A"] 7). Before conducting any search of Mr. McLaurin himself, the police obtained a second warrant authorizing a search of him, his vehicle, and anything he was carrying, for cocaine, paraphernalia, and drug records

(A41). There was no mention of a body cavity search in the warrant application or the warrant itself (A7-9, 41). Nevertheless the police directed a physician to conduct a manual body cavity search, during which a plastic bag of cocaine was removed from Mr. McLaurin's anal cavity (A63, 117, 132).

The defense moved to suppress the cocaine. It argued that a warrant for Mr. McLaurin's person did not authorize a body cavity search (A29). After a hearing, the trial court denied suppression in a written decision, finding that "the search warrant authorizing the search of the defendant's person included the search of the defendant's anal cavity" (12/9/14 Onondaga County Court Decision/Order at 10-11).

The Fourth Department affirmed the trial court's order denying suppression, relying on one word on the search warrant application form. It found that because the application asked to search "*in* or upon" Mr. McLaurin, the warrant authorized a search of his rectum (*id.*, citing *Nieves* at 401 [emphasis added]). That phrase is part of a standard application template; it precedes the space provided for the applicant to enumerate the places to be searched (A40 ["may be found in or upon the following designated or described place, vehicle or person, to wit:"]; A37 (same template used for first search warrant application); CPL 690.35 [3] [b]).

Two questions are raised by this holding, both of great significance under the Fourth Amendment:

1. Has *Groh v Ramirez* abrogated the dictum in *People v Nieves,* so that an unincorporated application cannot cure a defect in a search warrant?

2. Is a pre-printed phrase in a search warrant application template sufficient to permit a body cavity search pursuant to a warrant that does not authorize one?

Under *Groh v Ramirez,* defects in search warrants cannot be cured by unincorporated applications.

In *Groh v Ramirez,* the Supreme Court found that a search was in violation of the Fourth Amendment because the warrant failed to provide a description of the evidence sought (540 US at 557). Although the warrant application contained a detailed affidavit with that information, the Court explicitly rejected the argument that this was sufficient to save the defective warrant (*id.*). "The fact that the *application* described the "things to be seized' does not save the *warrant* from its facial invalidity." (*Id.*). The Court noted that courts have construed warrants with reference to supporting applications, but only when the warrant uses appropriate words of incorporation and is accompanied by the application at the time of the search *(id.; see People v Teicher,* 52 NY2d 638, 654-55 [1981] [construing warrant with reference to supporting affidavit where it was incorporated in warrant]). The warrant in *Groh,* however, was neither incorporated in the warrant nor attached to it (*id.*).

In the present case, the Appellate Division did not address the appellant's citation to *Groh* (Reply Brief at 2-3). Instead, the court relied on this Court's decision in *Nieves*, which in dictum rejected "hypertechnical" requirements so long as "the descriptions in the warrant and its supporting affidavits [are] sufficiently specific to enable the searcher to identify the persons, places or things that the Magistrate has previously determined should be searched or seized" (36 NY2d at 401).

With this decision, the Fourth Department joins the Second and Third Departments which have also held, post-*Groh*, that an unincorporated search warrant application can cure a defect in the warrant. In *People v DeMartino*, the Second Department upheld the search of a garage, even though it was not listed in the search warrant (82 AD3d 1260, 1261 [2d Dept 2011], *lv denied* 17 NY3d 858 [2011]). "[T]he garage was referenced in the search warrant application and supporting documents" (*Id.*). Similarly, the Third Department relied on *People v Nieves* just last year, holding that a search warrant's overly vague property description was cured by the application (*People v*

Thomas, 155 AD3d 1120, 1121 [3d Dept 2017]; *see also People v Carpenter,* 51 AD3d 1149 [3d Dept 2008], *lv denied,* 21 NY3d 1073 [2008] [although warrant contained wrong address, defect was cured by warrant application]). None of these cases address or distinguish *Groh*; they appear to simply ignore the Supreme Court's holding in favor of this Court's dictum.

By contrast, several courts in the First Department have relied on *Groh* to suppress evidence where the search warrant is defective. The supreme court in *People v English* held that, "to the extent that *Nieves* permits the consideration of unincorporated supporting documents to cure an otherwise defective search warrant, it has been abrogated by the Supreme Court's decision in *Groh v Ramirez*" (52 Misc 3d 318, 325 [Sup Ct, Bronx County 2016, Barrett, AJSC]). *People v Covlin,* decided five months ago, contains a lengthy discussion about this topic, noting that there does not appear to be "any New York appellate authority which has explicitly analyzed this issue" (58 Misc 3d 996, 1005 [Sup Ct, New York County 2018, Conviser, AJSC]). The court had no difficulty in concluding that *Groh* prohibits resort to an unincorporated application, and ordered suppression *(id.* at 1003); *see also People v Gabriel,* 58 Misc 3d 1230[A] [Sup Ct, New York County 2017, Clott, AJSC] [cell phone search warrant was overbroad and could not, under *Groh,* be cured by unincorporated warrant application]).

These cases demonstrate that there is a split of authority in the state of New York regarding the application of *Groh.* Even the legal treatises are in conflict. The New York Criminal Practice treatise states that a defect in a search warrant can be cured by reference to the application, citing *DeMartino* and two pre-*Groh* cases, but not mentioning *Groh* (2 New York Criminal Practice § 21.06 [5] [a]). At the same time, the New York Search & Seizure treatise states that the application cannot cure a defect in the warrant unless it is explicitly incorporated in the warrant and attached to the warrant when the search takes place (1 New York Search & Seizure § 4.02 [5] [d]).

The federal courts, by contrast, have applied *Groh* uniformly (*see Covlin,* 58 Misc 3d at 1004 [collecting cases]). Even before *Groh,* in a federal case substantially similar to this one, evidence was suppressed

because it was seized in a body cavity search pursuant to a warrant authorizing merely a search of the defendant's "person" (*United States v Nelson,* 36 F3d 758, 760 [8th Cir 1994]). The defect could not be cured by an unincorporated application even though it – unlike the application in this case – did seek authorization and establish probable cause for a body cavity search (*id.* at 760).

This issue is one of great importance. The Fourth Amendment states that "Warrants" – not warrant applications – "shall particularly describ[e] the place to be searched." (*See Groh,* 540 US at 557.) As this Court stated in *People v Mothersell* (14 NY3d at 358, 367 [2010]), the reasonableness of a search cannot depend on the discretion of law enforcement; it must be defined in writing by a neutral magistrate. "The Fourth Amendment exists not only to ensure that impartial magistrates authorize searches. It also exists to ensure that police officers comply with the search limitations magistrates command. Those commands are reflected only in warrants." (*Coulin,* 58 Misc 3d at 1010).

Here, the magistrate did not sign a warrant authorizing a search "in" Mr. McLaurin. It cannot be that, by using an application template containing this word, a police officer can himself authorize a body cavity search.

As noted in *Groh,* if a judge reads an affidavit and is convinced that only a portion of a requested search should be authorized, there is no way that conclusion can be reflected, except in the warrant itself. Thus, without warrant particularity, "there can be no written assurance that the Magistrate actually found probable cause to search for, and to seize, every item mentioned in the affidavit" (540 U.S. at 560). Further, the parameters of a search must be laid out in the warrant itself so that the target of the search is informed (*id.* at 561). Showing the warrant to a search target is meaningless if the warrant does not include all the areas to be searched.

Groh was decided fourteen years ago. It established a rule of constitutional law, applicable to the states through the Due Process clause of the Fourteenth Amendment. After all this time, three of the

state's four appellate divisions are still ignoring *Groh* and upholding the admission of evidence seized in violation of its ruling. This case is a most egregious example because it involves a search of the most intimate parts of a person's body. Under this decision, as long as police use a standard search warrant application template, they may at their discretion subject any person to be searched to a potentially dangerous medical procedure (*see Hall,* 10 NY3d at 309), without a magistrate's pre-authorization.

Notwithstanding *Nieves*, one word in an application template is insufficient to authorize a body cavity search under this Court's decisions in *People v More* (97 NY2d 209 [2002]), *People v Hall* (10 NY3d 303 [2008], *cert denied* 555 US 938 [2008]), and *People v Mothersell.*

This Court has described body cavity searches as "invasive" and "degrading," agreeing with *Schmerber v California* (384 US 757 [1966]) that "'the importance of informed, detached and deliberate determination of the issue whether or not to invade another's body in search of evidence of guilt is indisputable and great'" (*More,* 97 NY2d at 213, quoting *Schmerber* at 770). Thus, "[i]f the search involves the removal of an object secreted within a body cavity, a warrant specifically authorizing the intrusion must first be obtained" (*Mothersell,* 14 NY3d at 367 n1 [citing *More*] [reversing Fourth Department order]).

The magistrate in this case was given a warrant application that did not request authorization for a manual body cavity search. The application never mentioned the possibility that the defendant might be hiding contraband in a body cavity. It stated that Mr. McLaurin was resisting even a visual search of his lower body by turning away, clenching his buttocks and stiffening his body (A8). It posited probable cause to believe that he might have contraband "down his pants" (A8). It concluded that there was reasonable cause to believe that Mr. McLaurin possessed cocaine "*on* his person" (A9 [emphasis added]). Yet, the Appellate Division found that all of this was overridden by the template clause referring to evidence to be found "in or upon" the

specified location (*McLaurin* at *5). This would be error even if the case did not involve a search of the most intrusive sort.

The record in this case indicates widespread confusion about the prerequisites for a body cavity search. The deputy who directed the search testified that the warrant for Mr. McLaurin's person authorized a search "from the top of [his] head to the bottom of [his] feet and everything in between including [his] insides." (Suppression hearing transcript dated 1/20/14, at 94).

The prosecutor claimed that a "search warrant authorizing the search of defendant's person authorizes the search of the defendant's anal cavity without an additional clause authorizing it" (A53). The county court's decision denying suppression found that the search warrant application "supported the conclusion and belief . . . that the defendant was hiding cocaine *on* his person." (12/9/14 Onondaga County Court Decision/Order at 10 [emphasis added].) It then concluded that "the issuance of a search warrant authorizing the search of the defendant's person included the search of the defendant's anal cavity" (*id.* at 10-11).

Each of these actors in the criminal justice system has simply failed to acknowledge multiple decisions from this Court holding the exact opposite – that a body cavity search requires a *specific* authorization. This Court's intervention is required to ensure that criminal defendants do not continue to be subject to such invasive searches without a magistrate's authorization that is based on an application giving notice that this is what is being requested.

Mr. McLaurin respectfully submits that the inter-departmental conflict in the treatment of *Groh* calls for resolution by this Court. It concerns a matter of constitutional dimension that police, magistrates, and trial courts routinely encounter. Without this Court's intervention, individuals in this state continue to be prosecuted and jailed based on evidence illegally obtained in violation of their Fourth Amendment protections. This case also illustrates the need for clarification of what this Court meant when it stated that a warrant must "specifically" authorize a body cavity search (*Mothersell,* 14 NY3d at 367 n1).

Additional issues: Pursuant to *O'Sullivan v Boerckel* (526 US 838 [1999]), Mr. McLaurin expressly urges that leave to appeal be granted to review all of the issues raised in his briefs.

No application for the relief herein requested has been made to any justice of the Appellate Division. There are no codefendants in this matter. Oral presentation is requested in the Court's discretion.

Respectfully submitted,

Elizabeth Riker
Senior Attorney
Appeals Program

Enclosures:
Appellant's and Respondent's Briefs
Appendix
Decision/Order of the Onondaga County Court (December 9, 2014)
Decision/Order of the Appellate Division, Fourth Department (April 27, 2018), with notice of entry
Suppression Hearing Transcript dated 11/20/14

cc: Onondaga County District Attorney's Office
Mr. Curtis McLaurin