

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

RONALD LEWIS COLEMAN, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

APPENDIX

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RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 19a0084p.06

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

No. 18-1083

RONALD LEWIS COLEMAN, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Michigan at Grand Rapids.
No. 1:17-cr-00136-1—Paul Lewis Maloney, District Judge.

Argued: January 17, 2019

Decided and Filed: May 3, 2019

Before: BOGGS, KETHLEDGE, and NALBANDIAN, Circuit Judges.

COUNSEL

ARGUED: Clare E. Freeman, THE FEDERAL DEFENSE GROUP, P.L.L.C., La Porte, Texas, for Appellant. Sally J. Berens, UNITED STATES ATTORNEY'S OFFICE, Grand Rapids, Michigan, for Appellee. **ON BRIEF:** Clare E. Freeman, THE FEDERAL DEFENSE GROUP, P.L.L.C., La Porte, Texas, for Appellant. Davin M. Reust, UNITED STATES ATTORNEY'S OFFICE, Grand Rapids, Michigan, for Appellee.

OPINION

BOGGS, Circuit Judge. Defendant Ronald Coleman appeals the district court's denial of a motion to suppress the fruits of a warrant for vehicle tracking and a residential search warrant

on the grounds that the warrants lacked probable cause and that law enforcement's installation of the vehicle tracker violated the Fourth Amendment. Because the warrants were amply supported by probable cause and the officer did not violate the Fourth Amendment when installing the tracker, we affirm.

I

On March 9, 2017, law-enforcement agents began investigating Eddie Powell, a drug dealer, and his sources of narcotics. A cooperating defendant¹ identified one of those sources as the defendant, Ronald Coleman. Officers began investigating Coleman and observed his two automobiles, a brown Trailblazer and a white Buick Enclave, in connection with suspected drug sales to Powell. Specifically, on April 7, 2017, law-enforcement officers observed an individual matching Coleman's description arrive at Powell's house, get out of Coleman's Enclave, enter the house, and leave three minutes later. Then, four days later, Coleman arrived at Powell's house in the Trailblazer and sold cocaine to the cooperating defendant.

Around this time, a law-enforcement agent checked Coleman's criminal history and determined he had felony convictions in 2006 and 2009 for delivery or manufacture of a controlled substance. The agent also discovered that both vehicles were registered to Coleman's father and observed that, in his experience, drug traffickers frequently register their vehicles in the names of family or friends to conceal their identities. The agent detailed all of these findings, as well as the facts from the suspected drug sales, in a supporting affidavit and, on April 19, 2017, obtained tracking warrants from a federal magistrate judge for Coleman's Enclave and Trailblazer on the belief that tracking those vehicles would provide evidence of their involvement in the distribution of narcotics.²

On April 20, 2017, an ATF agent attached the tracking devices to Coleman's Enclave and Trailblazer. To apply the trackers, the agent went to Coleman's condominium on East Springtree

¹The cooperating defendant was a reliable informant and conducted multiple controlled buys associated with this case.

²While the agent obtained vehicle-tracking warrants for both the Enclave and the Trailblazer, Coleman is challenging only the warrant for the Enclave.

Lane SW in Grand Rapids, which is part of the Silverleaf Condominium Complex, a collection of approximately 40 residential units scattered across several streets within the complex.

There is no gate or fence at the entrance to the Silverleaf complex, but there is a small sign that says: "PRIVATE PROPERTY." The sign, however, does not forbid outside visitors and anyone can drive onto the streets of the condominium complex unimpeded. Residents are able to have visitors without requesting permission from neighbors, the Postal Service delivers mail to mailboxes inside the complex, and there is a single trash-collection business that serves all units.

Coleman's condominium unit is roughly a mile down the road from the entrance of the complex, alongside other similar buildings. His particular unit is in a building shared by three other families, and his driveway is shared with a neighboring family. The entire driveway consists of a single concrete slab leading to Coleman's garage and the garage of Coleman's neighbor. No gate, fence, or hedgerow surrounds the condo, and it is common for residents to walk by each other's vehicles over the course of a day.

To attach the tracking devices, the agent parked in a public parking spot across the street from Coleman's condo and walked up to Coleman's Enclave, which was parked in front of his garage a few feet onto the driveway. Coleman's Trailblazer was across the street, in a parking spot shared by residents and guests.

On May 4 and May 10, 2017, Coleman sold cocaine to Powell. During the May 10 sale, agents observed Coleman leave his condo, enter the Enclave, and get out of the Enclave at Powell's home. Agents also watched the GPS tracking data from the Enclave vehicle tracker, and the data appeared to show that Coleman traveled directly from his condo to Powell's house. Based on this information, agents applied for a warrant to search Coleman's condo for evidence of drug trafficking and money laundering. On May 23, 2017, a different federal magistrate judge than the one who had signed the tracking warrants signed the condo search warrant.

On May 31, 2017, agents executed the condo warrant, seizing approximately 500 grams of cocaine, a firearm, and documents and property indicative of money laundering. Agents then interviewed Coleman and he admitted possession and ownership of the cocaine and a firearm.

Later that day, the government filed a complaint against Coleman and, on June 27, 2017, he was indicted on three counts of a five-count indictment, charging him with conspiracy to distribute cocaine, possession with intent to deliver cocaine, and being a felon in possession of a firearm.

On July 25, 2017, Coleman moved to suppress the fruits of the vehicle-tracking and residential search warrants, arguing that the warrants contained insufficient probable cause and that the agents attached the tracking device on Coleman's Enclave in violation of the Fourth Amendment. After receiving the evidence and arguments, the district court held that (1) the Enclave warrant was supported by probable cause; (2) Coleman's driveway was not within the curtilage of his home; (3) the residential search warrant was supported by probable cause; and (4) even if the warrants were not supported by probable cause, ATF agents executed them in good faith.

On September 12, 2017, Coleman pled guilty to the three counts against him by way of a conditional plea agreement. The plea agreement allowed Coleman to appeal the denial of his motion to suppress. On January 22, 2018, the district court sentenced Coleman to 120 months of imprisonment.

II

Coleman first argues that the warrant for installing a tracking device on his Buick Enclave was not supported by probable cause. We disagree.

According to Federal Rule of Criminal Procedure 41(c)–(d), a magistrate judge must issue a tracking-device warrant if a supporting affidavit establishes probable cause to believe that the device will uncover evidence, fruits, or instrumentalities of a crime. Here, the affidavit had established numerous facts supporting the notion that the use of a tracking device on Coleman's Enclave could uncover further evidence of wrongdoing:

- A confidential informant identified Coleman as a current drug supplier to Powell.
- Authorities had been investigating four drug sales at Powell's residence, one of which involved Coleman dropping off cocaine for Powell.
- A law-enforcement agent observed an individual matching Coleman's description drive to Powell's house in the Enclave, stay only four minutes,

and leave, activity that could be consistent with the driver engaging in illegal drug sales.

- Coleman had two prior felony convictions for delivery/manufacture of controlled substances.
- A Law Enforcement Information Network (LEIN) check on the vehicle identified Coleman's father as the Enclave's owner.

Courts have upheld vehicle-tracking warrants based on much weaker factual allegations than these. *See, e.g., United States v. Faulkner*, 826 F.3d 1139, 1145 (8th Cir. 2016) (upholding a vehicle-tracking warrant where a confidential informant told police the defendant brought heroin from Chicago to Minneapolis, stayed at two addresses, and drove two vehicles, but where no one had directly observed either vehicle involved in suspected drug activity); *United States v. McNeal*, 818 F.3d 141, 150 (4th Cir. 2016) (upholding a tracking warrant where affidavit established merely that the vehicle was registered to suspect's mother and driven to case banks, and where an informant tipped authorities the vehicle was used in bank robberies). Accordingly, we hold that the tracking warrant was supported by probable cause.

III

Next, Coleman claims that authorities violated his Fourth Amendment rights when an ATF agent entered his condominium's driveway to install the GPS tracking device on his Enclave. Coleman alleges two Fourth Amendment violations resulting from the agent's actions: the first when the agent entered Coleman's condominium complex despite there being a sign reading "PRIVATE PROPERTY," and the second when the agent walked onto Coleman's driveway to install the GPS tracker.

"When the government gains information by physically intruding into one's home, a search within the original meaning of the Fourth Amendment has undoubtedly occurred." *Morgan v. Fairchild Cty., Ohio*, 903 F.3d 553, 561 (6th Cir. 2018) (internal quotation marks and citations omitted). "But it is not just the physical house that receives the Amendment's protection. The curtilage—the area immediately surrounding and associated with the home—is treated as part of [the] home itself for Fourth Amendment purposes." *Ibid.* (internal quotations marks and citations omitted). "The protection afforded the curtilage is essentially a protection of

families and personal privacy in an area intimately linked to the home, both physically and psychologically, where privacy expectations are most heightened.” *Collins v. Virginia*, 138 S. Ct 1663, 1670 (2018). Courts have identified four factors as a guidepost to determining whether an individual has a reasonable expectation of privacy in an area, placing it within the home’s curtilage: (1) proximity to the home; (2) whether the area is within an enclosure around the home; (3) uses of the area; and (4) steps taken to protect the area from observation by passersby. *United States v. Dunn*, 480 U.S. 294, 301 (1987). It is a “fact-intensive analysis” conducted on a case-by-case basis. *Morgan*, 903 F.3d at 561. As the proponent of the motion to suppress, Coleman “bears the burden of establishing that the challenged search violated his Fourth Amendment rights.” *United States v. Witherspoon*, 467 F. App’x 486, 490 (6th Cir. 2012).

Coleman first argues that the agent’s entry onto the condominium complex itself violated his Fourth Amendment rights. We disagree. Though the condominium complex had a “PRIVATE PROPERTY” sign at its entrance, anyone could drive into the complex without express permission. No gate prevented outsiders from entering, and the condo association had not taken any effort to keep non-residents out. The sign itself did not require permission to enter, prohibit outside visitors, or even state “no trespassing.” Accordingly, the agent did not violate Coleman’s Fourth Amendment rights merely by entering the condominium complex. *See, e.g., United States v. Dillard*, 438 F.3d 675, 682 (6th Cir. 2006) (holding that defendant had no reasonable expectation of privacy in the common area of his building’s duplex that was unlocked and open to the public because he “made no effort to maintain his privacy in the common hallway and stairway” and therefore “did nothing to indicate to the officers that they were not welcome in the common areas”).

Whether the ATF agent intruded onto the curtilage of Coleman’s building by entering his driveway, however, is a closer question. Coleman places heavy emphasis on the Supreme Court’s recent decision in *Collins* in arguing that such an intrusion occurred. In *Collins*, police were investigating a motorcycle thought to be stolen by the defendant, Ryan Collins. 138 S. Ct. at 1668. An officer tracked down the vehicle to Collins’s girlfriend’s residence and walked onto the property to the top of the driveway to examine the vehicle, which was under a tarp. *Ibid.* The officer then pulled off the tarp, ran a search of the license plate and vehicle identification

numbers, and discovered that the motorcycle was stolen. *Ibid.* After gathering this information, the officer took a photograph of the uncovered motorcycle, put the tarp back on, left the property, and returned to his car to wait for Collins to return. *Ibid.* At no point in this process did the officer have a warrant. *Ibid.* The Court described the driveway as follows:

[T]he driveway runs alongside the front lawn and up a few yards past the front perimeter of the house. The top portion of the driveway that sits behind the front perimeter of the house is enclosed on two sides by a brick wall about the height of a car and on a third side by the house. A side door provides direct access between this partially enclosed section of the driveway and the house. A visitor endeavoring to reach the front door of the house would have to walk partway up the driveway, but would turn off before entering the enclosure and instead proceed up a set of steps leading to the front porch. When [the officer] searched the motorcycle, it was parked inside this partially enclosed top portion of the driveway that abuts the house.

Id. at 1670–71. The Court held that, “[j]ust like the front porch, side garden, or area outside the front window, the driveway enclosure where [the officer] searched the motorcycle constitutes an area adjacent to the home and to which the activity of home life extends, and so is properly considered curtilage.” *Ibid.* (internal quotations marks and citations omitted). Accordingly, the Court found that the officer had violated Collins’s Fourth Amendment rights by intruding onto the building’s curtilage.

The facts in *Collins*, however, are quite different from the facts here. In *Collins*, the portion of the driveway where the motorcycle sat was past the front perimeter of the home, enclosed on three sides (two by a brick wall, one by the home itself), and not on the way to the front door of the residence. 138 S. Ct. at 1670–71. Coleman’s Enclave, in contrast, was sitting in front of the residence, was not enclosed by anything, and was on the way to the entrance of his home. The *Collins* motorcycle was also covered with a tarp; Coleman’s car was not. Finally, the Coleman driveway was in fact shared with other families and other condo residents frequently walked past cars parked in front of condo units. See *United States v. Jones*, 893 F.3d 66, 72 (2d Cir. 2018) (“[Collins] . . . has no effect on [defendant’s] appeal, which fails because the driveway in which [defendant’s] vehicle was parked was the *shared* driveway of tenants in two multi-family buildings and was not within the curtilage of [defendant’s] private home.”).

Though prior to the *Collins* ruling, the Sixth Circuit cases of *United States v. Galaviz*, 645 F.3d 347 (6th Cir. 2011), and *United States v. Estes*, 343 F. App'x 97 (6th Cir. 2011), survive *Collins* and are factually more on point. Both cases involved driveways with similar characteristics to the one here: adjacent to a home, not enclosed, abutting a sidewalk or alley, with no steps taken to obstruct the view of passersby. *Galaviz*, 645 F.3d at 356; *Estes*, 343 F. App'x at 101. In both instances, this court held that the officers did not intrude upon the building's curtilage by entering the driveway. In *Estes*, we held that "at least three of the factors in *Dunn* undercut a finding that the driveway represents curtilage" because "the area was not closed," "defendant had not taken any steps to protect the area from observation by people passing by," and "it was used as a point of entry into the residence." *Estes*, F. App'x at 101 (internal quotation marks omitted). In *Galaviz*, the court found that, while "the driveway was directly adjacent to the house," it "was not enclosed by a fence or other barrier and was short, with the portion of the driveway where [the defendant's] car was parked directly abutting the public sidewalk" and that "no apparent steps were taken by the residents of the house to protect the driveway from observation by passersby—no hedges or bushes obstructed the view of the driveway from the sidewalk or street, for example." *Galaviz*, 645 F.3d at 356. Those same analyses would apply to the driveway in question here. While the proximity of the driveway to the residence here may lean in favor of considering it to be curtilage, the other *Dunn* factors—whether the area is within an enclosure around the home, the uses of the area, and the steps taken to protect the area from observation by passersby—all point toward the opposite conclusion.

Accordingly, we hold that the ATF agent did not intrude upon the curtilage of Coleman's residence in order to install the vehicle tracker and therefore did not run afoul of the Fourth Amendment.

IV

Finally, Coleman argues that there was insufficient probable cause for the magistrate judge to issue a search warrant for Coleman's condo. "The job of a magistrate judge presented with a search warrant application is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit . . . , there is a fair probability that contraband or evidence of a crime will be found in a particular place." *United States v. Brown*,

828 F.3d 375, 381 (6th Cir. 2016) (internal quotation marks and citation omitted). There must be a “nexus between the place to be searched and the evidence sought.” *United States v. Carpenter*, 360 F.3d 591, 594 (6th Cir. 2004) (en banc). However, a magistrate issuing a search warrant “may infer that drug traffickers use their homes to store drugs and otherwise further their drug trafficking.” *United States v. Williams*, 544 F.3d 683, 687 (6th Cir. 2008). This reflects the reality that, “in the case of drug dealers, evidence is likely to be found where the dealers live.” *United States v. Jones*, 159 F.3d 969, 975 (6th Cir. 1998) (citation and alteration omitted).

Here, the affidavit in support of the residential search warrant established that Coleman was an active drug trafficker, that the Springtree Lane address was Coleman’s home, and that both of Coleman’s vehicles were regularly parked there. According to the affidavit, agents had conducted three controlled buys of cocaine from Coleman and observed him drive directly from his condo to the site of the most recent buy, less than two weeks before the warrant issued. This was sufficient to establish that Coleman was an active drug trafficker at the time the warrant issued and to provide a reasonable inference that he transported narcotics from his residence to the location of the cocaine sale. *See, e.g., United States v. Bucio-Cabral*, 635 F. App’x 324, 334 (6th Cir. 2016) (evidence defendant traveled to two addresses—one of which was home—prior to narcotics sales supported inference he was storing narcotics at one residence); *United States v. Gunter*, 266 F. App’x 415, 419 (6th Cir. 2008) (“[T]he instant affidavit describes an incident where law enforcement agents observed Defendant visiting his residence right before he traveled to the site of a drug sale. . . . This evidence, combined with the affiant’s statements that he has significant experience in narcotics investigations, is sufficient to establish a nexus between Defendant’s illegal activities and his residence.”).

Coleman points to several cases where this court granted motions to suppress evidence on the basis that the warrants in question lacked probable cause that the defendant stored narcotics at his home. *See Brown*, 828 F.3d at 385; *United States v. Higgins*, 557 F.3d 381, 390 (6th Cir. 2009); *United States v. Helton*, 314 F.3d 812, 823 (6th Cir. 2003). Each of these cases, however, had much weaker facts linking the drugs to the defendant’s home, and none of them established the defendant as an *active* drug dealer. In *Higgins*, the supporting affidavit relied on an unproven tipster, with no evidence that the tipster observed narcotics or evidence of illegal drug sales

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associated with the defendant's residence. *Higgins*, 557 F.3d at 389–90. Here, however, the informant was reliable, having conducted multiple controlled buys associated with the case, and law-enforcement agents independently established that Coleman delivered cocaine shortly after leaving his house. In *Helton*, the only nexus evidence was an anonymous tip and evidence that the owner of the residence had received calls from suspected drug dealers, a far cry from that which we have here: a proven informant who conducted multiple controlled buys along with evidence that Coleman drove from his home to the location of the drug sale. *Helton*, 314 F.3d at 820–21. And in *Brown*, the court required a “more direct connection” to the residence such as “surveillance indicating that [the defendant] had used the car to transport [drugs] from his home to [the site of a drug transaction],” which is precisely the surveillance evidence that had been gathered here. *See Brown*, 828 F.3d at 383.

We therefore hold that the residential search warrant was amply supported by probable cause.

V

Accordingly, we AFFIRM.

United States District Court

Western District of Michigan

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

-vs-

Case Number: 1:17-cr-136-01

RONALD LEWIS COLEMAN, JR.

USM Number: 21702-040

Geoffrey Upshaw
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to Counts One, Two, and Three of the Indictment.
- pleaded nolo contendere to Count(s) ___, which was accepted by the court.
- was found guilty on Count(s) ___ after a plea of not guilty.

The defendant is adjudicated guilty of these offense(s):

<u>Title & Section</u>	<u>Offense Ended</u>	<u>Count No.</u>
21 U.S.C. §§ 846, 841(a)(1), (b)(1)(B)(ii) and (b)(1)(C) and 851	May 31, 2017	One
21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 851	May 31, 2017	Two
18 U.S.C. §§ 922(g)(1), 924(a)(2) and 921(a)	May 31, 2017	Three

Nature of Offense

Count 1: Conspiracy to Distribute Cocaine

Count 2: Distribution or Possession with Intent to Distribute a Controlled Substance

Count 3: Felon in Possession of a Firearm

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Date of Imposition of Sentence: January 22, 2018

DATED: January 23, 2018

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment - Page 2

Defendant: RONALD LEWIS COLEMAN, JR.

Case Number: 1:17-cr-136-01

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **one hundred twenty (120) months on each of Counts 1, 2, and 3, to be served concurrently.**

The Court makes the following recommendations to the Bureau of Prisons:

That the defendant receive educational and vocational training opportunities.
That the defendant receive a substance abuse assessment and recommended treatment.
That the defendant be screened for participation in the 500-hour Residential Drug Abuse Program.
That the defendant be designated to a correctional facility close to his home in Michigan.

The defendant is remanded to the custody of the United States Marshal.

The Defendant shall surrender to the United States Marshal for this district:

At _____ on _____.
 As notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

Before 2:00 P.M. on _____.
 As notified by the United States Marshal.
 As notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ To _____

At _____, with a certified copy of this judgment.

United States Marshal

By: _____
Deputy United States Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **eight (8) years on each of Counts 1 and 2, and three (3) years on Count 3, to be served concurrently.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.
 - The above drug testing condition is suspended, based on the Court's determination that you pose a low risk of future substance abuse. *(Check if applicable)*
4. You must cooperate in the collection of DNA as directed by the probation officer. *(Check if applicable)*
5. You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) As directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(Check if applicable)*
6. You must participate in an approved program for domestic violence. *(Check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the Court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the Court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the Court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with the law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 5

Defendant: RONALD LEWIS COLEMAN, JR.

Case Number: 1:17-cr-136-01

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program of testing and treatment for substance abuse, as directed by the probation officer, and follow the rules and regulations of that program until such time as you are released from the program by the probation officer, and shall pay at least a portion of the cost according to your ability, as determined by the probation officer.
2. You must not frequent any establishment where gambling is conducted, legally or illegally, and must not participate in gambling in any form (including, but not limited to, lotteries, online wagering, sports betting).
3. You must not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances or paraphernalia related to any controlled substance (e.g., synthetic marijuana, bath salts, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption.
4. You must participate in a cognitive behavioral treatment program, as directed by the probation officer, and follow the rules and regulations of that program until such time as you are released from the program by the probation office, and must pay at least a portion of the cost according to your ability, as determined by the probation officer.
5. You must not use or possess any controlled substances without a valid prescription. If you do have a valid prescription, you must follow the instructions on the prescription. You must not possess, use, or sell marijuana or any marijuana derivative (including THC) in any form (including edibles) or for any purpose (including medical purposes). You are also prohibited from entering any marijuana dispensary or grow facility.
6. You must participate in a gambling addiction treatment program and follow the rules and regulations of that program and must pay the costs of the program if financially able.
7. You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office will share financial information with the U.S. Attorney's Office.
8. You must participate in a vocational services program as directed by the probation/pretrial services officer. Such program may include on-the-job job readiness training and skills development training. You must pay at least a portion of the cost according to your ability, as determined by the probation officer.
9. You must not possess or be the primary user of any cellular phone without prior permission from the probation officer. If given permission to use/possess a cell phone, you must provide the number to the probation officer and the phone must be maintained in your name or another name approved in advance by the probation officer.

CRIMINAL MONETARY PENALTIES¹

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on the following pages.

<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
\$300.00	Count 1: \$5,000.00 Counts 2 & 3: -0-	-0-

- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(l), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss	Restitution Ordered	Priority or Percentage
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Restitution amount ordered pursuant to plea agreement: \$

The defendant must pay interest on restitution and/or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options in the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The Court determined that the defendant does not have the ability to pay interest and it is ordered that:

- the interest requirement is waived for the fine.
- the interest requirement is waived for the restitution.
- the interest requirement for the fine is modified as follows:
- the interest requirement for the restitution is modified as follows:

A16

¹ Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of **\$300.00** due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F, below; or
- B Payment to begin immediately (may be combined with C, D, or F, below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$_____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment, or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$_____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

The restitution and/or fine is to be paid in minimum quarterly installments of \$25.00 based on IFRP participation, or minimum monthly installments of \$20.00 based on UNICOR earnings, during the period of incarceration, to commence 60 days after the date of this judgment. Any balance due upon commencement of supervision shall be paid, during the term of supervision, in minimum monthly installments of \$50.00 to commence 60 days after release from imprisonment. The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and/or any other anticipated or unexpected financial gains to any outstanding court-ordered financial obligations.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court, 399 Federal Building, 110 Michigan N.W., Grand Rapids, MI 49503, unless otherwise directed by the court, the probation officer, or the United States Attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount, and corresponding payee, if appropriate:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Preliminary Order of Forfeiture issued January 16, 2018.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT - WESTERN DISTRICT OF MICHIGAN
CRIMINAL MINUTE SHEET

USA v. Ronald Lewis Coleman, Jr.			DISTRICT JUDGE: Paul L. Maloney		
CASE NUMBER	DATE	TIME (begin/end)	PLACE	INTERPRETER	
1:17-cr-136	8/31/2017	10:04 a.m. - 11:30 a.m.	Kalamazoo		
APPEARANCES					
Government: Davin Reust		Defendant: Geoffrey Upshaw		Counsel Designation: Retained	
TYPE OF HEARING	DOCUMENTS		CHANGE OF PLEA		
<input type="checkbox"/> Arraignment: <input type="checkbox"/> mute <input type="checkbox"/> nolo contendre <input type="checkbox"/> not guilty <input type="checkbox"/> guilty <input type="checkbox"/> Final Pretrial Conference <input type="checkbox"/> Detention (waived <input style="width: 20px; height: 15px; border: 1px solid black; vertical-align: middle;" type="checkbox"/>) <input checked="" type="checkbox"/> Motion Hearing <input type="checkbox"/> Revocation/SRV/PV <input type="checkbox"/> Bond Violation <input type="checkbox"/> Change of Plea <input type="checkbox"/> Sentencing <input type="checkbox"/> Trial <input type="checkbox"/> Other: _____	<input type="checkbox"/> Defendant's Rights <input type="checkbox"/> Waiver of Indictment <input type="checkbox"/> Other: <input type="checkbox"/> Court to Issue: <input type="checkbox"/> Order of Detention <input type="checkbox"/> Notice of Sentencing <input type="checkbox"/> Order Appointing Counsel <input type="checkbox"/> Other: _____		Charging Document: <input type="checkbox"/> Read <input type="checkbox"/> Reading Waived Guilty Plea to Count(s) _____ of the _____ Count(s) to be dismissed at sentencing: _____		
				<input type="checkbox"/> Presentence Report Ordered <input type="checkbox"/> Presentence Report Waived <input type="checkbox"/> Plea Accepted by the Court <input type="checkbox"/> Plea Taken under Advisement <input type="checkbox"/> No Written Plea Agreement	
SENTENCING					
Imprisonment: _____ Probation: _____ Supervised Release: _____ Fine: \$ _____ Restitution: \$ _____ Special Assessment: \$ _____		Plea Agreement Accepted: <input type="checkbox"/> Yes <input type="checkbox"/> No Defendant informed of right to appeal: <input type="checkbox"/> Yes <input type="checkbox"/> No Counsel informed of obligation to file appeal: <input type="checkbox"/> Yes <input type="checkbox"/> No Conviction Information: Date: _____ By: _____ As to Count (s): _____			
ADDITIONAL INFORMATION:					
Hearing on defendant's motion to suppress (Dkt. #29); motion denied, order to issue					
CUSTODY/RELEASE STATUS			BOND AMOUNT AND TYPE		
Continued on Bond			\$		
CASE TO BE:			TYPE OF HEARING:		
Reporter/Recorder: Kathleen Thomas			Case Manager: A. Redmond		

USA v. Ronald Lewis Coleman, Jr.

Case No.: 1:17-cr-136

Date: 8/31/2017

WITNESSES:

Govt	Deft	Name of Witness
	X	Dana Currie
X		Andrew Holt

EXHIBITS:

Govt	Deft	I.D.	Description	Admitted
X			Exhibits A-O	Yes

ADDITIONAL INFORMATION:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE PAUL L. MALONEY

v.

Case No. 1:17-cr-136

RONALD LEWIS COLEMAN, JR.,

Defendant.

/

ORDER DENYING MOTION TO SUPPRESS

This matter is before the Court on Defendant's motion to suppress residential search warrant and vehicle tracking warrant (ECF No.29). On today's date, the Court held a hearing on the motion. For the reasons and grounds set forth in the opinion from the bench which are incorporated herein by reference, Defendant's motion is **DENIED**.

IT IS SO ORDERED.

Dated: August 31, 2017

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO: 1:17-CR-136

7 RONALD LEWIS COLEMAN, JR.,

Defendant.

9 _____ /

* * * *

MOTION HEARING

* * *

15 BEFORE: THE HONORABLE PAUL L. MALONEY
United States District Judge
16 Kalamazoo, Michigan
August 31, 2017

APPEARANCES:

APPEARING ON BEHALF OF THE PLAINTIFF:

DAVIN REUST
20 Assistant United States Attorney
P.O. Box 208
21 Grand Rapids, Michigan 49501-0208

22 APPEARING ON BEHALF OF THE DEFENDANT:

23 GEOFFREY UPSHAW
24 Law Office of Geoffrey Upshaw
 429 Turner Avenue, NW
 Grand Rapids, Michigan 49504

1 I N D E X

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4 Cross Examination by Mr. Reust 95 ANDREW HOLT6 Direct Examination by Mr. Reust 17
7 Cross Examination by Mr. Upshaw 34
7 Redirect Examination by Mr. Reust 4710 E X H I B I T S

11 Rec'd.

12 Government's Exhibits A-K 16

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Kalamazoo, Michigan

August 31, 2017

at approximately 10:04 a.m.

PROCEEDINGS

10:10:26 5 THE COURT: This is File Number 17-136; The United
6 States of America vs. Ronald Lewis Coleman, Jr. This matter
7 is before the Court for a hearing on the defendant's motion
8 to suppress.

13 Counsel, how would you wish to proceed?

14 MR. REUST: Your Honor, the government has one
10:10:56 15 witness. I'm not quite sure what the defendant's approach
16 would be. I believe the burden is on the defense, so they
17 could present their witness first, if they would like to do
18 that, but I'm happy to proceed in whatever order the Court
19 and the defendant want.

10:11:08 20 THE COURT: Mr. Upshaw, what is your pleasure, sir?

21 MR. UPSHAW: We have one witness also that's going
22 to be a limited witness that's just a residential occupant
23 of my client's home.

24 In terms of the order, whatever the Court desires.

10:11:18 25 THE COURT: Okay. Well, Mr. Upshaw, why don't you

1 go ahead, since you have the burden, why don't you present
2 your witness first and then we will move on from there.

3 MR. UPSHAW: Thank you.

4 Call Miss Dana Currie.

10:11:39 5 Miss Currie.

6 THE COURT: Miss Currie, please step forward and be
7 sworn.

8 COURT CLERK: Will you raise your right hand,
9 please.

10:11:48 10 DANA CURRIE,

11 was thereupon called as a witness herein, and after having
12 been first duly sworn to tell the truth, the whole truth and
13 nothing but the truth, was examined and testified as
14 follows:

10:11:56 15 COURT CLERK: State your full name and spell your
16 last name for the record, please.

17 THE WITNESS: Dana Currie, C-u-r-r-i-e.

18 DIRECT EXAMINATION

19 BY MR. UPSHAW:

10:12:04 20 Q. Miss Currie, where do you live?

21 A. 7119 East Spring Tree Lane, Grand Rapids, Michigan,
22 49548.

23 Q. And who do you reside with there?

24 A. Ronald Coleman, Gary Pearson and Kiana Grant Coleman.

10:12:20 25 Q. You live there with my client, Ronald Coleman, Jr.?

1 A. Yes.

2 Q. Is that a condominium complex?

3 A. Yes.

4 Q. How long have you lived there?

10:12:28 5 A. Since November 2015.

6 Q. And for a condominium-- Well, you live there
7 permanently, correct?

8 A. Yes.

9 Q. And are you or Mr. Coleman responsible for paying an
10 association fee for living in that complex?

11 A. Yes, we pay a hundred dollars and eighty dollars, I
12 believe, \$180 we pay for the association fee.

13 Q. Okay. And what is the association fee for? Why do you
14 pay money for an association fee?

10:13:00 15 A. For landscaping, plowing, any snow removal, any upkeep
16 around the property.

17 Q. Upkeep around the property. Let me ask you about
18 your-- There is a street in front of your -- where your
19 residence is, there is a street in front of your residence,
20 right?

21 A. Yes.

22 Q. That street is Spring Tree Lane, right?

23 A. Yes.

24 Q. And is that street in the wintertime plowed by the city
25 or the county?

1 A. No, it's a private company that -- basically that's
2 what our association fees are for. That's what we pay the
3 association to remove any snow, grass, trees, anything
4 related to the premises.

10:13:43 5 Q. Does the city come in-- If you know, does the city or
6 county come inside that private-- I'm sorry. Is this a
7 private condominium complex?

8 A. Yes.

9 Q. And we will get back to that in a second.

10:14:01 10 Does the city or county or the government, to your
11 knowledge, come in and do any sort of upkeep for this
12 development?

13 A. No.

14 Q. You've given me a number of videos that we really won't
10:14:15 15 be able to play, but I want to hand you your computer.

16 A. Okay.

17 Q. Let me ask you this: Is there signage around the
18 property that reflects that is private property?

19 A. Yes. One of the videos I recorded is by the lake
10:14:35 20 that's in the back.

21 Q. Let me start you here. Is there, yes or no, then we
22 can explain stuff. Is there signage that reflects this is
23 private property?

24 A. Yes.

10:14:49 25 Q. Where is the signage located?

1 A. As soon as you come in, it's like you come inside,
2 which I also have a video of as well, it's the Silverleaf
3 sign, and then once behind the sign, you'll see it states
4 private property right there. So it's like right when you
10:15:05 5 come in. You don't have to drive that far, it's stated
6 right when you come in.

7 Q. Is there any other signage around the property that
8 indicates that it's private?

9 A. Yes. Also I have another video, if you would like to
10:15:19 10 see it, it's stating even, like I said, for the water that's
11 in the back around and surrounding it say "for residents
12 only" and also states "private property."

13 Q. Is this pond behind your house?

14 A. Yes.

10:15:31 15 Q. Okay. So there is a sign at the pond that says?

16 A. It's when you're coming in. It's the first sign that
17 says "private property" and then when you come in, again
18 before you even get to our place, because you got to drive
19 so far to get there, it states, "for residents only private
10:15:48 20 property" by the water, before you even get to the water,
21 it's stating private property.

22 Q. You said before you have to drive so long to get to
23 your place?

24 A. Yes.

10:15:57 25 Q. How far is your place from the gate?

1 A. It's like--

2 Q. Entrance?

3 A. It's very long, very very long.

4 Q. More than a mile?

10:16:03 5 A. Yes, probably.

6 Q. Now, you also-- Well, is there a parking lot across
7 the street from where you live?

8 A. Yes.

9 Q. Parking spaces or something like that?

10:16:17 10 A. Yes.

11 Q. Okay. Where are the parking spaces in relation to your
12 residence?

13 A. It's the driveway-- Like the driveway is right here,
14 and you can walk directly across from our place, which is--
10:16:35 15 it's like not connected, but it still that is connected,
16 like it's a street and then it's the parking lot.

17 Q. And you also made a twenty second video of you in the
18 parking lot showing how large it is?

19 A. Yes.

10:16:50 20 MR. UPSHAW: And if the Court would like to see
21 that, I can let the Court see that.

22 BY MR. UPSHAW:

23 Q. All right. Is that parking space for any member of the
24 public that wants to park there?

10:17:03 25 A. No, it's only for additional cars to the people, the

1 residents that live there or invited guests, any guests that
2 we allow over to park there. No one from the outside can
3 come in and park there.

4 Q. And if you knew that someone from the outside that
10:17:21 5 wasn't invited parked there, parked there, would you take
6 any action?

7 A. Yes, I would.

8 Q. Like for example?

9 A. Oh, I would either ask them to escort them out or ask
10:17:33 10 them if they have permission to get on the property. Any
11 time I've lived there and seen people that doesn't live
12 there, if I see anybody littering or kids, you know, messing
13 up anything, I would say something or ask them to be removed
14 or ask if they had permission to be in there.

10:17:48 15 Q. Is your understanding you have to have permission from
16 owners or be invited to park in that spot?

17 A. Yes.

18 Q. The parking spaces?

19 A. Yes.

10:17:57 20 MR. UPSHAW: No further questions.

21 THE COURT: Thank you, sir.

22 Mr. Reust.

23 MR. REUST: Thank you, your Honor.

24 CROSS EXAMINATION

10:18:03 25 BY MR. REUST:

1 Q. Good morning, Miss Currie.

2 A. Good morning.

3 Q. My name is Davin Reust. I'm the prosecutor in this
4 case. I'm just going to ask you a few questions. The first
10:18:29 5 question I have, you mentioned there was a sign at the
6 entrance of the condominium property as a whole, correct?

7 A. Yes.

8 Q. And you said it says "private property?"

9 A. Yes.

10:18:40 10 Q. Does it say anything about trespassing?

11 A. No, it do not say anything about trespassing.

12 Q. Does that sign say "no trespassing?"

13 A. No.

14 Q. Does that sign say "no outside visitors allowed?"

10:18:51 15 A. No. It says, "private property."

16 Q. Thank you.

17 A. "No dogs. No soliciting."

18 Q. You mentioned there was another sign that sounded like
19 it was near the lake or the pond, whatever you want to call
10:19:04 20 it?

21 A. Yes, actually before you get to it, as you're driving
22 to our place, it states right there "for residents only" and
23 the fishing area is for residents only.

24 Q. That sign is saying only residents in the lake area and
10:19:16 25 in the fishing area?

1 A. Yes.

2 Q. Is there any kind of a fence at the entrance of the
3 Silver Lake condominium complex?

4 A. No.

10:19:25 5 Q. Is there a gate?

6 A. No.

7 Q. Now, in your condo unit that you share with
8 Mr. Coleman, specifically, what is your address?

9 A. 7119.

10:19:40 10 Q. The building that 7119 resides in, it actually has four
11 separate condo units in it; is that correct?

12 A. Yes.

13 Q. What are the numbers for those?

14 A. I mean I'm not exactly sure, 7119, 7117. I'm not sure
15 the exact ones, because I only focus on my own.

16 Q. That's fair.

17 A. But it is connected.

18 Q. Okay. And are there three separate driveways total
19 that lead to those three different -- or to those four
20 different residential units?

21 A. Yes.

22 Q. So is the driveway for your unit, 7119, is that shared
23 with the driveway for another unit?

24 A. It's shared by the sidewalk. Like this is -- you go --
25 this is our side to go in the driveway, but our walk-in area

1 and everything is connected, so we can walk to her driveway
2 from our driveway, because that's connected to get to our
3 place.

4 Q. So in other words, there is a unit immediately next to
10:20:37 5 yours?

6 A. Yes.

7 Q. That driveway and your driveway are effectively one
8 driveway that lead to your two separate garages?

9 A. Yes, it's separate like the driveways and then the
10:20:49 10 sidewalks-- it's connected like this, then we both can go
11 into our place like this.

12 Q. Do you commonly walk by your neighbors' cars that are
13 maybe parked in the driveway there?

14 A. Yes.

10:21:03 15 Q. And you spoke about the parking spaces that are across
16 the street from your residence, from your unit, correct?

17 A. Yes.

18 Q. There is actually the street, Spring Tree Lane
19 separates your unit -- your condo unit from those parking
10:21:21 20 spaces; is that right?

21 A. Yes, from our driveway, it's a street. So yes, like
22 it's like the driveway, the street, and then, you know,
23 additional parking spaces for residents.

24 Q. Okay. Do you have individual garbage pick up in the
10:21:39 25 Spring Lake condominium complex?

1 A. Yes.

2 Q. And do you happen to know what company it is that
3 services or comes in and picks up the garbage?

4 A. No, I do not.

10:21:49 5 Q. Do you have shared mailboxes in the Spring Lake
6 condominium complex?

7 A. We don't have a shared, but we all can go to the same
8 unit to get our mail out, but it's individual boxes.

9 Q. Okay. So your-- the box for your unit, is that-- it's
10 in a container or whatever that holds mail for several
11 units?

12 A. Yes.

13 Q. Do you know approximately how many units share that
14 spot where you go to pick it up?

10:22:20 15 A. It's a lot, like everyone that from the-- everyone like
16 it's an I would say over probably over twenty, because it's
17 two of them, so on my side-- probably forty of them, so
18 everybody share that, and then they have one on the other
19 side for the units that closer to 68th Street.

10:22:36 20 Q. Okay. So there are two separate places where mail is
21 brought and picked up?

22 A. Yes.

23 Q. And those places are both inside of the condominium
24 complex; is that correct?

10:22:47 25 A. Yes.

1 Q. Now, if visitors to your neighbor's house are coming to
2 visit your neighbors, do they have to get your permission to
3 come into the condominium complex and go to your neighbor's
4 house?

10:23:06 5 A. You get permission from-- I'm speaking from my point of
6 view, if someone was to come over, they have to get
7 permission from us. Anyone that's coming to visit us or on
8 the grounds have to get permission, so they would have to
9 get permission from that person as well.

10:23:18 10 Q. When you have somebody coming to visit you at your
11 condo unit, you don't go ask all of your neighbors if that
12 person can come over; is that right?

13 A. No.

14 Q. That is correct?

10:23:28 15 A. No. That is correct.

16 Q. And then any visitor that you would have come in is
17 going to drive past several other condominium complexes on
18 their way to get to your unit, correct?

19 A. Yes.

10:23:38 20 Q. In your unit specifically, so we spoke about the
21 entrance to the whole condominium complex, but in your unit
22 specifically, is there any kind of a fence?

23 A. No.

24 Q. Is there any kind of a gate on your unit?

10:23:53 25 A. No, not on the property, no.

1 Q. I know you have a tree in the front yard, but is there
2 any kind of a hedge row?

3 A. I don't know what that is.

4 Q. Like short bushes that line all the way around your
10:24:05 5 property?

6 A. No, it's the tree that is in the center.

7 Q. It's that one tree that's in the center of the front
8 yard, is that the only large vegetation in your yard?

9 A. Yes.

10:24:20 10 MR. REUST: I believe those are all the questions I
11 have, your Honor. Thank you.

12 THE COURT: Thank you.

13 Mr. Upshaw, any redirect, sir.

14 MR. UPSHAW: No, your Honor.

10:24:25 15 THE COURT: All right. Thank you.

16 Miss Currie, you may step down, ma'am, with the
17 Court's thanks.

18 THE WITNESS: Uh-huh.

19 (At 10:23 a.m., witness excused.)

10:24:32 20 MR. UPSHAW: I have no further proofs.

21 THE COURT: Thank you, sir.

22 Mr. Reust.

23 MR. REUST: Your Honor, the government calls
24 Special Agent Andrew Holt of the ATF.

10:24:41 25 I would note initially that I've provided Special

1 Agent Holt, the Court, and Mr. Upshaw a copy of the
2 government's exhibits. I spoke with Mr. Upshaw, and my
3 understanding is he has no objection to any of the exhibits
4 contained in the book.

10:24:54 5 THE COURT: All right. Thank you.

6 And Mr. Upshaw, just for-- I haven't reviewed any
7 of the materials that were on Miss Currie's laptop, if that
8 is something not covered by the government's exhibits, I'll
9 be happy to look at it, if that's what you want me to do.

10:25:13 10 MR. UPSHAW: Thank you, your Honor.

11 THE COURT: Okay. Mr. Reust, go ahead, sir.

12 MR. UPSHAW: I'm sorry, I will say it is true that
13 I have no objections to the Government's Proposed Exhibits A
14 through K, I am still reviewing L through O.

10:25:29 15 THE COURT: Without objection, A through K are
16 received, and L through O, as in Oscar, are reserved for the
17 moment.

18 MR. REUST: Thank you, your Honor.

19 THE COURT: Thank you.

20 Agent, please be sworn, sir.

21 ANDREW HOLT,
22 was thereupon called as a witness herein, and after having
23 been first duly sworn to tell the truth, the whole truth and
24 nothing but the truth, was examined and testified as
25 follows:

1 COURT CLERK: State your full name and spell your
2 last name for the record, please.

3 THE WITNESS: It's Andrew Holt. Holt is spelled
4 H-o-l-t.

10:25:57 5 DIRECT EXAMINATION

6 BY MR. REUST:

7 Q. Good morning, Special Agent Holt.

8 A. Good morning.

9 Q. Where do you work and what do you do there?

10:26:08 10 A. I'm a special agent with the bureau of Alcohol,
11 Tobacco, Firearms and Explosives. I investigate federal
12 violations of firearms and narcotics laws.

13 Q. Have you been involved in the investigation of a
14 gentleman by the name of Eddie Powell, which also spilled
10:26:21 15 over to the defendant that we are here about today, Ronald
16 Coleman?

17 A. I am involved, yes.

18 Q. How did that case initially come to your attention?

19 A. I received information from a cooperating defendant
10:26:33 20 that stated that he or she could buy from-- cocaine from
21 Eddie Powell, and Eddie Powell had three separate narcotics
22 sources, to include Ronald Coleman.

23 Q. Did you personally conduct surveillance at Eddie
24 Powell's residence, 55 Lexington, on or about April 7th,
10:26:54 25 2017?

1 A. I did.

2 Q. Could you just briefly describe what you observed that
3 day?

4 A. I set up surveillance on the location. I observed a
10:27:02 5 lot of activity coming and going from the residence, which
6 based on my training and experience, was drug related
7 activity. At some point, I observed a Buick Enclave arrive
8 at the location, a black male exited the vehicle, enter and
9 the location, was in the location for approximately three
10:27:23 10 minutes, and then left.

11 Q. You may not have known the black male at that time, but
12 do you know who that was today?

13 A. Yes, it was Ronald Coleman.

14 Q. Thank you.

10:27:33 15 And you said that you had been conducting
16 surveillance at Mr. Powell's residence. Had you previously
17 conducted either surveillance or undercover purchase of
18 narcotics at that same address?

19 A. Yes.

20 Q. I want to skip ahead basically and talk to you about
21 Mr. Coleman and the tracking devices. Are you the person
22 that actually placed those on his vehicles?

23 A. I did.

24 Q. Where was Mr. Coleman's residence when you placed those
10:28:06 25 on?

1 A. 7119 East Spring Tree Lane.

2 Q. And what kind of residence is 7119 East Spring Tree
3 Lane?

4 A. It's a condominium complex.

10:28:16 5 Q. I believe you have a copy of the government's exhibits
6 in front of you. Could you please turn to Exhibit A. What
7 does this photograph depict?

8 A. This is a satellite view of the condominium complex.

9 Q. And is the marker that says 7119 East Spring Tree Lane
10 approximately where you believe Mr. Coleman's residence is
11 located?

12 A. Yes.

13 Q. If you look at Government's Exhibit B, what dose this
14 photo depict?

10:28:44 15 A. This is another satellite view, just kind of a
16 zoomed-in view of the unit.

17 Q. And so you -- have you personally been-- Well, clearly
18 personally you've been to Mr. Coleman's residence, correct?

19 A. Correct.

10:28:57 20 Q. And there is a dot describing where 7119 East Spring
21 Tree Lane is in this picture, but is that in the approximate
22 location you believe is Mr. Coleman's unit?

23 A. Mr. Coleman's unit would be the middle unit.

24 Q. Okay. And how many units total are there in this
10:29:21 25 building?

1 A. There's four.

2 Q. And so is -- Mr. Coleman is in this middle unit which
3 has a shared driveway for two condo units?

4 A. Correct.

10:29:32 5 Q. Thank you.

6 If you could please turn to Government's Exhibit C.
7 Could you just describe for the Court what this is?

8 A. This is a picture that I took from 68th Street, it's
9 the front entrance of the condominium complex.

10:29:47 10 Q. So this is the street that you would turn down to that
11 would eventually turn into Spring Tree Lane that would lead
12 to Mr. Coleman's unit?

13 A. Correct.

14 Q. Have you lived in west Michigan most of your life,
15 Agent Holt?

16 A. I have.

17 Q. Have you lived in the Grand Rapids area for a long
18 time?

19 A. Yes.

20 Q. And approaching this condo property or the condo
21 subdivision from the street, what did it appear to be to
22 you, or how does it appear in relationship to other
23 neighborhoods or other subdivisions you may have
24 encountered?

25 A. This is a typical residential neighborhood or

1 condominium complex.

2 Q. Is there any kind of a fence or a gate at the entrance?

3 A. There is not.

10:30:32 4 Q. Is there anything preventing anyone from the public

5 from driving into the condominium complex?

6 A. No.

7 Q. Does it appear that residents' guests would be able to
8 approach whatever unit they desired to go to without any
9 kind of obstruction?

10:30:42 10 A. Yes.

11 Q. Could you please turn to Government's Exhibit D. What
12 does this photograph depict?

10:30:58 13 A. This is right past that Silverleaf sign, it's a --
14 there is a speed limit sign and also a sign that says

15 "private property no soliciting" and "no dogs."

16 Q. Does that sign say anything about trespassing?

17 A. No.

18 Q. Does it say anything about needing permission to enter
19 the condominium unit?

10:31:09 20 A. No.

21 Q. Are there other-- Well, let me strike that and ask
22 this the easier way.

23 Could you turn to Government's Exhibit J, please?

24 A. J?

10:31:20 25 Q. Yes. What does this photograph depict?

1 A. This is a bike path between another residential
2 neighborhood and the condominium complex.

3 Q. Is that other residential neighborhood part of any kind
4 of condominium that you know of?

10:31:41 5 A. No.

6 Q. So the streets that are in that other residential
7 neighborhood are public streets?

8 A. Correct.

9 Q. Where does this -- Where is this photograph taken from,
10 Exhibit J? Is that from inside the condominium complex or
11 the streets outside?

12 A. This is from within the condominium complex.

13 Q. Okay. If you look at K, what is this photograph?

14 A. This would be depicting the other side. This is a
15 picture from the residential neighborhood into the
16 condominium complex.

17 Q. This sign is a little difficult to make out, but do you
18 know what it says?

19 A. It says, "Private property. No dogs allowed."

10:32:19 20 Q. Does the sign say anything about trespassing?

21 A. No.

22 Q. Does this sign say anything about needing permission to
23 enter the condominium property?

24 A. No.

10:32:28 25 Q. Could you please turn to Government's Exhibit H. What

1 does this photograph depict?

2 A. When I was taking these photographs, I just noticed
3 there was a garbage truck was in the neighborhood.

4 Q. Did it appear that the garbage truck went to each
10:32:49 5 individual unit and retrieved the garbage?

6 A. Yes, everyone-- It was garbage day and everyone had
7 their individual trash cans out.

8 Q. Could you turn to Government's Exhibit I. What does
9 this photograph depict?

10:33:03 10 A. This is the common mailboxes that all of the residents
11 go to get -- to receive their mail.

12 Q. And so you were here when Miss Currie just testified,
13 but it sounds like there may be two or more of these inside
14 of the condominium property?

10:33:18 15 A. Yes, I believe there is at least two of them, if not
16 more.

17 Q. And do you have an understanding or at least a belief
18 as to where the one is that services Mr. Coleman's
19 condominium unit?

10:33:38 20 A. I'm looking at Exhibit A. I believe it's right where
21 close to where that bike path is.

22 Q. And I know nobody else is going to be able to see this
23 yet, but we can pass it around after you do this. I'll give
24 you this. You have a red marker in your hand. Can you mark
10:33:53 25 and put a number one, draw a circle and put a number one

1 where you believe that mailbox is for Mr. Coleman's condo
2 unit.

3 Have you done that?

4 A. I did.

10:34:07 5 Q. Thank you.

6 MR. REUST: Your Honor, would you like to see it
7 now?

8 THE COURT: Sure.

9 MR. REUST: Could you hand that, please, to the
10 Court.

11 THE COURT: Just hold it up, Agent, that's fine.

12 Great. Thank you.

13 BY MR. REUST:

14 Q. Thank you, Agent.

10:34:25 15 Let me ask you a few questions specific to
16 Mr. Coleman's condo unit as opposed to the condominium
17 complex.

18 Could you turn to Government's Exhibit G. What
19 does this photograph depict?

20 A. This is the front of the condominium.

21 Q. And you said the front of the condominium, you mean the
22 front of Mr. Coleman's condominium unit 7119?

23 A. Correct.

24 Q. Where is this photograph taken from?

10:34:57 25 A. From the additional parking spot across the street.

1 Q. So there is Mr. Coleman's condominium unit, the street,
2 which is presumably Spring Tree Lane, and these additional
3 spots on the other side?

4 A. Yes. It's East Spring Tree Lane.

10:35:14 5 Q. Okay.

6 Does Mr. Coleman's condominium unit have a fence
7 around it?

8 A. It does not.

9 Q. Does it have a hedge row?

10:35:24 10 A. No.

11 Q. Do you see any vegetation other than a tree?

12 A. No.

13 Q. Is there anything blocking the view or the path from
14 the condo to the garage?

10:35:36 15 A. No.

16 Q. Approximately how long do you believe the driveway is
17 that leads to the garage?

18 A. You can fit one vehicle in the driveway.

19 Q. So it's-- if there's one vehicle in the driveway,
20 approximately how far is it from that vehicle to the street
21 at that point?

22 A. I would say three to five feet.

23 Q. Could you please turn to Government's Exhibit F, at
24 this point. What does that photograph depict?

10:36:13 25 A. This is a photograph from East Spring Tree Lane on the

1 right-hand side is the additional parking. On the left-hand
2 side is where the actual condominiums are, and there is
3 trash cans that are out.

4 Q. Were those additional parking spaces like the ones
10:36:35 5 depicted on the right, is there any sign that says they are
6 reserved for any specific condominium unit?

7 A. No.

8 Q. Can you please turn to Exhibit E. What does this
9 photograph depict?

10:36:49 10 A. Just a wider angle of the street and the additional
11 parking.

12 Q. So it looks like there's one additional parking space
13 that's closest to us in the picture and then beyond that it
14 appears that would be the other additional parking space
10:37:08 15 where the vehicle was parked that you were previously by in
16 the other photographs?

17 A. Correct.

18 Q. What vehicle is that, that was parked there in those
19 photograph, and you can see here in Government's Exhibit E?

20 A. That's Ronald Coleman's Chevy Trailblazer.

21 Q. Is that where it's depicted at in these photographs, is
22 that approximately where that Trailblazer was located when
23 you attached the tracking device to it?

24 A. Yes, it was.

25 Q. If we look at Government's Exhibit E, can we see

1 approximately where you parked when you attached the
2 tracking device?

3 A. Where I'm taking this photograph is where I parked.

4 Q. Okay. So if we look back to Government's Exhibit B.

10:37:56 5 We haven't drawn on this one yet, have we?

6 A. We have not.

7 Q. Could you please mark approximately where you parked on
8 this photograph with that red marker and put a 1 by that.

9 And I'll go ahead and do these together because it will be a

10:38:12 10 little bit easier.

11 Could you mark approximately on that photograph
12 where you believe Mr. Coleman's Trailblazer was parked when
13 you attached the tracking device, and put a 2 by that. And
14 could you also mark where you believe the Enclave was parked
10:38:28 15 and put a 3 by that.

16 I know we have spoken about that, but where was the
17 Enclave parked?

18 A. It was parked in the driveway.

19 Q. Thank you.

10:38:38 20 Could you please hold that up so the Court can see
21 it and just identify where you placed the 1, 2 and 3?

22 A. This is where I parked.

23 THE COURT: All right. Thank you.

24 Mr. Upshaw, do you want to look at this?

10:38:57 25 MR. UPSHAW: No, your Honor.

1 THE COURT: Okay.

2 BY MR. REUST:

3 Q. So we've spoken about this, but you are the agent that
4 actually applied the tracking device -- devices to Mr.
10:39:10 5 Coleman's vehicle, correct?

6 A. I did.

7 Q. When -- Well, do you recall what day it was that the
8 tracking warrant was signed by the magistrate?

9 A. I don't recall when the tracking warrant was signed.

10 Q. If I were to represent to you that it was April 19,
11 2017, would you have any reason to disagree with me?

12 A. I would not.

13 Q. When you submitted the affidavit and the application
14 for the tracking warrant, did you know at that time where
10:39:41 15 Ronald Coleman lived?

16 A. I did not. I had about four different addresses for
17 him.

18 Q. Okay. What were those addresses?

19 A. There was 1380 Parkway Drive, which is in northeast
20 Grand Rapids. 318 Valley, NW, which is in Grand Rapids.
21 Both of the vehicles were registered to an address in
22 Saginaw. And then I did know about the 7119 East Spring
23 Tree Lane. I discovered that address, because I ran-- I had
24 a detective from Grand Rapids Police Department run both of
10:40:16 25 the license plate numbers, and earlier that year, Dana

1 Currie had been stopped in the Trailblazer, she told the
2 officer that she lived at that address.

3 Q. Did you have, at the time you submitted the tracking
4 warrant for approval by the magistrate, did you have a
10:40:36 5 belief as to which one was most likely Mr. Coleman's primary
6 residential address of the four that you had?

7 A. We believed it was the 1380 Parkway Drive.

8 Q. And why was that?

9 A. Through different public database searches we did.

10 10:40:52 Different law enforcement database searches we did.

11 Q. So what date and approximate time did you end up
12 installing the tracking devices on these vehicles?

13 A. April 20th, approximately 11:10 p.m.

14 Q. Is 7119 East Spring Tree Lane the first address that
10:41:06 15 you or agents went to to attempt to apply or attach the
16 tracking devices?

17 A. No. The first address, it was myself and Detective
18 Matt Kubiak. Detective Matt Kubiak was checking 1380
19 Parkway Drive, it's an apartment complex, he was searching
20 that apartment complex for the vehicles, and I was-- I drove
21 by 318 Valley Avenue, NW.

22 Q. When you went to where you eventually attached the
23 tracking devices, did you believe that as law enforcement
24 you were lawfully inside of the condominium complex?

25 10:41:43 A. Yes.

1 Q. What gave you that belief?

2 A. It's a normal residential neighborhood.

3 Q. Did it appear like anybody else could drive in there if
4 they wanted to?

10:41:52 5 A. Yes.

6 Q. I'm going to step back and ask you now a few questions
7 about some exhibits that I think have been reserved on, but
8 I'll ask you questions about them and then we can see if
9 defense is willing to agree to their admissibility.

10:42:08 10 At some point in your investigation, did you or
11 other agents with the ATF begin to investigate Mr. Coleman
12 for money laundering?

13 A. Yes.

14 Q. Did you receive assistance from someone else in regards
15 to that investigation?

16 A. I did.

17 Q. Who was that person?

18 A. Senior Forfeiture Investigator Dave Debauchee.

19 Q. Did he provide you-- Did Mr. Debauchee provide you
10:42:36 20 information that you ultimately included in the warrant for
21 -- the search warrant application for Mr. Coleman's
22 residence?

23 A. Yes.

24 Q. And let's just look at Government's Exhibit L. What is
10:42:57 25 this document?

1 A. These are Four Winds Casino records for Ronald Coleman.

2 Q. And did Agent Debauchee ultimately provide these to
3 you?

4 A. Yes.

10:43:12 5 Q. If we look to the last page of this Government's
6 Exhibit L, what-- Well, first of all, just clarify what you
7 just stated, that this is a player evaluation detail for
8 Mr. Coleman, correct?

9 A. Correct.

10:43:33 10 Q. Across the bottom we have grand total buy-ins for the
11 reporting period here, which is January of 2012 to April 26
12 of 2017; is that correct?

13 A. Correct.

14 Q. And it looks like Mr. Coleman at the Four Winds casino
10:43:49 15 had a cash buy-in of \$121,700 as reported at least by the
16 Four Winds records, correct?

17 A. Yes, this is what the records state.

18 Q. And he had a non-cash buy-in at \$44,000?

19 A. Correct.

10:44:02 20 Q. Thank you.

21 Could you turn to Government's Exhibit M with me.

22 M as in Mary. Is this a currency transaction report the
23 Four Winds Casino completed in reference to Mr. Coleman?

24 A. It is.

10:44:19 25 Q. And if we turn to, I believe it's the third page, they

1 are not numbered, and I apologize for that. If we turn to
2 the third page, this says this is a currency transaction
3 report completed on April 3rd, 2016, is that correct? At
4 the top.

10:44:38 5 A. On the fourth page.

6 Q. Sorry. My inability to count.

7 But it's April 3rd, 2016?

8 A. It is.

9 Q. And it states the total cash-out is \$10,700?

10:44:50 10 A. Correct.

11 Q. I'm just going to ask you now, in the continuation for
12 the residential search warrant affidavit, you included a
13 paragraph that contained information that was a summary of
14 information you received from Agent -- or from Mr.

10:45:05 15 Debauchee. Do you recall that?

16 A. I do.

17 Q. And were you attempting to relay what Mr. Debauchee
18 had told you?

19 A. Yes.

20 Q. So in that paragraph, if you stated that Mr. Coleman
21 had a cash buy-in for \$10,700, was that just a result of
22 miscommunication or misunderstanding on your part when it
23 came to including that in the search warrant affidavit?

24 A. Yes, now that I see these CTRs, it says cash-out.

25 Q. So in other words, those transactions that were

1 reflected in the paragraph were actually cash pay outs the
2 casino was making to Mr. Coleman?

3 A. Correct.

4 Q. But Government's Exhibit L, which was the cash buy-ins
10:45:44 5 and the other non-cash buy-ins, those numbers were still
6 correct as reported in that paragraph, correct?

7 A. Correct.

8 Q. If we look to Government's Exhibit N, is this another
9 currency transaction report for Mr. Coleman?

10:45:59 10 A. It is.

11 Q. And if we go to Page 3, is this one for March 26 of
12 2016?

13 A. It is.

14 Q. And is this one for \$11,600?

10:46:13 15 A. It is.

16 Q. And then in Government's Exhibit O, is this one more
17 currency transaction report for Mr. Coleman?

18 A. Yes, it is.

19 Q. And if we go to Page 3, is this one for August 31st of
10:46:29 20 2016?

21 A. August 31st, 2016, correct.

22 Q. For \$11,725?

23 A. Yes.

24 Q. I should have asked you about this as I went along, but
10:46:40 25 if we look back at Page 2, Mr. Coleman provided an address

1 of 1380 Parkway Drive, NE, Apartment 202; is that correct?

2 A. That is correct.

3 Q. That is the same address that you testified to earlier
4 that you believed was Mr. Coleman's primary residence when
10:46:59 5 you secured the tracking or secured the tracking warrant; is
6 that right?

7 A. Correct.

8 Q. Agent Holt, I believe those are all of my questions I
9 have for you. Thank you.

10:47:13 10 THE COURT: Thank you, Mr. Reust.

11 Mr. Upshaw, you may inquire.

12 MR. UPSHAW: Thank you.

13 CROSS EXAMINATION

14 BY MR. UPSHAW:

10:47:18 15 Q. Special Agent Holt, I'm going to start with the exhibit
16 book you have, okay, sir?

17 A. Okay.

18 Q. Proposed Exhibit O, if we could start there. Just to
19 make sure I'm reading this properly. That is \$11,725
10:47:35 20 cash-out, correct?

21 A. Correct.

22 Q. That means he was paid that money, correct? Cash-out?

23 A. Correct.

24 Q. Okay. That's not a buy-in to the casino, right?

10:47:45 25 A. Correct.

1 Q. And then in your affidavit, you said it was a buy-in
2 for \$11,725, correct?

3 A. Correct.

10:47:59 4 Q. If I could have you look at N. The number N, is that a

5 cash-out of \$11,600?

6 A. I'm sorry, my book fell apart here.

7 Q. Sorry, sir.

8 A. It is a cash-out?

9 Q. That's a cash-out, correct?

10:48:28 10 A. Correct.

11 Q. I'm not going to go through all of these, but just go
12 to the next one. I would like you to look at M as in Mary.

13 Once again, that is a cash-out, not a buy-in of \$10,700,
14 correct?

10:48:45 15 A. That is correct.

16 Q. Okay. So help me understand which specific currency
17 transaction report I should be looking at that actually says
18 cash buy-in in the booklet that you have?

19 A. The three that you just referred to are cash-outs.

20 10:49:16 Q. Yes. And those are specific currency transaction
21 reports, right?

22 A. Correct.

23 Q. And what I'm looking for is the currency transaction
24 report that specifically reflects the cash buy-ins that you
25 referred to in your affidavit?

1 A. They are not in here.

2 Q. Okay. All right. Who prepared the documents, Proposed
3 Exhibit L through O?

4 A. I don't know.

10:49:46 5 MR. UPSHAW: All right. I'm going to object to L
6 through O just based on foundation and authenticity just for
7 the record, unless the Court wants to resolve that now, but
8 I have an objection to proposed Exhibits L through O.

9 THE COURT: Mr. Reust.

10:50:04 10 MR. REUST: On the objection, your Honor. The
11 Rules of Evidence don't strictly apply at the suppression
12 hearing. These are casino records, they say that clearly on
13 their face and in the currency transaction reports are
14 clearly currency transaction reports as stated on their
10:50:19 15 face. And the Court can consider them at least in
16 determining the veracity or authenticity of the agent's
17 representations in the search warrant affidavit.

18 MR. UPSHAW: Lastly, I don't know where these
19 documents came from. The agent doesn't know exactly who
10:50:31 20 prepared them or where they came from, so that's my
21 objection.

22 MR. REUST: He testified that he received them from
23 Agent Debauchee who was helping him investigate the money
24 laundering.

10:50:42 25 THE COURT: Is there any dispute about L, in terms

1 of its source?

2 MR. UPSHAW: Yes.

3 THE COURT: So it's not a Four Winds record? There
4 is a bona fide dispute as to whether that's a Four Winds
10:51:00 5 record or not?

6 MR. UPSHAW: It says it's a Four Winds record, and
7 I don't have any specific information that that is correct
8 or who prepared that to say it's a Four Winds record.

9 THE COURT: All right. So you have reason to
10:51:14 10 believe that it's not a Four Winds record?

11 MR. UPSHAW: Unless I hear someone say they got it
12 from the Four Winds.

13 THE COURT: Okay.

14 Well, I think there has been sufficient foundation
10:51:26 15 for all of the exhibits. Objection is overruled.

16 MR. REUST: Thank you.

17 BY MR. UPSHAW:

18 Q. Sir, just not to belabor a lot of points.

19 All right. There's a sign that says "private
10:51:58 20 property" when you enter the condominium complex, correct?

21 A. Correct.

22 Q. And you said that it says "private property," but it
23 doesn't say "no trespassing," right?

24 A. Correct.

10:52:09 25 Q. Okay. And to you, that is a distinction; is that

1 correct?

2 A. Correct.

3 Q. So does private property mean that's a place that's not
4 open to the public?

10:52:24 5 A. Can you say that again?

6 Q. Does private property mean that a location is not open
7 to the public?

8 A. No, it's open to the public.

9 Q. When something says "private property," people are just
10 allowed to walk through it?

11 A. Yes. When you drive thru the condominium complex,
12 there is people walking all over.

13 Q. I'm asking you specifically about what private property
14 means to you. So when you see someone that says private
15 property, that means that people are allowed to encroach
16 upon that; is that correct?

17 A. Yes, this is residential neighborhood.

18 Q. Okay. And there are not only one private property
19 signs, but there are at least two or three private property
20 signs, correct?

21 A. There is.

22 Q. Let me ask you about -- you mentioned April the 7th.
23 Do you remember that, you said you had a house under
24 surveillance?

10:53:19 25 A. Yes.

1 Q. On April 7th, you didn't know who Mr. Coleman was that
2 day?

3 A. I did not.

4 Q. You saw a Buick Enclave arrive at a residence that was
10:53:30 5 Mr. Powell's?

6 A. Correct.

7 Q. You applied for a tracking device based on your
8 observations on April 7 that related to the Buick Enclave?

9 A. That was part of the information that I had when I
10:53:41 10 applied for the application.

11 Q. When you applied for the application for your search
12 warrant, that related to April 7, did you state in your
13 affidavit, you can look if you need to, that Mr. Powell was
14 inside of the residence?

10:53:52 15 A. Yes.

16 Q. And where is that located in your affidavit?

17 A. I don't believe it specifically says he was inside the
18 residence. I think it says that Mr. Coleman went inside
19 Eddie Powell's residence.

20 Q. And you can look at it, if you want, but you agree that
21 your affidavit for April the 7th, the Buick Enclave, you did
22 not even state that Powell was inside of the residence?

23 A. Yes, I wouldn't have known if he was. We didn't have
24 like cameras inside of his residence to see if he was
10:54:34 25 physically in there or not.

1 Q. Okay. And after Mr. Coleman, Jr., left the residence,
2 you said you saw people coming and going from that
3 residence, Mr. Powell's residence?

4 A. The time period that was set up for surveillance on the
10:54:49 5 location, there was people coming and going from the
6 residence.

7 Q. Were any of these people detained or questioned about
8 the reason or visiting the residence?

9 A. They were not.

10 Q. Was any narcotics taken from anyone at or near this
11 residence on April 7th?

12 A. No.

13 Q. Are there any lab results that relate to any dope or
14 drugs from April 7th?

15 10:55:11 A. We didn't stop anybody on April the 7th.

16 Q. You got a tracking warrant for the Buick Enclave,
17 correct?

18 A. Correct.

19 Q. Okay. And the tracking warrant for the Buick Enclave,
10:55:28 20 again, was based on seeing the Buick Enclave, no other car,
21 Buick Enclave at Powell's residence on April 7th?

22 A. That and additional information, yes.

23 Q. Okay. Like what that relates to the Buick Enclave?
24 What additional information?

25 10:55:41 A. Not specifically to the Buick Enclave, but involving

1 Ronald Coleman delivering cocaine.

2 Q. But you asked for one specifically for the Buick
3 Enclave, correct?

4 A. Correct.

10:55:51 5 Q. So is it true that you have to have a basis for
6 narcotic trafficking using a vehicle as a vessel for
7 narcotics?

8 MR. REUST: Objection, your Honor. That's a legal
9 question.

10:56:02 10 MR. UPSHAW: I'll try to rephrase it.

11 THE COURT: Okay. Go ahead.

12 BY MR. UPSHAW:

13 Q. So the other basis you are saying for getting a
14 tracking warrant for the Buick Enclave was based on stuff
10:56:11 15 unrelated to the Buick Enclave, is that fair?

16 A. Yes. On April 7th, I observed the Buick Enclave arrive
17 at Mr. Powell's residence. On April 11, we set up a
18 controlled buy where Ronald Coleman delivered cocaine in a
19 Chevy Trailblazer. Both of the vehicles are registered to
10:56:31 20 his father at the same address.

21 Q. Are there any other instances of traffic, driving that
22 relate to the Buick Enclave prior to your asking for the GPS
23 tracking warrant for the Buick Enclave?

24 A. No.

10:56:52 25 Q. And let me ask you about the tracking warrants.

1 MR. UPSHAW: If I may approach the witness.

2 THE COURT: Yes, sir.

3 BY MR. UPSHAW:

4 Q. I'm going to hand you-- it's just the signed warrant
10:57:10 5 that relates to the Buick Enclave. Do you see that, sir?

6 A. I do.

7 Q. Is there a section on the warrant where the judge can
8 sign the warrant that authorizes you to come onto the
9 property of the person that you're requesting the tracking
10:57:31 10 warrant for?

11 A. Yes.

12 Q. Okay. Did the judge sign check that authorizing you to
13 come onto the property?

14 A. No. We didn't know which address-- We didn't know
10:57:42 15 where--

16 Q. That's not my question. My question is: Did the judge
17 sign authorizing you to come onto the property of any
18 address?

19 A. No. There is no -- The reason why I answered that
10:57:54 20 way, there is no property-- there is no property described
21 above, so he didn't check it, no.

22 Q. But you said on direct, you thought Mr. Coleman's
23 address was where again?

24 A. We had four separate addresses, potential addresses;
10:58:11 25 1380 Parkway Drive, 318 Valley. There was addresses or an

1 address in Saginaw, and then there was the East 7119 Spring
2 Tree Lane. And these are addresses just doing public
3 database searches and law enforcement searches that I came
4 up with.

10:58:31 5 Q. Let me just jump on the Trailblazer since we are
6 talking about this.

7 The warrant for the Trailblazer -- the warrant
8 signed by the judge also does not authorize you coming onto
9 the property of Mr. Coleman to attach the GPS tracker for
10 the Trailblazer, correct?

11 A. Correct, that box is not checked.

12 Q. And when you applied, in your application, you did not
13 list any address for Mr. Coleman to enter onto, correct?

14 A. Yes. We had not established firmly where he was
15 residing.

16 Q. Yes, but you didn't list any of the three or four
17 addresses, did you?

18 A. Yeah, I didn't know.

19 Q. You had Mr. Coleman-- Well, did you participate in
20 the search of Mr. Coleman's home on May 31st?

21 A. I did not.

22 Q. Okay. Did you participate in the surveillance on May
23 10th that related to Mr. Coleman?

24 A. I did.

25 Q. And where were you?

1 A. I was at Eddie Powell's residence, 55 Lexington.

2 Q. You were at Powell's residence, not Coleman's
3 residence?

4 A. Correct.

10:59:53 5 Q. And did you see Mr. Coleman come to Powell's residence
6 on May 10th?

7 A. Yes, we did. I didn't specifically see him, but other
8 agents did.

9 Q. Do you believe there was an alleged drug transaction
11:00:11 10 that took place on May 10th, correct?

11 A. There was.

12 Q. All right. And what drugs, what amounts?

13 A. It was cocaine. I believe it was approximately a half
14 ounce.

11:00:26 15 Q. Okay. Do you have any, I guess I'll be specific-- are
16 there any lab results or any specific information that
17 relates to the amount of drugs on May 10th?

18 A. I prepared a report. I weighed and field tested the
19 cocaine myself.

11:00:46 20 Q. You field tested the cocaine from May 10th?

21 A. I did.

22 Q. Do you know if there is a laboratory report that
23 relates to that?

24 A. I submitted it to the lab. I don't recall if we got
11:00:57 25 the results back or not.

1 Q. You didn't see Mr. Coleman leave his home on May 10th,
2 but you were relayed that information by another agent?

3 A. Yes, Special Agent Jeremy Marshall was set up on the
4 location and observed Ronald Coleman coming out of the
11:01:21 5 residence, get into the Buick Enclave. I was monitoring the
6 tracker on the vehicle, and the vehicle went straight from
7 7119 East Spring Tree Lane to Eddie Powell's residence,
8 based on the tracker.

9 Q. Based on the tracker. So the vehicle didn't stop at
11:01:38 10 all?

11 A. Not according to the tracker, no.

12 Q. So there were no stop lights, there were no stop signs
13 from Mr. Coleman's door to Mr. Powell's door, that's what
14 you are saying, right?

11:01:50 15 A. That's not what I'm saying.

16 Q. You said the vehicle didn't stop at all, is that what
17 you said?

18 A. Well, I mean it's going to stop for lights unless he
19 ran the lights, I don't know.

11:01:58 20 Q. So the vehicle did stop?

21 A. It may have stopped at lights, unless he got all green
22 lights, I don't know.

23 Q. Do you know who Mr. Coleman could have interacted with
24 from leaving his house on May 10th to getting to
11:02:12 25 Mr. Powell's house on May 10th?

1 A. I don't know.

2 Q. And as you testified today, you are saying that the
3 vehicle must have stopped at least for -- at intersections,
4 correct?

11:02:24 5 A. I would imagine he would.

6 Q. And when Mr. Coleman made these intermittent stops, did
7 he interact with anyone?

8 A. I don't know.

9 Q. Is there any evidence of drug trafficking at 7119 East
11:02:39 10 Spring Tree Lane?

11 A. Yes.

12 Q. Did your informant tell you that he had evidence that
13 people had bought drugs from 7119 East Spring Tree Lane?

14 A. No.

11:02:52 15 Q. Did anyone tell you that they had brought drugs from
16 7119 East Spring Tree Lane?

17 A. No one told me that.

18 Q. Okay. Was Mr. Coleman ever seen leaving his residence
19 with drugs, narcotics, or a container that can carry drugs
11:03:10 20 or narcotics?

21 A. On May 10th.

22 Q. Tell me about that, because it's not in the affidavit.

23 A. On May 10, we set up a controlled buy from Eddie
24 Powell.

11:03:15 25 Q. Yes.

1 A. Our cooperating defendant went to Powell's residence.
2 We had a transmitter on the cooperating defendant. And
3 after the cooperating defendant arrived at Mr. Powell's
4 residence, we observed Ronald Coleman leave 7119 East Spring
11:03:38 5 Tree Lane in the Buick Enclave.

6 Q. Now, I'll stop you right there.

7 Did the agent-- the special agent that told you
8 Mr. Coleman was leaving his house, did that agent say Mr.
9 Coleman was carrying anything?

11:03:48 10 A. No.

11 Q. And that is not in the application for a search warrant
12 for his home, correct?

13 A. It is not.

14 Q. Okay. So Mr. Coleman was not carrying objects as he
11:04:00 15 left his home?

16 A. Not observed by Special Agent Marshall, no.

17 Q. Okay.

18 MR. UPSHAW: Just one second, your Honor.

19 (Pause in proceedings.)

11:04:38 20 MR. UPSHAW: I'll pass the witness for right now.

21 THE COURT: Thank you, sir.

22 Mr. Reust.

23 MR. REUST: Very brief follow-up, your Honor.

24 REDIRECT EXAMINATION

11:04:45 25 BY MR. REUST:

1 Q. Agent Holt, could you please turn to Exhibit L in that
2 book. I know your book is falling apart. But you were
3 asked about cash buy-ins and any records that reflected
4 that. If you look to the last page of Government's Exhibit
11:05:07 5 L, across the top of that page. Does it say cash buy-ins?

6 A. Correct.

7 Q. And immediately below it, it says \$121,700?

8 A. It does.

9 Q. Does it say non-cash buy-in next to the cash buy-in at
11:05:24 10 the top of the page?

11 A. It does.

12 Q. And it says \$44,000?

13 A. Correct.

14 Q. Thank you.

11:05:29 15 You were asked questions about what you had seen
16 with regards to the Trailblazer specifically, but I want to
17 ask you a little bit broader question.

18 Through your investigation, did you come to the
19 conclusion that Eddie Powell was using 55 Lexington as a
11:05:47 20 location to deal and distribute narcotics?

21 A. Yes.

22 Q. And had the confidential informant, in fact, actually
23 told you that's what Mr. Powell used that residence for?

24 A. Yes. He referred to it as his trap location.

11:06:00 25 Q. What did you take trap location to mean?

1 A. It's a slang for a drug dealing location.

2 Q. And you ultimately applied for the warrant or received
3 the warrant from the magistrate judge on April 19th, 2017,
4 or at least you accepted my representation that was the day,
11:06:18 5 correct?

6 A. Correct.

7 Q. Had you conducted several undercover buys with this
8 cooperating-- confidential informant at the location of 55
9 Lexington prior to receiving the tracking warrants?

11:06:30 10 A. Yes.

11 Q. Did you, in fact -- I'm going to give you the dates, I
12 believe they are correct -- had you conducted one on March
13 29th, 2017; one on April 5th, 2017; one on April 11th, 2017,
14 and one on April 13th, 2017?

11:06:48 15 A. Correct.

16 Q. And that was all before then you applied for the
17 warrant and that was included in the affidavit in support of
18 the tracking warrant?

19 A. Yes.

11:06:54 20 Q. Also included was your observations that on April 7th
21 you saw an individual that matched Mr. Coleman's description
22 arrive in a vehicle that was registered to Mr. Coleman's
23 father go into the residence and come out of the residence
24 in a way that you believe was indicative of drug
11:07:11 25 trafficking?

1 A. Correct.

2 Q. At the time that you -- I'm going to step forward in
3 time now. At the time that you saw the residential search
4 warrant for Mr. Coleman's residence, did you consider Mr.
11:07:26 5 Coleman to be a drug dealer or a known drug dealer at that
6 point?

7 A. Yes.

8 Q. What would you have based that conclusion on?

9 A. Based on what the cooperating defendant told me, as
11:07:38 10 well as the controlled buys.

11 Q. Would you have also based that at least partially on
12 Mr. Coleman's criminal history when you queried it and
13 included it in your affidavit for the search warrant?

14 A. Yes. Mr. Coleman has two prior deliveries.

11:07:54 15 MR. REUST: Okay. Thank you very much, Agent Holt.
16 Those are all of the questions I have.

17 THE COURT: Mr. Upshaw.

18 MR. UPSHAW: No follow-up, your Honor.

19 THE COURT: All right. Thank you.

11:08:05 20 Agent, you may step down, sir, with the Court's
21 thanks.

22 THE WITNESS: Thank you.

23 (At 11:00 a.m., witness excused.)

24 THE COURT: Any further proofs, Mr. Reust?

11:08:11 25 MR. REUST: No, your Honor. Thank you.

1 THE COURT: Any rebuttal, Mr. Upshaw?

2 MR. UPSHAW: I don't think-- Just one second.

3 (Pause in proceedings.)

4 MR. UPSHAW: No, your Honor.

11:08:32 5 THE COURT: All right. Thank you.

6 The proofs are closed. Mr. Upshaw, I'll take
7 argument, sir. Go ahead.

8 MR. UPSHAW: Thank you.

9 Let me just start with the GPS tracking warrants.

11:08:45 10 I laid it all out in my brief, in my reply, so I'm not going
11 to say every single thing, but I will say this, that in the
12 application for search warrant, GPS tracking device, there's
13 a section for the applicant, in this case Special Agent
14 Holt, where they can ask for permission to encroach upon
15 property, which he did. And they can also-- because it
16 actually says this or that, and then they can ask for
17 permission in the application to encroach upon property,
18 residential property, which there was no mention of that in
19 the application. They didn't ask to go onto a person's
11:09:17 20 property.

21 When Magistrate Judge Kent, and I think the other
22 magistrate judge, Mr. Green, signed the order, the judge
23 authorized them to apply the GPS tracking warrants to two
24 specific vehicles, and the judge specifically did not ask
11:09:35 25 the-- did not authorize that the warrants that the agents

1 are able to come onto property. It specifically is allowed,
2 it can be stated and it wasn't stated. What that means is
3 that the agents have to apply the warrant at some public
4 place. The warrant has to be parked on the public street.

11:09:53 5 I'm sorry, the car has to be parked on a public street it's
6 applied there. It has to be parked in front of somebody's
7 residence that is not private property. So I guess I'll
8 say, you know, for example if a person lives in a large
9 farmhouse and there is a private property sign at the
`

11:10:14 10 entrance of the drive to the farmhouse where there's a mile
11 from the farm gate to the door, agents can't go past that
12 private property sign and walk onto a person's farm and
13 attach a GPS tracker to a person's car. That is the analogy
14 I'm making here. This is residentially developed property,

11:10:33 15 but they went past a private property sign, and they
16 walked-- drove more than a mile on private property land
17 where there are multiple signs that say "private property,"
18 and just common sense private property means no trespassing.

19 THE COURT: What was the reasonable expectation of
20 privacy here?

21 MR. UPSHAW: Well, the reasonable expectation of
22 privacy is through his condo fees. He pays money to have a
23 reasonable expectation that the premises is limited to
24 guests or invitees.

11:11:12 25 So I'm not going to say everything I said in my

1 reply, but I think that the warrant on its face for the
2 Buick Enclave is insufficient. There is not probable cause
3 to support-- factually to support the warrant for the Buick
4 Enclave. And the Buick Enclave was tracked from
11:11:33 5 Mr. Coleman's house on May 10th, from Mr. Coleman's house to
6 Mr. Powell's house. If you take out that information, I
7 don't think there is a basis to go into Mr. Coleman's home
8 on May 31st. Never any buys at his home, never any sales at
9 his home, drug deals at his home. No one ever sees him
11:11:50 10 leave his house with any sort of narcotics. So I think that
11 the residential search warrant for Mr. Coleman's house is
12 also invalid.

13 So I would just rely on my filings with the Court,
14 and I'll leave the argument there. If the Court has any
11:11:59 15 questions, I'll take questions.

16 THE COURT: All right. Go ahead. I don't have any
17 questions at the moment. Thank you, Mr. Upshaw.

18 Go ahead, Mr. Reust.

19 MR. REUST: Thank you, your Honor.

11:12:15 20 The defense is effectively asking that when agents
21 don't know where a car is going to be on a given day, that a
22 tracking warrant be invalid, because on the defense's
23 theory, the agents would have to have a warrant that states
24 what specific property a vehicle is on at the time that the
11:12:37 25 tracking device is attached. If the vehicle moves to a new

1 section of private property, the old warrant is invalid and
2 the police can't attach the warrant. As Mr. Upshaw stated,
3 his theory taken to the extreme would be that without
4 checking that box, the government agents would have to wait
11:12:53 5 for the vehicle to be parked on a public street, not even in
6 somebody's driveway, before the tracking device could be
7 attached.

8 Your Honor, I submit to the Court that that's not
9 the purpose of that box on the warrant application and on
11:13:09 10 the warrant itself. The purpose of that is if the agents,
11 in fact, know that a vehicle is stored inside of the
12 curtilage, inside of an area where someone has reasonable
13 expectation of privacy, then they can check that box and ask
14 the magistrate to then go into an area where a person does
11:13:26 15 have a reasonable expectation of privacy to attach the
16 tracking device. Here, as you heard from Agent Holt, he
17 didn't know where Mr. Coleman actually lived amongst those
18 four addresses, so had he checked that box and entered four
19 random addresses, when he didn't know where the car would be
11:13:43 20 located, he would effectively be asking the Court for a
21 preemptory warrant to go encroach on the reasonable
22 expectation of privacy of the occupants of those four
23 residences whether or not they had any involvement with Mr.
24 Coleman's drug trafficking in this case.

11:14:02 25 So the question that your Honor put to Mr. Upshaw

1 and I think this all boils down to is the correct one; what
2 was the reasonable expectation of privacy that Mr. Coleman
3 had for the driveway where his Enclave was parked and the
4 parking spot across the street where his Trailblazer was
11:14:20 5 parked. And Sixth Circuit caselaw makes clear that he
6 didn't have a reasonable expectation of privacy in either of
7 those locations. Even an individual, when there's a shared
8 apartment complex, if it's unlocked, agents lawfully go in
9 there and conduct surveillance, and that comes to us from
11:14:36 10 the Dillard case, 438 F.3d 675. Mr. Coleman's condo
11 association, or the condominium complex is no different, and
12 in fact, in the government's view, less of an expectation of
13 privacy than an unlocked apartment complex. Because here,
14 as you heard Agent Holt say, people -- any visitor to any
11:14:55 15 other neighbor of Mr. Coleman's can come driving down the
16 driveway and see Mr. Coleman's Trailblazer and Enclave
17 parked where they were any day of the week. Miss Currie
18 didn't provide any information to the contrary for the
19 defendant. The question about where Mr. Coleman had a
11:15:11 20 reasonable expectation of privacy comes down to the Dunn
21 factors, and those four factors are; the proximity to the
22 home, whether the area is within an enclosure, the uses of
23 the area, and the steps taken to protect the area from
24 observation. And the only one of the two vehicles in this
11:15:26 25 instance, the Enclave that's parked in the driveway, that

1 even has an arguable claim that it meets even one of these
2 four factors still fails the test overwhelmingly, because if
3 you look at the proximity of the home, Mr. Coleman's
4 driveway effectively directly abutted the street, so anybody
11:15:47 5 that come by on the street would have passed Mr. Coleman's
6 vehicle. Agent Holt stated that people commonly walk their
7 dogs and are out walking around randomly in the condominium
8 complex.

9 THE COURT: They are not supposed to be walking
11:15:59 10 their dogs, because the sign says "no dogs."

11 MR. REUST: I believe that was other residents,
12 your Honor.

13 THE COURT: Okay.

14 MR. REUST: Whether the area is within an
11:16:06 15 enclosure. You heard Miss Currie and Agent Holt state there
16 was no enclosure around the driveway. The uses of area,
17 nobody has provided any information that Mr. Coleman used
18 the driveway for private family affairs and, in fact to the
19 contrary, Miss Currie stated that the neighbors used the
11:16:20 20 same driveway he used and that they commonly passed each
21 others vehicles that were parked there. And then the steps
22 taken to protect the area from observation. The only thing
23 in the front yard is a tree. It's nowhere near the driveway
24 as your Honor can see from the Government's exhibits.

11:16:39 25 As to the residential search warrant, your Honor,

1 for Mr. Coleman's residence, Agent Holt stated, and his
2 affidavit overwhelmingly supports that Mr. Coleman was a
3 known drug dealer by the time he submitted the affidavit in
4 support of the search warrant application. And at that
11:16:56 5 point, your Honor, the Sixth Circuit has held repeatedly
6 that if someone is a known drug dealer and have been
7 involved in recent drug transactions, there is a reasonable
8 inference that narcotics will be located in their residence.
9 That's the inference that Agent Holt and other agents in
11:17:11 10 this case reasonably relied upon when they sought the search
11 warrant, and that is the reasonable inference that the
12 magistrate judge relied on.

13 Finally, your Honor, if there is any doubt or any
14 question in your mind that there either was not probable
11:17:25 15 cause for either of these warrants or that the agents went
16 into the curtilage of Mr. Coleman's residence by entering
17 the driveway or the parking spot across the street, the
18 government would submit the Leon good faith exception would
19 still allow the agents to reasonably rely on the warrant,
11:17:42 20 clearly there's a dispute even between the parties here
21 about whether the warrants were valid or not on their face.
22 The government's position is clearly that they are. But if
23 they aren't weren't, your Honor, agents certainly reasonably
24 relied on the information they had and provided to the
11:17:56 25 magistrate.

1 Thank you.

2 THE COURT: What do you make, Mr. Reust, of the
3 confusion regarding the cash buy-in versus the cash-out CTRs
4 as it relates to the request for the warrant for the home?

11:18:15 5 MR. REUST: Your Honor, the government's position
6 would be that it was admittedly a miscommunication, Agent
7 Holt testified to that. But it makes no difference. The
8 inference that is being drawn in that paragraph, which I
9 believe is Paragraph 68 of the residential search warrant
11:18:28 10 application, is that Mr. Coleman has not paid taxes so he
11 has been reporting to the State of Michigan that he has no
12 job, and yet he is expending large sums of money. As
13 Government's Exhibit L showed, the total amount of buy-ins
14 at the casino that were reported in that paragraph were
11:18:43 15 correct. So he had been spending that amount of money to
16 get buy-in to the casino. That paragraph further stated
17 that he had recently purchased a very expensive Escalade,
18 and paid I believe \$74,000 or \$75,000 for it, that still
19 remains true, and he recently purchased the '79 or he
11:18:59 20 recently purchased an address on a land contract, so he used
21 some amount of financing to secure that, your Honor. So the
22 government's -- the ultimate conclusions that can be drawn
23 in respect to that paragraph are the same. Mr. Coleman had
24 no reported job for the years 2012 through 2016, and yet he
11:19:16 25 is expending large amounts of money and likely as Agent Holt

1 represents and Mr. Debauchee represent in that paragraph,
2 based on their training and experience individuals that are
3 trafficking narcotics often use casinos to launder money.
4 Those inferences are also correct. The only difference is
11:19:36 5 whether or not he was paid-out or paid-in the specific
6 dollar amounts. Those specific dollar amounts don't go to
7 the bottom line question of the total amount of cash buy-in
8 which was still correct as reported in that paragraph in
9 Government's Exhibit L.

11:19:48 10 THE COURT: All right. Thank you, sir.

11 Mr. Upshaw, go ahead, sir.

12 MR. UPSHAW: Thank you.

13 Very briefly, I just want to say U.S. vs. Frazier,
14 a Sixth Circuit case, which the Court is familiar with,
11:19:59 15 stated that the person's status as a drug dealer or alleged
16 drug dealer stand alone does not give rise that drugs will
17 be found in a person's house. So you can't base a search in
18 a person's, house based on a person's status as a drug
19 dealer. I also want to--

11:20:15 20 THE COURT: The key word there though is standing
21 alone, correct? The Frazier case was a situation where the
22 warrant was virtually bare of facts other than the fact that
23 the defendant had priors, correct?

24 MR. UPSHAW: Correct.

11:20:30 25 THE COURT: Go ahead, sir.

1 MR. UPSHAW: I also want to briefly distinguish
2 between -- I don't think you can look at a condominium
3 complex the same way you can look at an apartment building.
4 People in condominium communities like Mr. Coleman here,
11:20:45 5 they have an ownership interest in their place. They have
6 an ownership interest in their home. People or tenants in
7 apartments do not. They have a board of residents that are
8 organized to discuss matters on a regular basis in this
9 condominium community. Apartment complexes do not. He pays
11:21:02 10 an association fee specifically for the maintenance, the
11 lighting fixtures in his community. Tenants in apartments
12 do not. Mr. Coleman is responsible for a percentage of the
13 money he pays specifically for the road in front of his
14 house. Tenants of apartment buildings are not. So there is
11:21:22 15 a distinction between coming into an apartment building to
16 attach GPS warrants and coming into a private property
17 condominium development. Thank you.

18 THE COURT: Thank you, sir.

19 All right. The Court has had the benefit of the
11:21:35 20 defendant's motion, the briefs in support, the government's
21 answer, and their brief in support, as well as the testimony
22 that the Court has heard this morning.

23 Defendant challenges a number of search warrants
24 obtained by law enforcement officers from magistrate judges
11:21:58 25 of this court concerning a vehicle and locations that were

1 subject to search pursuant to the warrants. Of course, the
2 Fourth Amendment requires search warrants to be based on
3 probable cause. "Probable cause is a fluid concept turning
4 on the assessments of probabilities in particular factual
11:22:26 5 context not readily or even usefully reduced to a neat set
6 of legal rules." That's the Gates case at 462 U.S.

7 "Probable cause exists when the totality of the
8 circumstances indicates that there's a fair probability that
9 evidence of a crime will be found in a particular place."

11:22:43 10 That again is Gates. "A judicial officer's determination of
11 probable cause should be afforded great deference by a
12 reviewing court," which of course, this judge stands as a
13 reviewing court, concerning the decisions of Magistrate
14 Judge Green and Magistrate Judge Kent and issuing the
11:23:03 15 subject warrants in this case.

16 The Leon case at 468 U.S. 897 establishes the
17 deference that should be given to those judicial officers'
18 decisions regarding probable cause.

19 "The proper standard for review of the sufficiency
11:23:23 20 of the affidavit is whether the judicial officer had a
21 substantial basis for finding that the affidavit established
22 probable cause to believe that the evidence would be found
23 at the place cited." That's Leon citing Gates.

24 The Court would also cite the Greene case at 250
11:23:41 25 F.3d.

1 "A Court reviewing the sufficiency of the evidence
2 supporting probable cause is limited to the information
3 provided in the four squares of the affidavit." That is the
4 Frazier case, 423 F.3d 526. "The Court must review the
11:24:00 5 affidavit in a common sense rather than a hyper-technical
6 manner." That's Gates citing Ventresca, V-e-n-t-r-e-s-c-a,
7 380 U.S. 102 at Page 109, a 1965 United States Supreme Court
8 case, as well as the Greene case, G-r-e-e-n-e, 250 F.3d at
9 479.

11:24:24 10 "Reviewing courts must avoid scrutinizing the
11 supporting affidavit line-by-line, and the judicial
12 officer's decision should only be overturned if the
13 magistrate exercised his or her discretion arbitrarily."
14 That's the Allen case at 211 F.3d 970.

11:24:44 15 The first challenge by the defendant is the
16 establishment of the probable cause to believe that evidence
17 would be found in the defendant's Buick Enclave. The
18 recitation of the facts supporting that request concern
19 events that occurred on April 7 and April 11, 2016, where
11:25:12 20 agent on the 7th agents observed the defendant drive his
21 Buick to Powell's residence where he was inside for
22 approximately three minutes before exiting and driving away.
23 The affidavit also asserts that the officer observed a
24 number of people making short stops to the residence within
11:25:38 25 the next hour, and in the officer's opinion, based on his

experience as an investigator, indicated the sale of narcotics.

3 On April 11, the affidavit asserts that the agents
4 arranged for their informant to conduct another controlled
5 purchase of narcotics from Powell. Powell told the
6 informant that they would go through-- that he would go
7 through Coleman for the drugs. The defendant arrived a
8 short time later in the 2002 Trailblazer. Powell went out
9 to the vehicle and Powell returned he produced cocaine to
0 the informant.

11 In the Court's judgment, based on these two
12 instances, Judge Kent could logically conclude that Coleman
13 was engaged in drug trafficking and that he used both of his
14 vehicles to facilitate drug transactions.

11:26:35 15 Of course, the defendant asserts that the
16 installation of the vehicle trackers violated the
17 defendant's Fourth Amendment rights. This concerns the
18 circumstances of the placement of the trackers on the two
19 vehicles inside of the condo project, which was the subject
11:26:53 20 matter of the testimony here this morning from Miss Currie
21 and Agent Holt. Clearly based on the photographs that the
22 Court has seen, there are signs at the entry to the condo
23 project indicating that it is indeed private property, and
24 the Court has no question about that. The circumstances of
11:27:23 25 the East Spring Tree Lane road concerning that proximity--

1 the geographic proximity to the defendant's condominium or
2 the condominium where he was living apparently, as well as
3 the location of the additional parking spaces are in the
4 record pursuant to the photographs. It's the defendant's
11:27:48 5 burden to show that he had a reasonable expectation of
6 privacy in both of those locations where the trackers were
7 placed on the Trailblazer and placed on the Buick Enclave.
8 In the Court's judgment, he has not met that burden.

9 In the Court's judgment, the Jones case has no real
11:28:07 10 applicability to this case. It's obviously a location
11 tracker case, but in that case, the gravamen of the decision
12 by the circuit court was that the warrants had expired and
13 that in the Court's judgment was the reason for the ruling
14 in that particular case, and it didn't have anything to do
11:28:28 15 with the issue of, at least for purposes of evaluating this
16 case, whether the officers in that case exceeded the scope
17 of the warrant in placing the trackers at the locations they
18 did. That warrant was bad because the time period had
19 expired.

11:28:48 20 Coleman, in the Court's judgment, based on my
21 review of the evidence presented, as well as the briefs,
22 cannot show a reasonable expectation of privacy either in
23 the driveway, which was the location for one of the
24 vehicles, or certainly the additional parking spaces across
11:29:06 25 the Spring Tree Lane street.

1 The defendant asserts at least in part that this is
2 curtilage of his home as it relates to the driveway. The
3 definitive case in that regard is Jenkins at 124 F.3d 768 at
4 772, a 1997 circuit court case of the Sixth Circuit as well
5 as the four factors outlined in Dunn, which is 480 United
6 States Supreme Court. In the Court's judgment, none of the
7 factors support the -- any expectation of privacy in the
8 additional parking spaces across the street. While there is
9 some argument regarding the placement of the tracker while
10 the defendant was in the driveway-- while the vehicle was in
11 the driveway, in the Court's judgment, the other three
12 factors weigh heavily against the finding of a reasonable
13 expectation of privacy while that vehicle was parked in the
14 driveway. Precedent from this circuit is also unavailing to
15 the defendant's position. That is the Galavez decision at
16 645 F.3d 347 at 356, a 2011 Sixth Circuit case.

1 The next issue is the challenge to the search
2 warrant regarding the residence of the defendant. And once
3 again, in the Court's judgment, the defendant has not met
4 his burden of proof on this matter either. The defendant
11:31:30 5 cites the Brown case at 828 F.3d. There's a couple of
6 distinctions between the Brown case, which is a Sixth
7 Circuit case, and this case. First, there is no
8 surveillance of the defendant's home, and in that case,
9 there was no other evidence to link the defendant's home to
11:31:50 10 any sort of drug trade.

11 The government cites the Williams case at 544 F.3d,
12 as well as Sixth Circuit cases Miggins and Davidson, and the
13 Court finds those cases to be persuasive for the notion that
14 evidence of a crime whether it be drug dealing or money
11:32:11 15 laundering, could be found within the confines of the
16 residence.

17 The Court notes the reference in the affidavit, of
18 course, to the defendant's priors, and as the defendant
19 quite appropriately argues, that alone is not a factor that
11:32:29 20 is sufficient for the issuance of a warrant for the
21 defendant's home, but there is abundant evidence to support,
22 in the Court's judgment, based on the totality of the
23 circumstances and evaluating the affidavit in a common sense
24 way to support the search warrant for the home.

11:32:48 25 There is a passing argument regarding staleness.

1 The Spikes case sets forth the factors. Spikes is at 158
2 F.3d. The Court concludes that evaluating those factors
3 that a staleness argument is unavailing for the defendant.

11:33:20 4 Having found the warrants to be good, the Court
5 cannot find a basis pursuant to the fruit of the poisonous
6 tree document based on the record before me to suppress any
7 statements that might have been made by the defendant.

8 And finally, the Court would note pursuant to the
9 government's request for a ruling on good faith, pursuant to
11:33:42 10 the Leon case, even if the warrants are somehow defective,
11 the Court would, based on the totality of the circumstances
12 and evaluation of the Leon case, that the officers had good
13 faith to rely on the warrants. So for all of those reasons,
14 the motion to suppress is denied in it's totality.

11:34:05 15 Any further items for today, Mr. Reust?

16 MR. REUST: No, your Honor. Thank you.

17 THE COURT: Mr. Upshaw?

18 MR. UPSHAW: No, your Honor. Thank you.

19 THE COURT: All right. Thank you.

11:34:12 20 The next item, I think, on this case is the final
21 pretrial conference, which is--

22 COURT CLERK: September 18.

23 THE COURT: September 18th, okay. And we are set
24 for trial on the 25th or 26th. The 26th.

11:34:28 25 I do want to give everybody notice that you're

1 subject to being moved up one week, if this case is going to
2 be tried. Okay. The Court's got a very heavy criminal
3 docket for September and October, and I've got to use my
4 time wisely, and if all of those other cases go down, you
11:34:50 5 might be scheduled for the previous week.

6 Mr. Reust, you are going to tell me you've got a
7 conflict.

8 MR. REUST: I do, your Honor, but I'll deal with
9 that later.

11:35:00 10 THE COURT: Is that one of my colleagues' cases?

11 MR. REUST: No, your Honor, it's actually a
12 personal problem.

13 THE COURT: It's a personal problem.

14 MR. REUST: I wasn't going to raise it.

11:35:08 15 THE COURT: That would be my response, Mr. Reust.

16 MR. REUST: Well--

17 THE COURT: Unless it's prepaid travel tickets
18 somewhere.

19 MR. REUST: It actually is.

11:35:17 20 THE COURT: Okay.

21 MR. REUST: I have three plane tickets to San
22 Francisco.

23 THE COURT: Okay.

24 MR. REUST: But I was actually going to ask just
11:35:25 25 ask whether the week moving up would be both the final

1 pretrial conference and the trial date or--

2 THE COURT: I think we would have to do that.

3 MR. REUST: Okay.

4 THE COURT: If we get that far. Again, I'm in the
11:35:36 5 process of evaluating what is going to go and what is not
6 going to go. I think on the week this case is set, there is
7 four other -- at least four other cases, and I've got a
8 similar traffic jam in the week previous, so.

9 MR. REUST: Just for your Honor's benefit, I'll
11:35:52 10 also let you know we have been entering plea negotiations.

11 I think we will have some additional discussions following
12 this obviously, and we will let the Court know as soon as we
13 know.

14 THE COURT: That's fine. And I appreciate that
11:36:05 15 those discussions are hypothetical until the ruling on the
16 motion comes in.

17 If there is going to be a plea in this case, just
18 call Ms. Redmond and we can set it up. No need to go to the
19 magistrate judge, because they are jammed up too. Okay.

11:36:21 20 All right.

21 MR. REUST: Thank you, your Honor.

22 MR. UPSHAW: Thank you.

23 THE COURT: All right. That's all for today.

24 Thanks.

11:36:25 25 COURT CLERK: All rise, please.

1 Court is adjourned.

2 (At 11:36 a.m. proceedings concluded.)

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3 C E R T I F I C A T E
45 I, Kathleen S. Thomas, Official Court Reporter for the
6 United States District Court for the Western District of
7 Michigan, appointed pursuant to the provisions of Title 28,
8 United States Code, Section 753, do hereby certify that the
9 foregoing is a true and correct transcript of proceedings
10 had in the within-entitled and numbered cause on the date
11 hereinbefore set forth; and I do further certify that the
12 foregoing transcript has been prepared by me or under my
13 direction.

14

15

16 /s/
1718 Kathleen S. Thomas, CSR-1300, RPR
19 U.S. District Court Reporter
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