

# Appendix

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
NORTHERN DIVISION, AT KNOXVILLE, TENNESSEE

United States of America,	:
	:
Government,	:
	:
Vs.	:
	:3:15cr12
William Dale Wooden,	:
	:
Defendant,	:

Transcript of motion to suppress hearing before  
the Honorable C. Clifford Shirley on Tuesday,  
October 6, 2015.

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:

David Jennings  
Assistant U.S. Attorney

ON BEHALF OF THE DEFENDANT:

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October 6, 2015

1           COURTROOM DEPUTY: We are here for a motion to  
2 suppress in case 3:15cr12, United States of America  
3 versus William Dale Wooden.

4           Here on behalf of the government is David  
5 Jennings. Is the government ready to proceed?

6           MR. JENNINGS: Present and ready.

7           COURTROOM DEPUTY: Here on behalf of the  
8 defendant is Benjamin Sharp. Is the defendant present  
9 and ready to proceed?

10          MR. SHARP: Present and ready.

11          THE COURT: We're here for a motion to  
12 suppress. Mr. Jennings, how many witnesses?

13          MR. JENNINGS: Two, Your Honor.

14          THE COURT: Mr. Sharp?

15          MR. SHARP: I don't anticipate any. Subject to  
16 change, if the defendant changes his mind.

17          THE COURT: Call your first witness.

18          MR. JENNINGS: The United States calls Conway  
19 Mason.

20          MR. SHARP: Your Honor, the defense would  
21 request the rule.

22          THE COURT: Officer, I understand you may be  
23 called as a witness. I am going to need you to step  
24 outside and not be able to hear the testimony by  
25 Mr. Mason. Don't speak with anybody about the case,

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1 don't try to find out what was said. We want to hear  
2 what you know on your own. Okay?

3 OFFICER WILLIAMS: Yes, Your Honor.

4 THE COURT: When you come back in, we'll swear  
5 him in at that time. Thank you, sir.

6 CONWAY MASON

7 was first duly sworn and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. JENNINGS:

10 Q. Sir, if you would speak into that microphone,  
11 please. First state your name and spell it for the  
12 court reporter.

13 A. Conway Mason, C-o-n-w-a-y M-a-s-o-n.

14 Q. And by whom are you employed?

15 A. Monroe County Sheriff's Department.

16 Q. How long have you been so employed?

17 A. Since 2006.

18 Q. Before that did you have any other law enforcement  
19 experience?

20 A. Yes, I did.

21 Q. What was that?

22 A. Sweetwater Police Department.

23 Q. From what year to what year?

24 A. 1999 to 2006.

25 Q. Okay. The other gentleman that just left the

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1 courtroom, do you know him?

2 A. Yes, I do.

3 Q. Who is he?

4 A. Chris Williams.

5 Q. Is he another officer with the Monroe County  
6 Sheriff's Department?

7 A. Yes.

8 Q. I want to direct your attention to November 19,  
9 2014, a little short of a year ago. Do you remember  
10 that date?

11 A. Yes, I do.

12 Q. Were you on duty that day?

13 A. Yes.

14 Q. What kind of duties were you assigned to at that  
15 particular time, almost a year ago, with the Monroe  
16 County Sheriff's Department?

17 A. At that time I was the narcotics investigator with  
18 the Monroe County Sheriff's Department.

19 Q. What was Officer Williams' function at that time?  
20 What were his duties?

21 A. He was a deputy Sheriff.

22 Q. Patrolman?

23 A. Yes.

24 Q. On November 19, 2014, were you looking to arrest a  
25 particular fugitive?

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1 A. Yes.

2 Q. What was that person's name?

3 A. Ben Harrelson.

4 Q. Very generally, who is Ben Harrelson? Why were you  
5 looking for him?

6 A. I know Mr. Harrelson. I have known him for quite  
7 sometime. I had seen his vehicle at the residence that  
8 we had gone to to look for him within a few days.

9 Q. You had in the past before you went to this  
10 particular location, you had seen a vehicle associated  
11 with this Harrelson guy?

12 A. Yes.

13 Q. And you say you went back there to see if he might  
14 be there?

15 A. Yes.

16 Q. Because you knew he was wanted on an arrest warrant?

17 A. Yes.

18 Q. Okay. Did you take anyone else with you when you  
19 went to check on that place and see if he might be  
20 there?

21 A. Yes, I did.

22 Q. Who was that?

23 A. Deputy Williams, Chris Williams and Deputy Brian  
24 Milsaps.

25 Q. Okay. Now, you said at the time you were a

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1 narcotics officer. How were you dressed on this  
2 particular day or night?

3 A. I was in plain clothes.

4 Q. Was that your normal attire for your duties as a  
5 narcotics investigator?

6 A. Yes.

7 Q. And about what time of day or night was it that you  
8 went to this particular location to see if Mr. Harrelson  
9 was there?

10 A. It was approximately 1:00 a.m.

11 Q. Okay. Do you remember the address that you were  
12 going to?

13 A. I don't remember the address.

14 Q. If I showed you a document, do you think that would  
15 refresh your memory?

16 A. Yes.

17 Q. I have marked this as Government Exhibit 1 for  
18 identification. I am not going to actually offer it at  
19 this time. I am just refreshing his memory as to the  
20 address we are dealing with.

21 Do you see it now?

22 A. Yes.

23 Q. What is that address?

24 A. 644 Old Tellico Highway, Madisonville.

25 Q. Madisonville, Tennessee?



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1 A. Yes.

2 Q. Is that in Monroe County?

3 A. Yes.

4 Q. Is that in the Eastern District of Tennessee?

5 A. Yes.

6 Q. You go there, it is about 1:00 a.m. on the 19th.

7 You are going to look to see if this Mr. Harrelson guy  
8 is there, right?

9 A. Yes.

10 Q. What do you do?

11 A. I go up to the door and knock on the door.

12 Q. Let me stop you there. Before you knocked on the  
13 door, could you tell if there were lights on inside the  
14 dwelling?

15 A. Yes.

16 Q. What kind of dwelling was it?

17 A. Mobile home, single wide mobile home.

18 Q. Had you been to that residence before?

19 A. Yes.

20 Q. And for what reason?

21 A. We had conducted -- we call it a knock-and-talk when  
22 we go out to the house and it is just like it says,  
23 knock on the door and speak to the occupants and request  
24 permission to search for illegal narcotics.

25 Q. Had you done that at that particular trailer before?

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- 1 A. Yes.
- 2 Q. Did you know who lived there?
- 3 A. Yes.
- 4 Q. And what was that person's name?
- 5 A. Janet Harris and Mr. Wooden.
- 6 Q. And how did you know Janet Harris lived there?
- 7 A. She was there the time that I went before.
- 8 Q. Okay. Was the defendant there the time you went
- 9 before?
- 10 A. It seems that he was. I think he may have been in
- 11 the outside when I came.
- 12 Q. You are not sure?
- 13 A. No, I am not sure.
- 14 Q. In any event, you thought that Janet Harris might be
- 15 there and there might be someone, the defendant, there
- 16 living with her?
- 17 A. Yes.
- 18 Q. Why did you know about the defendant possibly living
- 19 there with Janet Harris?
- 20 A. I had had conversations with a Detective Doug
- 21 Brannon about Mr. Wooden living there being a felon and
- 22 he had conducted --
- 23 Q. Who being a felon?
- 24 A. Mr. Wooden --
- 25 Q. Okay.

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1 A. -- living at the residence.

2 Q. All right. What did you know about Ms. Harris  
3 besides the fact that she lived at that trailer?

4 A. I had dealt with Ms. Harris in the past. I know  
5 Ms. Harris kind of on a somewhat personal basis.

6 Q. In what way?

7 A. I had coached her grandson in football.

8 Q. Okay. You had known her for several years?

9 A. Yes.

10 Q. Okay. Did you know anything about her criminal  
11 history?

12 A. Yes.

13 Q. What was that?

14 A. She had had meth charges in the past.

15 Q. Was she a convicted felon?

16 A. Yes.

17 Q. All right. Tell the Court what happened when you  
18 walked -- was there a porch to this trailer?

19 A. Yes.

20 Q. Tell the Court what you were doing and what the  
21 other officers with you were doing at the time you  
22 knocked on the door.

23 A. I went up on the porch. Deputy Chris Williams took  
24 a position up in front of the mobile home just off the  
25 porch and Deputy Brian Milsaps had gone to the back of

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1 Q. Were you armed?

2 A. No.

3 Q. Did you realize that you were not armed, when you  
4 knocked on that door?

5 A. No.

6 Q. What's up with that?

7 A. Well, I had a bad habit, working narcotics sometimes  
8 you get a little lax in your day to day operation. I  
9 did not have a weapon on at that time.

10 Q. Had you left it in your car?

11 A. Yes.

12 Q. But you are not aware that you are not armed?

13 A. No.

14 Q. So you knock on the door. He opens the door. Tell  
15 the Court exactly what happened, exactly what was said  
16 by you and him or whoever else might have been in there.

17 A. Mr. Wooden came to the door, like I said. I asked  
18 if Janet was there.

19 Q. Did you identify yourself?

20 A. I don't know if I identified myself or not. That I  
21 need to speak to her. He said, "I'll go get her." I  
22 said, "Do you mind if I step in?"

23 Q. Why did you ask that?

24 A. If I could step --

25 Q. Why did you want to come in?

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1 the residence in case someone tried to run out the back  
2 of the residence.

3 Q. Okay. So you knocked on the door?

4 A. Yes.

5 Q. And do you remember what it looked like or how many  
6 doors there were. Was there a screen door, that sort of  
7 thing?

8 A. There was a screen door and just a regular mobile  
9 home door, aluminum door.

10 Q. What's the first thing you did, when you got on the  
11 porch?

12 A. Knocked on the door.

13 Q. Did you open the screen door or did you knock on the  
14 screen door?

15 A. I opened the screen door.

16 Q. And knocked on the actual door into the residence?

17 A. Yes.

18 Q. What, if anything, happened?

19 A. Mr. Wooden greeted me at the door. I asked if Janet  
20 was there, I need to speak with her.

21 Q. Let me stop you right there, Officer Mason. Did the  
22 defendant know you?

23 A. I don't know if he knew me or not.

24 Q. You were not in uniform?

25 A. No.

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- 1 A. It was kind of cold that night.
- 2 Q. All right. So go ahead. What happened then? He
- 3 said and you said what?
- 4 A. I said, "Do you mind if I step in?"
- 5 Q. What did he say?
- 6 A. He said, "yes." He could have said "I'll go get
- 7 her." I don't remember.
- 8 Q. Did you say, "Do you mind if I come in?"
- 9 A. Yes.
- 10 Q. And what were his exact words?
- 11 A. He said, "Yes." He said, "That's okay."
- 12 Q. "That's okay." Yes, I mind or yes, come on in?
- 13 A. Yes, come on in.
- 14 Q. Was there any exchange beyond that between you and
- 15 him --
- 16 A. No.
- 17 Q. -- at that time?
- 18 A. No.
- 19 Q. All right. Were any voices raised?
- 20 A. No.
- 21 Q. Did he give you any indication he did not want you
- 22 in that trailer?
- 23 A. No.
- 24 Q. You think he might have said, "I'll go get her"?
- 25 A. Yes.

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1 Q. Could you see Janet Harris at that time during that  
2 exchange of words?

3 A. No.

4 Q. Okay. Could you see anybody else?

5 A. No.

6 Q. Now, this single -- this is a single-wide trailer?

7 A. Yes.

8 Q. So could you, when that door is open and you have  
9 just stepped across the threshold, what room are you in?

10 A. The living room.

11 Q. Was there anything going on out of the ordinary at  
12 that time?

13 A. No.

14 Q. Did you watch the defendant leave your immediate  
15 presence and go somewhere else in the trailer?

16 A. Yes. Before he walked away he reached behind the  
17 door. I really didn't pay any attention to it. Then he  
18 walked away and he got to turn to go down the hallway  
19 and I saw a weapon in his hand.

20 Q. What kind of weapon?

21 A. It looked like it was an assault-type weapon. It  
22 turned out --

23 Q. Rifle or short gun?

24 A. Rifle.

25 Q. Rifle?

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- 1 A. Yes.
- 2 Q. Could you tell that as he was walking away from you?
- 3 A. Yes.
- 4 Q. How did you react to that?
- 5 A. Well, I told him to put the down gun down while we
- 6 were there.
- 7 Q. Okay. Did he do that?
- 8 A. He hesitated and then put it down.
- 9 Q. All right. Now, from the time you stepped into the
- 10 trailer and you had this exchange about going to get
- 11 Janet Harris, do you know what Officer Williams has
- 12 done?
- 13 A. No. He is behind me.
- 14 Q. Has he come into the trailer too is my question?
- 15 A. Yes, he has.
- 16 Q. He is in there too?
- 17 A. Yes.
- 18 Q. When you say, put it down, he doesn't immediately do
- 19 it, did anything happen right there?
- 20 A. Deputy Williams pulled his service weapon --
- 21 Q. Did he say anything?
- 22 A. -- and ordered him to but the weapon down.
- 23 Q. At that time did he put it down?
- 24 A. Yes.
- 25 Q. What happened then?



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1 A. I asked him, I said, "Aren't you a convicted felon?"  
2 because I had prior knowledge that he was a convicted  
3 felon and he said he was. Then we detained him.

4 Q. All right. Did you ultimately talk to Ms. Harris?

5 A. Yes.

6 Q. What was your inquiry of her about?

7 A. I told her what we were there for, looking for Ben.  
8 She gave us permission to look. Then we went through  
9 the residence looking. We encountered some other people  
10 in a bedroom.

11 Q. Describe this trailer for Judge Shirley. How big is  
12 it? How many rooms and how many people did you find as  
13 you were walking through the trailer during that first  
14 movement around the trailer after Ms. Harris said you  
15 could look around. What all did you see? Who did you  
16 encounter, etcetera?

17 A. I went down the hallway and there was a door that  
18 was kind of a little bit cracked. I saw some people in  
19 there. I opened up the door and there was some  
20 individuals on the bed sitting on the bed. We  
21 discovered there was some paraphernalia in plain view.

22 Q. What kind of paraphernalia?

23 A. I think aluminum foil and items like that.

24 Q. Why do you use the word "paraphernalia"?

25 A. The aluminum foil was used to smoke pills.

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1 Q. Drug paraphernalia?

2 A. Yes.

3 Q. Did you see any other firearms?

4 A. Yes.

5 Q. What did you see?

6 A. As I went down on the hallway to the end, I checked  
7 the bedroom for Mr. Harrelson. In the corner there was  
8 a .22 rifle that was standing up just inside the  
9 doorway.

10 Q. Now, I take it this Harrelson fellow was not there?

11 A. No.

12 Q. But as you walked through you encountered these  
13 other people, you see this other gun and this drug  
14 paraphernalia. Do you go back and talk to Ms. Harris  
15 again?

16 A. Yes.

17 Q. What happens when you talk to her again?

18 A. At that point I knew that she was a convicted felon.  
19 He is a convicted felon.

20 Q. He has told you that, right?

21 A. Yes. I asked permission to search the residence  
22 further. Plus, I had seen the drug paraphernalia. Ms.  
23 Harris gave me written consent to search the residence.

24 Q. Okay. Let's look again at Government Exhibit 1 for  
25 identification. All right. Do you recognize that

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1 document that you have already looked at once? What is  
2 it?

3 A. It is a consent to search for the Monroe County  
4 Sheriff's Department.

5 Q. All right. And how do you know, how do you  
6 recognize this piece of paper?

7 A. This is the consent that I had gotten Ms. Harris to  
8 sign on that night.

9 Q. How do you know that?

10 A. I recognize it by her signature and I recognize it  
11 by my signature underneath hers.

12 Q. Okay. So I take it that you filled this out?

13 A. Yes.

14 Q. Did you fill in these blanks with the pen and ink  
15 changes into the form?

16 A. Yes.

17 Q. And how did you go about asking Ms. Harris to read  
18 this and/or read -- how did you go through that and get  
19 her to sign that?

20 A. I would have read it to her --

21 Q. Okay.

22 A. -- made sure she understood it.

23 Q. How did that turn out?

24 A. She signed it and gave us permission.

25 MR. JENNINGS: Okay. Your Honor, at this time

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1 I would offer that into evidence as Government Exhibit 1  
2 and make it an exhibit, his testimony.

3 THE COURT: Any objection?

4 MR. SHARP: No objection.

5 THE COURT: It will come in as Exhibit 1.

6 (Exhibit No. G-1 was received in  
7 evidence.)

8 BY MR. JENNINGS:

9 Q. Without going into great detail, Officer Mason, did  
10 you search the trailer pursuant to that consent search  
11 and find drug evidence and stuff like that?

12 A. Yes.

13 Q. Okay. Did you determine that some of the people  
14 there were juveniles?

15 A. Yes.

16 Q. And I take it you would have dealt with them however  
17 you did?

18 A. Yes.

19 Q. Turning back to the defendant. Do you know after  
20 Officer Williams drew his gun and instructed him to put  
21 the gun down and he put the gun down was he restrained?

22 A. Yes.

23 Q. By who?

24 A. Deputy Williams.

25 Q. Okay. And do you know if he was searched, his

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1 person was searched?

2 A. Yes.

3 Q. By whom?

4 A. Deputy Williams.

5 Q. Did you see that?

6 A. I saw him remove a sidearm from the side of his  
7 holster. I think he had a holster on his side. I think  
8 the right side, if I remember correctly.

9 Q. Okay. We'll ask Officer Williams.

10 Did he have some ammunition on him?

11 A. Yes.

12 Q. I take it there would have been an inventory taken  
13 of anything seized that night to include the stuff that  
14 came off of him, where it came from, etcetera?

15 A. Yes.

16 Q. All right. At any time during your discussions with  
17 Ms. Harris about the search of the trailer and getting  
18 her to sign this consent form, during that time period  
19 was he present?

20 A. Yes.

21 Q. Did he ever voice any objection to a search of the  
22 that trailer?

23 A. No, I didn't hear him say much of anything after I  
24 asked him are you a convicted felon. I don't remember  
25 him saying anything after that.

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1 Q. Okay. At any time after Ms. Harris signed Exhibit 1  
2 did she say hey, stop, I don't want you searching here?

3 A. No.

4 Q. She just sat back and you all did your search and  
5 nothing was being said?

6 A. Yes, correct.

7 MR. JENNINGS: I don't believe I have any other  
8 questions, Your Honor.

9 THE COURT: All right. Mr. Sharp,  
10 cross-examination?

11 **CROSS EXAMINATION**

12 MR. JENNINGS: I think he is going to use some  
13 pictures which he shared with me, Your Honor. I have no  
14 objection to their use.

15 THE COURT: All right.

16 BY MR. SHARP:

17 Q. Deputy Mason, is that your current rank?

18 A. Corporal.

19 Q. Corporal Mason. Back on November of 2014 you said  
20 you were working in narcotics. Were you a detective at  
21 that point?

22 A. I think it was classified as an agent. You can call  
23 it either one you want. I think that the proper term  
24 would be agent.

25 Q. How long had you been assigned to that duty?

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1 A. I worked that from 2006 until 2010. I went to the  
2 detectives division for I think two years and came back  
3 in 2013 to narcotics.

4 Q. All right. Did you ever work narcotics when you  
5 were with the Sweetwater department?

6 A. I had a K-9 so I worked more street level narcotics  
7 at that time.

8 Q. I believe you said that you were looking for a Ben  
9 Harrelson that evening?

10 A. Yes.

11 Q. How did you arrive at the Harris residence that  
12 evening?

13 A. I would have been in an unmarked vehicle.

14 Q. All right. What about the other two deputies?

15 A. They would have been in marked units.

16 Q. Would there have been three units total at the  
17 residence?

18 A. Should have been. We had a guy come to transport.  
19 I think we had so many people we took that night that  
20 was the reason we had extra transport units. They  
21 should have brought their units.

22 Q. In working narcotics you often see individuals that  
23 have both guns and firearms, is that correct?

24 A. Yes.

25 Q. In fact, it's a dangerous assignment, would you

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1 agree?

2 A. Yes.

3 Q. Is that why you had the extra deputies with you?

4 A. Well, I am not in the best shape in the world. It  
5 seems that people want to run when they have warrants.

6 It is also better to have more than one when you go.

7 Q. All right. I believe you said you had one of the  
8 deputies stationed at the back of the trailer and one  
9 stationed at the front of the trailer and you were on  
10 the porch. I am going to show you a photo, Corporal  
11 Mason. You tell me if you can see that well enough.

12 A. I can.

13 Q. Can you point -- if you actually touch that screen,  
14 I believe it will make a mark. Can you show me where  
15 the other deputies would have been, when you were on the  
16 porch?

17 A. This picture here does not depict the way it was  
18 that night. That porch didn't have -- I don't think it  
19 had a cover on it. You came up from the other side. I  
20 can point about where they was at, if that is okay.

21 Q. I first should have asked you, what are we looking  
22 at here?

23 A. This would be the front of the mobile home that we  
24 went to that night to search for Mr. Harrelson, 644 Old  
25 Tellico Highway.



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1 Q. I have another photo. Let me show you this one.  
2 Maybe this will show us a little better where people  
3 were positioned. Does this one help at all?

4 A. Yes, that helps.

5 Q. Where would -- I believe the first deputy was Deputy  
6 Williams. Where would he have been positioned in that  
7 photo?

8 A. The best of my recollection, he would have been  
9 somewhere over in here.

10 Q. All right. So he would not have been on the porch  
11 with you? He would have been on the ground.

12 A. Correct.

13 MR. JENNINGS: May I suggest we label these and  
14 mark them so the record will be clear which picture he  
15 is talking about.

16 THE COURT: I would gather he would do that in  
17 time.

18 MR. SHARP: I was going to do that when I  
19 submitted them as exhibits.

20 THE COURT: I will let him go at his own pace  
21 at this point.

22 BY MR. SHARP:

23 Q. In this particular photo can you see where Deputy  
24 Milsaps would have been positioned?

25 A. I don't recall where he was at.

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1 Q. Could you see him from your position on the porch?

2 A. No, I would have had my back to where he may have  
3 been. If he was in the back of the mobile home, I would  
4 not have been able to see him. I have no idea where he  
5 was at.

6 MR. SHARP: Your Honor, I would like to offer  
7 this as Exhibit 2 at this point.

8 THE COURT: What do you want to do about the  
9 marking?

10 MR. SHARP: Your Honor, if I can mark that with  
11 an X on the photo, if that would be agreeable to the  
12 Court.

13 THE COURT: We don't have any objection?

14 MR. JENNINGS: I don't have any objection. If  
15 we can refer to the first one as Exhibit 1 so when the  
16 exhibits are reviewed with the transcript, the reader  
17 will know which one we are talking about.

18 THE COURT: He didn't move to admit the first  
19 one, but he did reference it. Let's have the first  
20 photo he said didn't look like it did at the time, that  
21 will be Exhibit 2 and this photo right here he has  
22 marked on will be Exhibit 3.

23 MR. SHARP: Just so I am marking it the right  
24 place, it looks like right about that flowerpot there.

25 MR. JENNINGS: No objection.

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1 THE COURT: As we are facing the front porch  
2 and front door it would be off to the right, but on the  
3 ground.

4 MR. SHARP: Correct. I think that is  
5 agreeable, yes.

6 THE COURT: All right. Thank you.  
7 (Exhibit Nos. D-2 3 were received in  
8 evidence.)

9 BY MR. SHARP:

10 Q. You said you were in street clothes. Is that  
11 correct?

12 A. Yes.

13 Q. All right. Did you have any indication on you at  
14 all that you were law enforcement?

15 A. Not that I recall.

16 Q. Wouldn't have had your badge on your belt or  
17 anything that you recall?

18 A. No.

19 Q. You say you didn't have your weapon on you?

20 A. No.

21 Q. Did you have a holster?

22 A. No.

23 Q. This was 1:00 a.m. in the morning?

24 A. Yes.

25 Q. And you were going to potentially arrest a fugitive?

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1 A. I don't know what -- I think the warrant may have  
2 been for theft. I think it was theft under five hundred  
3 or something like that. I think it was a misdemeanor  
4 warrant.

5 Q. It wasn't an arrest warrant?

6 A. Yes, it was.

7 THE COURT: What?

8 BY MR. SHARP:

9 Q. It was an arrest warrant?

10 A. Yes, it was an arrest warrant, Your Honor.

11 Q. You did not have your firearm on you?

12 A. No.

13 Q. Was your firearm in your vehicle?

14 A. Yes.

15 Q. Now, you testified on direct that Mr. Dale Wooden  
16 came to the door?

17 A. Yes.

18 Q. And did you recognize him, when you saw him?

19 A. I think -- I know I had seen him in the yard of the  
20 residence on occasion. Yes, I recognized him as the one  
21 that Detective Brannon had told me was Mr. Wooden.

22 Q. At no point did you indicate you were with law  
23 enforcement?

24 A. I don't know if I did or not. I can't remember.

25 Q. You asked to speak to Janet Harris?

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1 A. Yes.

2 Q. Where are you standing, when you are having this  
3 conversation with Mr. Wooden?

4 A. I would have been standing at the doorway.

5 Q. Let me show you another photograph. Can you  
6 identify this photo for us?

7 A. That appears to be the front door of the residence  
8 that we are talking about.

9 Q. The photo is actually a little clearer than it looks  
10 on the screen here. Looking at that, if that is the  
11 front door of the trailer, that is where you went?

12 A. Yes.

13 Q. When you are looking at this, the front door and the  
14 screen door, they open like a book?

15 A. Yes.

16 Q. Would you agree with that? All right. You have the  
17 screen door open, correct?

18 A. Yes.

19 Q. All right. And Mr. Wooden has the front door open?

20 A. Yes.

21 Q. Do you recall how far open the front door was?

22 A. No. Probably at a 90-degree.

23 Q. Okay, 90 degrees. Could you see his full frame?

24 A. Yes.

25 Q. Now, at that point you asked if you could come

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1 inside or you asked to see Ms. Harris?

2 A. I asked to speak to Janet.

3 Q. And Mr. Wooden told you that she was there?

4 A. Yes.

5 Q. And he told you, "I'll get her"?

6 A. He could have said, "I'll get her." I said, "Can I  
7 come inside?" He said, "yes."

8 Q. You are positive he told you, yes, you could come  
9 inside?

10 A. Yes. I would not have stepped in, unless he told  
11 me, yes.

12 Q. Would he have been able to see, if you know, would  
13 he have been able to see Deputy Williams from where he  
14 was?

15 A. I don't know if he could or not. The door -- if he  
16 looked around me he probably could, plus there was  
17 marked units in the drive, should have been marked units  
18 in the drive.

19 Q. Now, this is 1:00 a.m. so it's dark, correct?

20 A. Yes.

21 Q. Any street lights?

22 A. I don't think there are where this house is. If  
23 there is, it's quite a distance away.

24 Q. Were there any porch lights on or exterior lights at  
25 the trailer?

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1 A. I can't tell you if there was a porch light on or  
2 not.

3 Q. Do you recall specifically where the cars were  
4 parked --

5 A. No.

6 Q. -- in regard to the trailer?

7 A. No.

8 MR. SHARP: Your Honor, I would enter this as  
9 Exhibit 4.

10 THE COURT: All right. Being no objection.  
11 (Exhibit No. D-4 was received in  
12 evidence.)

13 BY MR. SHARP:

14 Q. I want to show you one more photo, Corporal Mason.  
15 This is again a picture of the front door, correct?

16 A. Correct.

17 Q. Does it look the same as it did in November of '14?

18 A. Yes.

19 Q. Now, this window here is covered, is that correct?

20 A. I don't remember if it's covered or not.

21 Q. Okay. Do you remember ever looking through that  
22 window, being able to see through it?

23 A. I would not have looked through the window.

24 MR. SHARP: Enter that as Exhibit 5, Your  
25 Honor.

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1 THE COURT: All right. There being no  
2 objection, Exhibit 5 will come in.

3 (Exhibit No. D-5 was received in  
4 evidence.)

5 BY MR. SHARP:

6 Q. Corporal Mason, you did a narrative of the incident,  
7 is that correct?

8 A. Yes.

9 Q. Is this a copy of that report?

10 A. Yes.

11 Q. In this particular report you mention that you asked  
12 Mr. Wooden to put that gun against the wall and that he  
13 did so, is that correct?

14 A. Yes.

15 Q. Where was he, when you first stepped into the living  
16 room?

17 A. He, like I said, he reached behind the door. I  
18 don't know what he was doing, if he was trying to pick  
19 something up or put something down. He turned and  
20 walked away. As he was walking away is when I stepped  
21 in after he said yeah, you can come on in. He got to  
22 the edge of the hallway and that's when I saw the  
23 weapon.

24 Q. How big a room are we talking about?

25 A. Probably a 14 by 10 or 12, something like that, a



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1 small mobile home.

2 Q. What would be the distance from the threshold of the  
3 front door to the hallway?

4 A. I would say probably 15, 16 feet, maybe that far.

5 Q. Mr. Wooden was already in the hallway by the time  
6 you entered?

7 A. No. He was walking away. I didn't actually see the  
8 weapon until he got at the edge of the hallway because  
9 either he had it in front of him and he turned just the  
10 right way and that's when I saw it.

11 Q. All right. You say Deputy Williams was behind you  
12 at that point?

13 A. Yes. He said if that's -- he should have been  
14 behind me.

15 Q. Did Deputy Williams know you were entering the home?

16 A. I am assuming when he saw me step in, he knew I was  
17 entering the home.

18 Q. He would have been on the ground level and would  
19 have come around to the front porch and in the front  
20 door?

21 A. Probably when I made contact with someone at the  
22 door he would have stepped up or began to step up.

23 Q. Do you remember at any time were you and Deputy  
24 Williams on the porch together before entering the home?

25 A. Like I said, he would have been behind me. I don't

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1 know.

2 Q. In this report you put that it was 644 Old Tellico  
3 Highway, is that correct?

4 A. Yes.

5 Q. Is that in fact the address that you went to?

6 A. From my understanding, that is the correct address.

7 Q. Okay. Did you ever know Ben Harrelson to live at  
8 that address or had you only seen his car there?

9 A. Just visit.

10 Q. And his vehicle was not there that night, correct?

11 A. No.

12 MR. SHARP: Your Honor, I would like to  
13 introduce the narrative as Exhibit 6.

14 THE COURT: Any objection?

15 MR. JENNINGS: I don't guess so.

16 THE COURT: All right. That will come in as  
17 Exhibit 6.

18 (Exhibit No. D-6 was received in  
19 evidence.)

20 BY MR. SHARP:

21 Q. Now, Mr. Wooden was arrested on state charges,  
22 correct?

23 A. Yes.

24 Q. And I think those were later dismissed?

25 A. Probably, because he was in federal custody. That's

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1 common practice with your district attorney's office.

2 Q. Okay. Do you remember the case actually being  
3 dismissed because there was no probable cause for  
4 arrest?

5 A. Yeah, that was the -- what was his name? Wayne  
6 Carter handled that case.

7 Q. Mr. Carter is the --

8 A. He is no longer.

9 MR. JENNINGS: Objection. This is not  
10 relevant.

11 MR. SHARP: I am asking if he remembers the  
12 state case and the relevance actually goes to the  
13 affidavit in the state case.

14 THE COURT: I will let him ask.

15 BY MR. SHARP:

16 Q. You do remember that case being disposed of?

17 A. I do now that you reminded me.

18 Q. Did you fill out an affidavit of complaint in that  
19 particular case?

20 A. Yes.

21 Q. And on this -- do you recognize this document?

22 A. Yes.

23 Q. On this particular one it says 644 Old Tellico  
24 Street instead of highway?

25 A. Correct.

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1 Q. Do you notice that?

2 A. Yes.

3 Q. Is there a 644 Tellico Street?

4 A. It's kind of confusing because they put a new road  
5 in. There could be a 644 Tellico Street in Madisonville  
6 in the city limits. That could have been just a typo.

7 Q. Would there be any connection to that other address  
8 in reference to Ben Harrelson?

9 A. 644 Tellico Street? No.

10 Q. Not that you are aware of?

11 A. No.

12 MR. SHARP: Your Honor, I offer this as  
13 Exhibit 7.

14 MR. JENNINGS: I don't see the relevancy still.  
15 It's no big deal.

16 THE COURT: What is the point, just the  
17 different address?

18 MR. SHARP: It would be the different addresses  
19 and whether or not --

20 THE COURT: All right. We'll let that come in  
21 as Exhibit 7.

22 (Exhibit No. D-7 was received in  
23 evidence.)

24 MR. SHARP: Thank you, Your Honor. I don't  
25 have any further questions for the witness.

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1 THE COURT: All right.

2 MR. JENNINGS: Nothing further.

3 THE COURT: You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 Call your next witness.

6 MR. JENNINGS: Would you ask Officer Williams  
7 to come in, please.

8 **CHRISTOPHER WILLIAMS**

9 was first duly sworn and testified as follows:

10 **DIRECT EXAMINATION**

11 BY MR. JENNINGS:

12 Q. If would state your name and spell it for the court  
13 reporter.

14 A. Christopher Williams, C-h-r-i-s-t-o-p-h-e-r  
15 W-i-l-l-i-a-m-s.

16 Q. And by whom are you employed, sir?

17 A. Monroe County Sheriff's Office.

18 Q. How long have you been with the Monroe County  
19 Sheriff's Office?

20 A. Almost four years.

21 Q. I want to direct yours attention -- what are your  
22 duties with the Sheriff's Department?

23 A. I am a patrol deputy.

24 Q. Have you been pretty much since you joined the  
25 Sheriff's Department four years ago?

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1 A. Yes, sir.

2 Q. I want to direct your attention to November 19th,  
3 2014, a little less than a year ago. Were you on duty  
4 that night?

5 A. Yes, sir.

6 Q. Do you remember assisting Officer Conway, Corporal  
7 Conway Mason, in an event that he was participating in  
8 looking for a fugitive?

9 A. Yes, sir.

10 Q. Was that fugitive's name Harrelson?

11 A. Yes, sir.

12 Q. Do you remember a location at 644 Old Tellico  
13 Highway?

14 A. Yes, sir.

15 Q. And did you respond to that location in your patrol  
16 car?

17 A. Yes, sir.

18 Q. And were there other marked or uniformed officers  
19 involved in this operation as well?

20 A. Yes, sir.

21 Q. Who was that?

22 A. Deputy Brian Milsaps.

23 Q. Was he in the same cruiser as you or his own?

24 A. His own cruiser, sir.

25 Q. You would have arrived alone and he would have

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1 arrived alone in your cruisers?

2 A. Yes, sir.

3 Q. Officer Mason, I take it, was in an unmarked car?

4 A. Yes, sir.

5 Q. He was a narcotics officer at the time, is that  
6 correct?

7 A. Yes, sir.

8 Q. Were you in uniform?

9 A. Yes, sir, I was.

10 Q. Was Officer Milsaps in uniform?

11 A. Yes, sir, he was.

12 Q. How about Corporal Mason?

13 A. He was plain clothes.

14 Q. What was your understanding as to why you were  
15 there?

16 A. To look for a subject that had active warrants.

17 Q. Okay. What was your duties, what were your duties  
18 as you helped him look for this person?

19 A. Just to go to the residence, see if we could make  
20 contact, see if we could make contact with the subject  
21 and take him into custody.

22 Q. When you got there, did you get out of your car?

23 A. Yes, sir, I did.

24 Q. Did Officer Milsaps do the same?

25 A. Yes, sir, he did.

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1 Q. What position did you take? I take it that Corporal  
2 Mason was going to approach and knock on the door?

3 A. Yes, sir.

4 Q. Where were you going to take up a position?

5 A. I stood by the front porch of the residence.

6 Q. What about Officer Milsaps? Do you know where he  
7 went?

8 A. Not sure, sir.

9 Q. Was he in your vision?

10 A. I believe he went to the side of the residence.

11 Q. Okay. Was that in case somebody tried to go out  
12 another way?

13 A. Yes, sir, common practice.

14 Q. Were you kind of just there to, in support of  
15 Officer Mason as he knocked on this door?

16 A. Yes, sir.

17 Q. All right. We have introduced some pictures. I  
18 didn't take these. This was marked as Exhibit Number 3.  
19 Can you see that picture?

20 A. Yes, sir, I can.

21 Q. And Officer Mason indicated that you would have  
22 taken up a position right here where I am pointing  
23 toward this flowerpot. Does that sound right?

24 A. Yes, sir.

25 Q. Do you remember this porch looking that night like



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1 it looks in this picture?

2 A. From looking on here -- from looking at it earlier  
3 when I looked at it, it was covered. I don't remember  
4 the porch having any kind of covering on it that  
5 evening.

6 Q. In any event, you were standing here when Corporal  
7 Mason knocked on the door, is that correct?

8 A. Yes, sir.

9 Q. Tell the Court what you remember happening?

10 A. I remember Agent Mason speaking with a male subject  
11 at the front door.

12 Q. Could you see this male subject?

13 A. Yes, sir.

14 Q. Do you see him here in the courtroom here today?

15 A. Yes, sir.

16 Q. Okay. Is it the defendant?

17 A. Yes, sir.

18 Q. Go ahead.

19 A. They had a short conversation at which time Agent  
20 Mason went into the residence. I followed behind him.

21 Q. You were standing it looks like, would you agree,  
22 10, 12 feet away?

23 A. Yes, sir.

24 Q. Could you hear the conversation, the words being  
25 spoken between Corporal Mason and the defendant?

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1 A. No, sir.

2 Q. Why not?

3 A. It was just a low conversation.

4 Q. Low?

5 A. Yes, sir.

6 Q. Was it a short conversation or a long conversation?

7 A. Short conversation.

8 Q. And did you see with your own eyes Corporal Mason  
9 cross the threshold into the trailer?

10 A. Yes, sir, I did.

11 Q. As a result of him doing that, what did you do?

12 A. I followed him into the residence.

13 Q. At any time as you were going in the door of that  
14 residence did the defendant say anything about stop,  
15 don't come in here?

16 A. No, sir.

17 Q. Did you hear any raised voices during this short  
18 conversation between Corporal Mason and the defendant  
19 while you were standing down there on the ground next to  
20 that flowerpot?

21 A. No, sir.

22 Q. Okay. He walks in. Corporal Mason walks in the  
23 door. You follow him.

24 A. Yes, sir.

25 Q. Pretty close directly behind him?

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1 A. Yes, sir.

2 Q. Tell the Court what happened.

3 A. We walked into the residence. I heard Agent Mason  
4 tell him to put down the weapon at which time I looked  
5 over. I seen the defendant there with an AR-style  
6 weapon. He stopped and looked at Agent Mason at which  
7 time I drew my weapon and gave him verbal commands to  
8 put the weapon down.

9 Q. You gave the defendant a command to put the weapon  
10 down?

11 A. Yes, sir.

12 Q. Did he do so?

13 A. Yes, sir, he did.

14 Q. What did you do as a result of that event?

15 A. We detained him after that.

16 Q. All right. Did you stay with the defendant?

17 A. Yes, sir, I did.

18 Q. And did Deputy Mason go around the rest of the  
19 trailer?

20 A. Yes, sir.

21 Q. All right. Did you hear an exchange between  
22 Corporal Mason and the defendant after he put the gun  
23 down about whether the defendant was a convicted felon?

24 A. Yes, sir, I did.

25 Q. What did the defendant say, when he was asked about

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1 it?

2 A. He told him he was.

3 Q. All right. At that time did you have the defendant  
4 detained?

5 A. At that time is when, after that conversation is  
6 when I detained the defendant.

7 Q. When you say you detained him, how did you do that?

8 A. I handcuffed him.

9 Q. Okay. Did you just stay with him while Officer  
10 Mason went through the rest of the trailer?

11 A. Yes, sir. There was a chair in the living room  
12 where we were at. He sat down in the chair.

13 Q. He, being the defendant?

14 A. Yes, sir, the defendant did, yes, sir.

15 Q. Ultimately did you learn there were several people  
16 in that trailer besides the defendant?

17 A. Yes, sir.

18 Q. Was one of them Janet Harris?

19 A. That is how I was introduced by detective or Agent  
20 Mason. I didn't know anybody in that residence until  
21 that night.

22 Q. Did you learn that Janet Harris --

23 A. Yes, sir, I did.

24 Q. -- that was there lived in that trailer?

25 A. Yes, sir.

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1 Q. And did you see -- were you present when Corporal  
2 Mason asked Ms. Harris to sign a consent to search form?

3 A. I don't know if they that spoke about that in the  
4 living room or somewhere else. I don't remember being  
5 there for that conversation, no, sir.

6 Q. Very well. That is fine. At any point in time  
7 while you are there with the defendant detained after  
8 you made entry -- you have seen him pick up this AR-type  
9 weapon -- assault type weapon I take it?

10 A. Yes, sir.

11 Q. Rifle. Did you ever hear anyone protest your  
12 presence or a search -- protest the search of the  
13 trailer?

14 A. No, sir.

15 Q. Specifically, did the defendant or Ms. Harris ever  
16 object to the consent, object to the search of the  
17 trailer?

18 A. No, sir.

19 Q. Ultimately did you do a more complete search -- did  
20 you do a search of the defendant's person?

21 A. Yes, sir.

22 Q. Did you do that immediately upon cuffing him or did  
23 you wait?

24 A. No, sir.

25 Q. Why did you wait?

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1 A. We went, I stayed with him while Agent Mason went  
2 and checked the residence for Mr. Harrelson.

3 Q. You are still kind of operating as backup?

4 A. Yes, sir.

5 Q. And then you say -- when you searched his person did  
6 you find anything of significance on his person?

7 A. Yes, sir, I did. I found a loaded revolver in a  
8 holster on a belt he was wearing.

9 Q. How did you react to that?

10 A. A little surprised due to him being sitting there  
11 for a little bit and knowing he had the weapon.

12 Q. Thinking you should have searched him earlier?

13 A. Yes, sir. Yes, sir.

14 MR. JENNINGS: I believe that's all I have,  
15 Your Honor. I will leave the pictures up here in case  
16 Mr. Sharp wants to use them again.

17 THE COURT: Mr. Sharp.

18 **CROSS EXAMINATION**

19 BY MR. SHARP:

20 Q. Deputy Williams, you have no firsthand knowledge of  
21 whether or not Agent Mason had consent to enter that  
22 trailer, correct?

23 A. No, sir, I did not hear the conversation at the  
24 door.

25 Q. And you just went in just following Agent Mason?

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1 A. Yes, sir.

2 Q. At no point anyone told you you could enter the  
3 residence?

4 A. No, sir.

5 Q. From the time that you entered that residence to the  
6 time that you drew your weapon, that was pretty quick,  
7 correct?

8 A. Yes, sir.

9 Q. A matter of seconds?

10 A. Yes, sir.

11 Q. And Mr. Wooden was handcuffed almost immediately?

12 A. Yes, sir, after Detective -- Agent Mason spoke with  
13 him. I detained him after the conversation.

14 Q. And did you tell him to get on the ground?

15 A. No, sir. I just told him to put the weapon down.

16 Q. Did he comply with your instructions?

17 A. Yes, sir, he did.

18 Q. Did he comply with you, when you were putting the  
19 handcuffs on him?

20 A. Yes, sir, he did.

21 Q. When you saw Agent Mason that night, did he have any  
22 markings on him that would have indicated he was with  
23 law enforcement, anything about his personal dress?

24 A. Not specifics. I know he always wore a badge. I am  
25 assuming he had it that night. I can't testify that I

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1 seen it that night.

2 Q. This is 1:00 a.m. in the morning or approximately?

3 A. To the best of my knowledge, sir.

4 Q. Early morning?

5 A. Yes, sir.

6 Q. Early morning hours?

7 A. Yes, sir.

8 Q. Do you recall there being any exterior lights at  
9 that residence?

10 A. I don't remember, sir.

11 Q. And do you remember at any point that Deputy Milsaps  
12 came into the residence?

13 A. Yes, sir, he did come into the residence.

14 Q. How much later was that after you entered the  
15 residence did Deputy Milsaps come in the residence?

16 A. Maybe a minute or so. It wasn't too long. I  
17 believe it was once Agent Mason cleared the residence  
18 for the subject we were looking for. That is after he  
19 checked the residence Deputy Milsaps came inside.

20 Q. You said Mr. Wooden actually had that revolver. Was  
21 it a revolver?

22 A. Yes, sir, a revolver.

23 Q. He actually had that in a holster on his belt?

24 A. Yes, sir.

25 MR. SHARP: No further questions, Your Honor.



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1 THE COURT: Anything else?

2 MR. JENNINGS: No, Your Honor.

3 THE COURT: You may down step down. Thank you.  
4 Any other witnesses or proof on behalf of the  
5 government?

6 MR. JENNINGS: No, Your Honor.

7 THE COURT: Mr. Sharp, anything to proffer?

8 MR. SHARP: Your Honor, if I may have one brief  
9 second.

10 THE COURT: Sure.

11 MR. SHARP: Your Honor, if the Court would  
12 allow by proffer, Mr. Wooden would proffer that he  
13 advised Corporal Mason to hold on a minute and he would  
14 get Ms. Harris. That would be the extent of the  
15 response.

16 THE COURT: All right. I am not sure I have  
17 any evidentiary value to a proffer at a suppression  
18 hearing. I probably used the wrong term. I meant do  
19 you have anything to offer in the way of proof.

20 MR. SHARP: Nothing to offer in the way of  
21 proof.

22 THE COURT: You put in your pictures and your  
23 narrative. Any other exhibits?

24 MR. SHARP: No, no other exhibits.

25 THE COURT: Let me hear argument. We'll start

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1 with you.

2 MR. SHARP: We are dealing with a very limited  
3 issue here. That's whether or not Corporal Mason  
4 legally entered that home. Obviously, all warrantless  
5 searches are presumed to be unconstitutional, unless  
6 there is a valid exception, consent being one of those.

7 The question in this particular case is whether  
8 or not Corporal Mason's testimony lines up logically as  
9 to what would have happened that night last November  
10 when he came to the home and by his own testimony he had  
11 been in narcotics for several years. He acknowledged  
12 the danger of working in narcotics, the fact that there  
13 are often guns and drugs together. He had testified  
14 that Ms. Harris in fact had a previous methamphetamine  
15 conviction. She was a convicted felon. He had gone to  
16 her home at 1:00 a.m. in the morning looking for a  
17 fugitive. By his own testimony he didn't take this  
18 firearm with him, nor did he have any markings on his  
19 person to show that he was with law enforcement.

20 He did take two other deputies with him, but  
21 certainly didn't have them with him on the porch. It  
22 just seems to defy logic that someone who is at that  
23 level of experience and that amount of time working that  
24 particular duty of narcotics would have gone to the  
25 residence in that condition unarmed without any visible

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1 markings that he is in fact with law enforcement. Then  
2 the question becomes --

3 THE COURT: What are you saying there?

4 MR. SHARP: Your Honor, I --

5 THE COURT: You say he wouldn't have done it,  
6 but he did.

7 MR. SHARP: I guess the question would be does  
8 it make sense that he did it? Is it credible he in fact  
9 didn't have this firearm on him when he went up there  
10 and if he in fact did have his firearm on him, one, why  
11 would he say he didn't. It doesn't make a whole lot of  
12 sense. It does affect what I would consider to be his  
13 credibility as to whether he actually gained consent.

14 THE COURT: Your contention is he did have his  
15 firearm?

16 MR. SHARP: From my experience with law  
17 enforcement, it would be very unusual for an officer in  
18 those conditions to go to a home without a firearm, yes,  
19 Your Honor.

20 THE COURT: Okay.

21 MR. SHARP: Then you have the situation  
22 where Mr. Wooden comes to the door and by all accounts,  
23 according to Deputy Williams, would have had the  
24 holstered weapon on him, which I can only assume was not  
25 visible. You would think had it been you would assume

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1 that Corporal Mason would have seen it at that point.

2 Then he asks, he is giving the statement as to  
3 whether or not how he got into the home. He said do you  
4 mind if I come in. He says he is certain Mr. Wooden  
5 says he could. There is also this other statement  
6 about, you know, wait, I'll get her.

7 It would be our contention that Mr. Wooden  
8 would have been much more likely under the circumstances  
9 of, one, knowing he was a convicted felon, two, having a  
10 firearm on his hip, three, having another firearm either  
11 in his hand or by the door, that he would have told the  
12 officer to wait while I get her.

13 That would be the extent of our argument that  
14 Corporal Mason did not, was not legally in a position  
15 where we would have been able to see Mr. Wooden with  
16 that firearm and that he did not get actual consent to  
17 enter that home. We ask the Court to suppress any and  
18 all evidence as fruit of the poisonous tree at that  
19 point. Thank you, Your Honor.

20 MR. JENNINGS: I find it disingenuous to argue  
21 the witness' credibility or the lack of the witness'  
22 credibility based on what the Court has heard here  
23 today.

24 The question is simply was he given consent to  
25 come into that residence. Officer Mason, Corporal

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1 Mason, told the Court in my opinion, sheepishly, that he  
2 did approach that door without his weapon on. Probably  
3 just a mistake on his part I think he now knows, but  
4 that's what happened. Why in the world would he make  
5 that up?

6 THE COURT: Mistake not to have the weapon  
7 versus the mistake in testimony?

8 MR. JENNINGS: A mistake not to take his weapon  
9 with him. He didn't realize he didn't have it on him.  
10 He said that. I point that out to suggest that  
11 Mr. Sharp seems to be suggesting you should not believe  
12 his testimony about that. I don't get that.

13 Anyway, here's the question. Was he given  
14 consent to cross the threshold of that trailer door.  
15 Now, if we are to accept the defense theory, these two  
16 deputies came in here to convince the Court it happened  
17 when it really didn't happen. They sure could have done  
18 a lot better job of it, may I suggest, if they were  
19 making up what they told you.

20 Officer Williams was standing down on the  
21 ground 10 to 12 feet at least away from the front door  
22 when a very low key conversation took place, very brief,  
23 between Corporal Mason and the defendant. It was so low  
24 key that Deputy Mason (sic) couldn't even hear it. He  
25 knows they were talking. That's all he can tell you.

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1 He is not that far away. That should tell the Court how  
2 low key this conversation was and how short it was.

3 As Corporal Mason told you, if he hadn't  
4 allowed me to come in when I asked him if I could come  
5 in, I wouldn't have gone in. May I suggest that Officer  
6 Mason (sic) would not have gone in had he not believed  
7 that he had permission to come in like Corporal Mason  
8 did.

9 I think it's a little important to realize that  
10 at no time did anyone; him, Janet Harris, the defendant,  
11 Janet Harris or anyone protest their presence in that  
12 trailer. That is corroborated by the fact that Janet  
13 Harris ultimately signed a written consent to search  
14 form allowing the officers to search that trailer inch  
15 by inch, if they had chosen to.

16 He proffers, or whatever you want to call that,  
17 that the defendant said no, wait, here I'll get her.  
18 That's not proof. The proof is the conversation took  
19 place between the two of them wherein during which he  
20 asked may I come in and the defendant said, yes.

21 The next thing that happens is he's, he has  
22 picked up a gun and he is walking away from Corporal  
23 Mason when he sees that happening and you can imagine  
24 the dynamics of what was going on changed immediately.  
25 You know that by the reaction of Officer Williams when

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1 he didn't immediately put the AR-type of assault weapon  
2 on the floor and Officer Williams drew this gun to make  
3 sure he did.

4 I don't really know why we are here.

5 THE COURT: Last word, Mr. Sharp.

6 MR. SHARP: Your Honor, you get a very common  
7 response from -- not only the AUSA, but all prosecutors,  
8 when you challenge the credibility of an officer. You  
9 get the same response. The one thing that we know about  
10 Corporal Mason is he has been in law enforcement a long  
11 time. He knows that if he doesn't have consent to enter  
12 that house and he enters it anyway, this case is no  
13 good. He knows that. He has been in it long enough.  
14 He also knows if he comes in and says he had consent to  
15 enter the home, that he is covered in some blanket of  
16 law enforcement credibility.

17 I think the Court needs to take into  
18 consideration all of his testimony and whether or not it  
19 is logically feasible what he has testified to.

20 Your Honor, I would offer that anything that  
21 happened after he comes in and after Mr. Wooden is in  
22 custody is not relevant. The question is was that  
23 initial entry permissible and our position would be that  
24 it would not be.

25 Thank you, Your Honor.

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1 THE COURT: All right. This matter is  
2 currently set for trial November 3rd.

3 MR. JENNINGS: I don't have my calendar. That  
4 sounds right.

5 THE COURT: November 3rd. Is there a motion to  
6 continue the trial in this case, Mr. Sharp?

7 MR. SHARP: There will be, Your Honor, yes.

8 THE COURT: Any objection to that,  
9 Mr. Jennings?

10 MR. JENNINGS: I have no objection. The Court  
11 needs the time under the rules to rule on this motion  
12 and give the district court time to respond to whatever  
13 may happen.

14 THE COURT: All right. Mr. Wooden, you  
15 understand that your lawyer has asked to continue the  
16 trial because he would like me to rule on this motion to  
17 suppress certain evidence. I need time to write that  
18 opinion. Then whoever doesn't like what I wrote needs  
19 time to object to it. Then the district judge needs  
20 time to rule on it. Then both sides need to reflect on  
21 that ruling and ultimately prepare for trial.

22 That really couldn't be accomplished in less  
23 than a month, which is the time between now and trial.  
24 Do you understand that?

25 MR. WOODEN: Yes, sir, Your Honor.



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1 THE COURT: Do you have any objection to me  
2 continuing the trial?

3 MR. WOODEN: No, sir, Your Honor.

4 THE COURT: All right. It looks like sometime  
5 in mid-February would be the best time. Would you agree  
6 with that, Mr. Jennings?

7 MR. JENNINGS: Sure.

8 MR. SHARP: Sure.

9 THE COURT: Do you have any objection to me  
10 continuing the trial out to February, Mr. Wooden?

11 MR. WOODEN: No, sir, Your Honor..

12 THE COURT: You understand at this point that  
13 means you remain in custody?

14 MR. WOODEN: Yes, Your Honor.

15 THE COURT: February 16th?

16 MR. SHARP: Your Honor, I apologize. I  
17 neglected to bring my calendar. I don't believe I have  
18 anything scheduled in February yet.

19 THE COURT: Do we have anything on the calendar  
20 that might involve Mr. Sharp at least in court. We  
21 can't check your personal calendar. Let's go ahead and  
22 set it February 16th. If either of you get back to your  
23 office any I know you are probably dealing with  
24 Ms. Norris' calendar.

25 MR. JENNINGS: Ms. Norris will be back from

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1 maternity leave by then, Your Honor, and she'll be fine.

2 THE COURT: As far as her calendar is  
3 concerned. If it turns out either one have a conflict  
4 if you will call me immediately, we can resolve that in  
5 the next 24 hours without a problem. After that it gets  
6 a little difficult.

7 MR. JENNINGS: I will check as soon as I get  
8 back.

9 THE COURT: It seems tome all the time between  
10 now and then would be fully excludable for speedy trial  
11 purposes. Do you agree with that, Mr. Jennings?

12 MR. JENNINGS: I do.

13 THE COURT: Mr. Sharp?

14 MR. SHARP: I do, Your Honor.

15 THE COURT: The Court agrees, as well, given  
16 the time required to prepare a report and recommendation  
17 with regard to this motion and then allowing both sides  
18 an opportunity to file their objections, the other side  
19 to respond to those objections and time for Judge Varlan  
20 to rule on those objections and the motion and then time  
21 for the parties to prepare for trial. It appears  
22 February 16th is the earliest we can set this matter for  
23 trial and I am going to do that and find all the time is  
24 fully excludable for speedy trial purposes.

25 The only deadline that I see that I need to set

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1 at this time would be a plea cutoff date, January 15th  
2 okay?

3 MR. JENNINGS: Sure.

4 MR. SHARP: Sure.

5 THE COURT: January 15th will be a plea cutoff.  
6 I don't see any need for a pretrial conference at this  
7 point. We'll put down a standard pretrial order.

8 MR. JENNINGS: Makes sense.

9 THE COURT: Anything else to schedule or  
10 anything else to do on behalf of the government?

11 MR. JENNINGS: No, Your Honor, thank you.

12 THE COURT: Anything else on behalf of  
13 Mr. Wooden?

14 MR. SHARP: No, Your Honor.

15 THE COURT: Court stands adjourned.

16 (Court was recessed.)

17 I CERTIFY THAT THE FOREGOING IS AN ACCURATE  
18 TRANSCRIPT OF THE RECORD OF PROCEEDINGS IN THE  
19 ABOVE-ENTITLED MATTER.

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Digitally signed by Jolene Owen  
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