

obtain a search warrant.⁴ To sustain this claim, Latimer must demonstrate that Jones (1) “knowingly and intentionally or with a reckless disregard for the truth either made false statements in their affidavits or omitted facts from those affidavits, thus rendering the affidavits misleading,” and (2) that such false statements or omissions “are material, that is, necessary to a neutral and disinterested magistrate’s authorization of the search.” *Evans v. Chambers*, 703 F.3d 636, 650 (4th Cir. 2012) (internal quotation marks, citations, and brackets omitted). Whether such false statements are material requires the Court to “excise the offending inaccuracies and insert the facts recklessly omitted, and then determine whether or not the corrected warrant affidavit would establish probable cause. If the corrected warrant affidavit establishes probable cause, no civil liability lies against the officer.” *Miller v. Prince George’s Cty., Md.*, 475 F.3d 621, 628 (4th Cir. 2007) (internal quotation marks, citations, and brackets omitted); *see also United States v. Karo*, 468 U.S. 705, 719 (1984) (noting in context of criminal prosecution that “if sufficient untainted evidence was presented in the warrant affidavit to establish probable cause, the warrant was nevertheless valid.”).

In averring that Jones “lied to obtain a search warrant,” Latimer concentrates on the stricken through portion of the affidavit in support of the warrant. See ECF No. 33-3 at 7 (Jones “avers that based upon the two (2) above described controlled purchases as well as other investigation...”). Latimer also agrees, however, that the judge who reviewed the affidavit caught the error and only authorized the warrant after ordering Jones to excise the offending portion. ECF No. 33-2 at 3. Consequently, the undisputed evidence, viewed most favorably to Jones, demonstrates that the “lies” of which Latimer complains were *not* part of the probable cause

⁴ Although Latimer characterizes his claim against Jones as a Due Process violation, it is more accurately described as a violation of his Fourth Amendment rights to be free from warrantless searches. This distinction, however, does not change the analysis.