No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

SAMER ABDALLA

Petitioner

vs.

UNITED STATES OF AMERICA,

Respondent

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

APPENDIX

United States of America vs. Samer Abdalla, Case No. 19-5967
(6th Cir. August 27, 2020)
(Opinion affirming district court judgment)

United States of America vs. Samer Walid Abdalla; Case No. 2:17-cr-00007
(U.S. District Court, Middle District of Tennessee, August 23, 2019
(Judgment in a Criminal Case)

s/ *Michael C. Holley*
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File Name: 20a0282p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

SAMER WALID ABDALLA,

Defendant-Appellant.

No. 19-5967

Appeal from the United States District Court
for the Middle District of Tennessee at Cookeville.
No. 2:17-cr-00007-1—Eli J. Richardson, District Judge.

Argued: August 4, 2020

Decided and Filed: August 27, 2020

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

COUNSEL

ARGUED: Andrew C. Brandon, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Nashville, Tennessee, for Appellant. Sofia M. Vickery, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee. **ON BRIEF:** Andrew C. Brandon, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Nashville, Tennessee, for Appellant. Sofia M. Vickery, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., Robert McGuire, UNITED STATES ATTORNEY'S OFFICE, Nashville, Tennessee, for Appellee.

OPINION

NALBANDIAN, Circuit Judge. Challenges to warrants based on typographical errors or factual inaccuracies typically fall under this Circuit's clerical error exception. We have

consistently found that inadvertent drafting mistakes, for instance transposing a number in a street address or listing an incorrect nearby address, do not violate the Fourth Amendment's prohibition on unreasonable searches and seizures. That is because those errors create little risk of a mistaken search or a general warrant granting police an unconstitutionally broad authority to conduct searches.

But Defendant Samer Abdalla contends that this case does not involve a regular clerical error. The Tennessee judge who signed the warrant permitting officers to search Abdalla's residence on New Hope Road only had jurisdiction in DeKalb County. But the warrant, in one place, listed an address on Carey Road in Trousdale County, Tennessee. This error resulted from the drafting officer's using a previous warrant as a template and failing to erase all vestiges of that document. As a result, the warrant permitting officers to search Abdalla's residence listed the wrong address, including the wrong county, in the authorization paragraph despite accurately describing Abdalla's home.

Abdalla makes much of this mistake. He argues that a warrant cannot be valid if it contains a mismatch between the residence in the authorization section and the residence that the police searched. Along with this theory of invalid formation, Abdalla also asserts that a judge's failure to notice an address outside his jurisdiction in a warrant's authorization section demands the inference that the judge impermissibly rubberstamped the warrant. Yet the affidavit supporting the warrant listed the correct address and county at the top of the first page. And the warrant itself directed officers to the correct address by providing step-by-step directions along with a detailed description of Abdalla's residence. So the warrant's singular incorrect address posed almost no chance of a mistaken search. Despite the government's irregular mistake, this clerical error case demands the usual result for technical mistakes that threaten no constitutional harm. We AFFIRM.

I.

In February 2017, the Tennessee Judicial Drug Task Force and the Drug Enforcement Administration began investigating Abdalla for suspected narcotics trafficking. Investigators used a confidential informant to execute a series of controlled drug buys from Abdalla's

residence. Agent Brandon Gooch then submitted a written application and affidavit for a warrant to search Abdalla's residence on New Hope Road for evidence of drug crimes. That affidavit described how officers prearranged the controlled drug buys from Abdalla and monitored the confidential informant during the process. The affidavit also listed Abdalla's correct street address, along with descriptions of his home and evidence that the police expected to find. Based on that information, Agent Gooch concluded that probable cause justified searching Abdalla's property.

After reviewing the affidavit, Judge Patterson, who had jurisdiction in DeKalb County, Tennessee, issued a warrant on June 8 authorizing officers to search Abdalla's residence. Like the affidavit, this warrant gave detailed directions to Abdalla's property and contained unique identifiers of Abdalla's residence, such as his trailer's color, the property's layout, an American flag in front of the home, and an auto detail sign at the driveway's entrance. This description at the beginning of the warrant correctly directed officers to Abdalla's precise New Hope Road address in DeKalb County. But the warrant's final paragraph "commanded" officers "to search the . . . premises located at 245 Carey Road, Hartsville, Trousdale Tennessee." (R. 20-1, Search Warrant, Page ID # 59.) Agent Gooch testified that the Carey Road address came from using a previous warrant as a template. Although Judge Patterson had jurisdiction over Abdalla's residence in DeKalb County, he lacked jurisdiction in Trousdale County, which encompassed the Carey Road property listed on the warrant's final page.

Despite that error, Agent Gooch led approximately eighteen other officers on June 9 to the New Hope Road address to execute the search. The officers arrived at Abdalla's residence in DeKalb County and loudly announced their presence. But no one responded. So officers entered Abdalla's home by force and found him, along with his girlfriend, in bed. Despite the officers' commands for the two to put their hands up, the couple failed to comply. With the pair unresponsive, one officer tried to remove Abdalla's girlfriend from the bed. That caused Abdalla to spring up and "lunge[] with a fist" towards the officers. (R. 104, Sentencing Tr., Page ID # 713.) The officers repeatedly told Abdalla to show them his hands and to settle down, but Abdalla did not comply. Bizarrely, Abdalla took a sheet from the bed and tried to hide under it. After officers removed the sheet, Abdalla remained aggressive. So the officers warned Abdalla

that they would use a taser. But the threats, along with a malfunctioning taser, failed to dissuade Abdalla. The scuffle turned into Abdalla's wrestling with the officers and then attempting to grab an officer's rifle. After officers successfully placed a plastic restraint on Abdalla, he broke free. Officers later testified that they had never seen anyone break free of a plastic restraint. Then, despite Abdalla's attempts to bite them, officers successfully handcuffed Abdalla. After the struggle, officers asked Abdalla if he had any contagious diseases; Abdalla immediately and coherently replied that he had hepatitis C.

During the search, officers located and seized drugs, drug paraphernalia, and firearms. In a post-arrest interview twelve minutes after the raid, Abdalla admitted that most of the contraband belonged to him. In another interview three days later, Abdalla claimed that he was so high during the search that he believed he was "in a video game" while fighting the officers. (R. 52, Tr. of Proceedings, Page ID # 325.) He also denied any memory of physically engaging the officers. But Abdalla confirmed that the guns and drugs belonged to him.

The government indicted Abdalla for being a felon in possession of a firearm and the parties discussed a plea agreement. Then Abdalla moved to suppress evidence collected in the search, challenging the warrant's validity. He also sought a *Franks* hearing to evaluate statements made in the affidavit supporting the warrant. Abdalla argued, among many claims, that: (1) the warrant lacked probable cause and was invalid because it authorized a search at the wrong address, (2) the affidavit failed to show the confidential informant's veracity, (3) Abdalla did not give a knowing and voluntary *Miranda* waiver, and (4) the warrant and affidavit contained material omissions and misstatements. After a suppression hearing, the district court granted suppression of Abdalla's statements made immediately after his arrest on June 9 due to a *Miranda* violation, but rejected all of Abdalla's other claims.

After this ruling, Abdalla's counsel discovered details about the confidential informant that put the informant's credibility in question. The informant had committed many serious crimes, including theft and domestic assault, suffered from heroin addiction, and received compensation for executing controlled buys. The government never disclosed that information to Abdalla's counsel, according to the district court, even though it should have. So Abdalla

asked the district court to revisit the evidentiary suppression and *Franks* issue. But the district court denied that motion.

After the government filed a superseding indictment, Abdalla entered a conditional guilty plea. Between the superseding indictment and the sentencing hearing, the case moved from Judge Crenshaw to Judge Richardson. Before sentencing, the presentence report recommended a six-level Guidelines enhancement under U.S.S.G § 3A1.2(c)(1) for assaulting officers. Abdalla disagreed, finding the enhancement inapplicable because he lacked the mens rea during the conflict to knowingly attack an officer, given that he thought he was in a video game. Abdalla also noted that Judge Crenshaw had found that he lacked mens rea to knowingly and voluntarily waive his *Miranda* rights when talking to officers after the search. So Abdalla reasoned that Judge Crenshaw's *Miranda* ruling acted as law-of-the-case, compelling Judge Richardson to find that Abdalla lacked the mens rea to knowingly assault a police officer. The district court rejected that argument and imposed a 168-month sentence. Abdalla now challenges that sentencing decision, along with the district court's denial of his motion to suppress.

II.

Abdalla argues that the district court wrongly denied his motion to suppress evidence of guns and drugs seized at his residence because the government relied on a defective warrant to execute the search. "[T]he text of the Fourth Amendment does not specify when a search warrant must be obtained." *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2173 (2016) (alteration in original) (quoting *Kentucky v. King*, 563 U.S. 452, 459 (2011)). Yet the Fourth Amendment's prohibition on unreasonable searches and seizures contemplates a "limitation upon their issuance." *Id.* (quoting *California v. Acevedo*, 500 U.S. 565, 581 (1991) (Scalia, J., concurring)). When a warrant contains a grave mistake at issuance, such as omitting items to be seized, it is "so obviously deficient that we must regard the search as 'warrantless' within the meaning of our case law." *Groh v. Ramirez*, 540 U.S. 551, 558 (2004). Analyzing warrants for issuance errors rises above "dealing with formalities" because "[t]he presence of a search warrant serves a high function." *McDonald v. United States*, 335 U.S. 451, 455 (1948). Still, "[a]n error in description does not, however, automatically invalidate a search warrant." *United States v. Pelayo-Landero*, 285 F.3d 491, 496 (6th Cir. 2002).

When reviewing a defendant's claim that a search violated the Fourth Amendment and the lower court wrongly denied a motion to suppress, "this Court reviews the district court's factual findings for clear error, and its legal conclusions *de novo*." *United States v. Adams*, 583 F.3d 457, 463 (6th Cir. 2009). "When a district court has denied a motion to suppress, this Court reviews the evidence 'in the light most likely to support the district court's decision.'" *Id.* (quoting *United States v. Navarro-Camacho*, 186 F.3d 701, 705 (6th Cir. 1999)).

Abdalla first objects to how the court issued the warrant. He argues that "a document that gives authority to search a *different* residence in a different county" does not "constitute a warrant under the Fourth Amendment." (Appellant Br. at 31.) So Abdalla casts this case as different from typical clerical error cases involving "transposed digits in addresses and neighboring houses." (*Id.* at 32.) Still, he admits that "almost no caselaw across the country" addresses the question of overturning a warrant because its authorization section lists the wrong residence in the wrong county. (*Id.*) Yet he insists that this Court must recognize that mistake as a Fourth Amendment violation—Abdalla asserts that the warrant was invalid because it only established probable cause to search the New Hope Road address, and not the Carey Road address. That mismatch between the probable cause and the residence to be searched purportedly places this case outside the clerical error case line.

It is true that most of this Circuit's clerical warrant error cases focus on less egregious errors than listing the incorrect residence in a county outside the authorizing judge's jurisdiction. For instance, a warrant that contained "the transposition of the house numbers from 4216 to 4612" and mixed up east and west did not violate the Fourth Amendment. *United States v. Durk*, 149 F.3d 464, 465–66 (6th Cir. 1998). Such "descriptive errors" are curable when the warrant "sufficiently describes [the correct] house" by providing "unusual feature[s]." *Id.* at 466. To decide whether a warrant drafting mistake violates the Fourth Amendment, we ask whether "the inaccuracies in the warrant [would] lead to a mistaken search of other premises." *Id.* That is because "[t]he evil that the framers of the Constitution were trying to eradicate with the particularity requirement was the so-called general warrant that allowed officers to search at random." *Id.* If a warrant describes a residence specifically enough to (1) "enable the executing officer to locate and identify the premises with reasonable effort" and (2) prevent the government

from mistakenly searching a different residence, then this Court views the warrant's inaccuracies as benign clerical errors. *See id.* at 465–66.

Abdalla claims that the government relied on a warrant invalid from the outset because probable cause supporting a search at his address in DeKalb County did not support a search in Trousdale County. Citing only *United States v. Hodson*, 543 F.3d 286 (6th Cir. 2008), Abdalla argues that a warrant containing probable cause for a search at one address but listing a different address in the authorization paragraph is no warrant at all. In *Hodson*, the "warrant was defective for lack of probable cause" because the officers "established probable cause for one crime . . . but designed and requested a search for evidence of an entirely different crime." *Id.* at 292. But nothing in *Hodson* touches the issue of probable cause being mismatched to an incorrect address listed because of a clerical error.

We agree that, under *Hodson*, the government cannot execute a search for evidence of one crime based on probable cause that the defendant committed a different crime. But we disagree with Abdalla that the same logic applies to incorrect street addresses. He tells us that, broadly speaking, the "thing to be searched for [must] match[] the probable cause asserted." (Appellant Br. at 34.) But that reasoning contravenes our clerical error cases. Unlike failure to establish probable cause for the crime justifying the search, listing the wrong address does not "automatically invalidate a search warrant." *Pelayo-Landero*, 285 F.3d at 496. Under Abdalla's reading of *Hodson*, that proposition would not be true; if the government needed to provide probable cause for the address listed on the warrant, then every warrant listing a wrong address would fail for lack of probable cause. But this court has upheld many technically defective warrants, including a warrant listing an address that "d[id] not exist" within the authorizing judge's jurisdiction. *United States v. Jones*, 707 F. App'x 317, 320 (6th Cir. 2017). Thus, *Hodson* does not show that a warrant supported by probable cause to search the defendant's address must fail for mismatched probable cause if its authorization section lists an incorrect address in a county outside the judge's jurisdiction. So Abdalla's probable cause argument falls short.

In the end, Abdalla's probable cause mismatch theory contradicts our established clerical error framework. So Abdalla's warrant formation argument is unavailing.

III.

Alternatively, Abdalla claims that the warrant did not describe his property with particularity. "The test for determining whether the description in the warrant is sufficient to satisfy the particularity requirement is whether 'the description is such that the officers with a search warrant can with reasonable effort ascertain and identify the place intended.'" *United States v. Gahagan*, 865 F.2d 1490, 1496 (6th Cir. 1989) (quoting *Steele v. United States*, 267 U.S. 498, 503 (1925)). Abdalla believes that the mistaken address listed in the warrant shows that the warrant's description of his residence cannot pass constitutional muster. Still, "[c]ourts routinely have upheld warrants . . . 'where one part of the description of the premises to be searched is inaccurate but the description has other parts which identify the places with particularity.'" *Durk*, 149 F.3d at 466 (quoting *United States v. Gitchco*, 601 F.2d 369, 372 (8th Cir. 1979)). Abdalla contends that a warrant containing both an incorrect address and a correct address, despite only describing the property at the correct address, does not satisfy the Fourth Amendment. To succeed, he must meet this Circuit's standard:

> The test for determining whether a search warrant describes the premises to be searched with sufficient particularity [is] . . . whether the description is sufficient "to enable the executing officer to locate and identify the premises with reasonable effort, and whether there is any reasonable probability that another premises might be mistakenly searched."

Pelayo-Landero, 285 F.3d at 496 (quoting *Gahagan*, 865 F.2d at 1496). Even though a warrant containing the wrong address can sometimes risk a mistaken search, such an "error does not invalidate a search warrant if the warrant includes other specific descriptors that remove the probability that the wrong location could be searched[.]" *United States v. Crumpton*, 824 F.3d 593, 612 (6th Cir. 2016).

Although the warrant authorizing the search of Abdalla's residence wrongly listed a Carey Road address in the authorization section, most of the warrant unambiguously described Abdalla's New Hope Address. First, the warrant gave directions to the correct address, directing officers to travel "west on I-40 [and] take exit ramp 254 . . . travelling south 6.8 miles to Dekalb County line" and then to enter "the driveway of 332 New Hope Road," Abdalla's correct address. (R. 20-1, Search Warrant, Page ID # 57.) The warrant then described the property as

including a "white double wide trailer with a green front porch and a black shingle roof," along with an American flag on the front porch and an "auto detail sign" in the driveway. (*Id.*) These unique descriptors, along with correct directions to the address, strongly suggest that officers would not have searched an incorrect residence. This Circuit has found that describing unique features can render warrants valid even when they list the wrong address. *Durk*, 149 F.3d at 466. In the warrant covering Abdalla's property, details about a white trailer with a green porch, a black shingle roof, and a unique sign in the driveway constitute unique identifiers under *Durk*. So even if officers arrived at 254 Carey Road, the mistaken address listed in the warrant, there was almost no chance that the property located there would at all resemble the description in the warrant. So the likelihood of a mistaken search was practically nil.

What is more, Agent Gooch's role as both the executing officer and the warrant's affiant also suggests that the search did not violate the Fourth Amendment. In *Durk*, this Circuit determined that an inaccurate warrant would be less likely to produce a mistaken search because "the executing officer . . . was also the affiant" and was familiar with the property to be searched. *Id.* at 466. Abdalla counters that Agent Gooch's role in both the warrant drafting and the search does not "save this constitutionally deficient warrant," citing *United States v. Williamson*, 1 F.3d 1134, 1136 (6th Cir. 1993). (Appellant Br. at 38.) But that misreads *Williamson*. There, the court acknowledged that "an executing officer's knowledge may be a curing factor[.]" *Williamson*, 1 F.3d at 1136. And the court only found that the officer's knowledge of the case cannot save a warrant when it acts as "the *sole* source of information identifying" the property to be searched. *Id.* So *Williamson* carries little weight in a case in which the warrant provides a detailed description of a property. In short, Agent Gooch's dual role as the affiant and the executing officer, although not dispositive, reduced the likelihood of a mistaken search.

All in all, the warrant (1) provided detailed directions to Abdalla's New Hope Road address, (2) described a "white double wide trailer with a green front porch and a black shingle roof," along with an American flag on the front porch and an "auto detail sign" in the driveway, and (3) identified the correct address and county, except for one sentence on the final page. (R. 20-1, Search Warrant, Page ID # 57, 59.) It is nearly unfathomable, given those particular identifiers and Agent Gooch's familiarity with the residence, that officers would have arrived at

an incorrect address and then found a residence so resembling the warrant's description that they would have performed a mistaken search. So we are unpersuaded by Abdalla's claim that the warrant failed to describe his residence with particularly and granted officers overly broad authority to search multiple residences.

IV.

Next, Abdalla identifies two purported probable cause defects in the warrant. First, he complains that the judge who authorized the warrant did not act as a "neutral judicial officer to assess whether the police [had] probable cause" to search his property. *Steagald v. United States*, 451 U.S. 204, 212 (1981). Second, Abdalla claims that the confidential informant who conducted the controlled buys was unreliable and the government failed to provide independent corroboration of the allegedly unreliable informant's statements. Arguing that the government offered scant indicia of reliability for the informant, Abdalla concludes that the warrant lacked probable cause because it relied on a flawed informant.

Search warrants must be approved by a "neutral and detached" magistrate "capable of determining whether probable cause exist[ed] for the requested arrest or search." *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972). In other words, the authorizing judge cannot "serve merely as a rubber stamp for the police." *United States v. Frazier*, 423 F.3d 526, 537 (6th Cir. 2005). Defendants bear the burden of showing that a judge so deficiently reviewed a warrant as to have acted as a rubber stamp. *Id.*

Abdalla claims that the authorizing judge failed to review the warrant as a neutral and independent magistrate because "[t]he incorrect address in the warrant's authorization section would have stuck out like a sore thumb[.]" (Appellant Br. at 40.) Rephrased, Abdalla argues that the reviewing judge, who lacked authority to authorize a search in Trousdale County, did not read the warrant with the scrutiny required from a neutral and detached magistrate; otherwise the judge would have noticed the jurisdictional error. Abdalla relies on *United States v. Decker*, 956 F.2d 773, 777 (8th Cir. 1992), where the Eighth Circuit found that failure to notice a "glaring omission" supported the inference that the authorizing judge did not read the warrant. There, the court found a warrant invalid because it failed to list the evidence to be seized.

Abdalla believes a warrant inadvertently listing a county outside the authorizing judge's jurisdiction is a glaring error similar to the omitted evidence in *Decker*. We disagree.

To be fair, this Circuit has not yet addressed whether the authorizing judge could fail to notice a warrant mistakenly listing a county outside his jurisdiction without having rubberstamped the warrant. Although "[c]ourts must proceed cautiously whenever an error, no matter how seemingly insignificant, appears within the four corners of a warrant[,]" warrants containing an "unintentional drafting oversight" are not always invalid. *United States v. Watson*, 498 F.3d 429, 434 (6th Cir. 2007). In turning immediately to the good-faith exception without deciding the warrant's validity in *Watson*, we determined that a reviewing judge's error in overlooking an address in the warrant's application section did not call for suppression because the rest of the warrant thoroughly described the property. What is more, we have denied arguments that failing to notice a warrant application error "support[s the] claim that the magistrate issued the warrant without reading the affidavit." *Frazier*, 423 F.3d at 537. That is because a defendant must show "adequate support for his assertion that the issuing judge did not conduct an objective evaluation of the request for a warrant." *United States v. Patterson*, 587 F. App'x 878, 884 (6th Cir. 2014).

Given those cases, it is perhaps an open question whether our precedent permits inferring that a judge never read a warrant simply because he did not notice an error that, left unchecked, violated the Fourth Amendment. But even if that inference is permissible, as the Eighth Circuit concluded, the omission here does not match the severe omission in *Decker*. There the warrant failed to discuss the items to be seized, and failure to notice that a warrant omitted essential information meant that the authorizing judge did not act as a neutral and detached magistrate. Here, Abdalla only complains that Judge Patterson failed to notice that the warrant's final page contained an inaccurate address, not that the warrant omitted wholesale any vital components. Given that the wrong address only appears once in the warrant and that the warrant also listed the correct address, along with directions to and a description of it, Abdalla's analogy to *Decker* is unpersuasive. In short, Judge Patterson's failure to notice an incorrect address outside his jurisdiction does not show that he failed to read the warrant as required for a judge to "perform his 'neutral and detached' function and not serve merely as a rubber stamp for the police."

United States v. Leon, 468 U.S. 897, 914 (1984) (quoting *Aguilar v. Texas*, 378 U.S. 108, 111 (1964), *abrogated on other grounds by Illinois v. Gates*, 462 U.S. 213 (1984)).

Separate from his argument that including the wrong county invalidated the warrant, Abdalla claims that the information given by the confidential informant supporting the warrant lacked reliability or corroboration. That is because the informant not only had a criminal and drug use history, undermining the government's position that he was a "good citizen," but also received payment for executing controlled buys. (R. 79, Order, Page ID # 513–14.) Basing probable cause on an unreliable informant, absent independent corroboration, can mean that the government lacked probable cause to execute the warrant. *See United States v. Thomas*, 605 F.3d 300, 307 (6th Cir. 2010). Usually the government avoids that problem by having the warrant affiant "attest[] with some detail" about the informant's reliability. *United States v. Allen*, 211 F.3d 970, 976 (6th Cir. 2000). Yet the government does not claim that Agent Gooch attested to the informant's reliability, but argues instead that "independent police corroboration of the informant's information" supported probable cause for searching Abdalla's residence. (Appellee Br. at 22–25.) So it seeks to apply the rule in *United States v. Tuttle*, 200 F.3d 892, 894 (6th Cir. 2000), that "information received from an informant whose reliability is not established may be sufficient to create probable cause when there is some independent corroboration by the police of the informant's information."

The government claims that the informant's identity being "known to the officers[,]" even if by an anonymous number, and his "witness[ing of] illegal activity on the premises searched" provided "sufficient indicia of reliability." *United States v. Dyer*, 580 F.3d 386, 391–92 (6th Cir. 2009). Still, Abdalla complains that the affidavit lacked many indicia of reliability recognized by this Circuit. Those include: (1) statements about past experiences with the informant, (2) naming the informant to the magistrate, (3) field-testing drugs acquired from the controlled purchase, (4) a pat down before and after the controlled buy, (5) the use of pre-recorded buy money, and (6) officers directly monitoring the informant during the purchase. Even so, we do not decide probable cause questions under a factors test or a bright-line rule; instead we use a "totality of the circumstances approach[.]" *Gates*, 462 U.S. at 230. And we also grant "great deference" to "the magistrate's probable-cause determination," only

overturning the probable cause finding "if the magistrate arbitrarily exercised his or her authority[.]" *United States v. Christian*, 925 F.3d 305, 311–12 (6th Cir. 2019) (quoting *Gates*, 462 U.S. at 236; *United States v. Greene*, 250 F.3d 471, 478 (6th Cir. 2001)). And, contrary to Abdalla's approach, an "affidavit is judged on the adequacy of what it does contain, not on what it lacks[.]" *Allen*, 211 F.3d at 975.

Despite some imperfections with the informant, the affidavit established probable cause to search Abdalla's home by providing corroborating evidence. Usually invalidating a warrant for lack of probable cause involves something like "an anonymous tip sparse in detail and wholly uncorroborated by the police" or "a merely conclusory statement of the affiant's belief in an informant's past credibility, unsupported by further detail[.]" *Id.* at 975–76. That is not the case here. An affidavit describing both an informant's controlled purchase "while under police surveillance" and "the officers' arrangements for the controlled purchase" gives "sufficient corroborating information" to uphold a lower court's finding that probable cause existed. *United States v. Archibald*, 685 F.3d 553, 557 (6th Cir. 2012). The affidavit here included that information, describing how officers "issued monitoring equipment and drug buy money" to the informant and "prearranged" a drug deal at Abdalla's residence on three occasions. (R. 20-1, Aff., Page ID # 52.) And affidavits need not be perfect to establish probable cause. *Hale v. Kart*, 396 F.3d 721, 725 (6th Cir. 2005) ("Affidavits do not have to be perfect, nor do they have to provide every specific piece of information to be upheld[.]"). So the controlled buys at Abdalla's home, as described in the affidavit, are "specific facts present[ing] ample evidence of probable cause that drugs . . . would be found at" Abdalla's residence. *Id.* So even if the government did not rely on an ideal informant, the affidavit provided enough corroborating evidence for probable cause to search Abdalla's residence.

All considered, the defects in the warrant's issuance do not violate the Fourth Amendment's bar on unreasonable searches and seizures.[1] So the district court did not err by denying Abdalla's motion to suppress evidence.

[1]The parties dispute whether the *Leon* good-faith exception for warrant errors applies. Because Abdalla's Fourth Amendment claims lack merit, we need not reach the good-faith analysis. *See Durk*, 149 F.3d at 466

V.

Finally, Abdalla argues that the sentencing judge incorrectly applied a Sentencing Guidelines enhancement for assaulting an officer who was searching Abdalla's home. The Sentencing Guidelines impose a six-level increase "[i]f, in a manner creating a substantial risk of serious bodily injury, the defendant . . . knowing or having reasonable cause to believe that a person was a law enforcement officer, assaulted such officer during the course of the offense[.]" U.S.S.G. § 3A1.2(c)(1). Abdalla focuses on the enhancement's mens rea requirement, arguing that "he was too high to form the requisite intent to assault the officers[.]" (Appellant Br. at 49.) That is because the fentanyl and methamphetamine in his system allegedly made him think that he was in a video game during the confrontation. But the lower court rejected Abdalla's position because his actions and statements after the scuffle reflected his grasp on reality. Abdalla now contends that the lower court erred by: (1) wrongly discounting his statement about believing he was in a video game, (2) ignoring statements from the officers suggesting that he behaved strangely during the search, and (3) not deferring to a previous judge's mens rea ruling.

For challenges to a district court's application of the Federal Sentencing Guidelines, this Circuit generally reviews factual findings for clear error and legal conclusions de novo. *United States v. Coleman*, 664 F.3d 1047, 1048 (6th Cir. 2012). But the standard for reviewing a Guidelines enhancement applied to a given fact pattern is somewhat murky.[2] *See United States v. Bell*, 766 F.3d 634, 636 (6th Cir. 2014) ("Our circuit has not settled on the proper standard of review for assessing such enhancements."); *see also United States v. Uminn*, No. 19-1638, 2020 WL 3958199, at *2 (6th Cir. July 13, 2020) ("Our circuit has not, however, settled on a clear standard of review for assessing a district court's application of sentencing enhancements."). That said, the Supreme Court has held that applications of the Sentencing Guidelines involving mixed questions of law and fact receive "deferential review" and not de novo review. *Buford v.*

("Because we find the search warrant complies with the requirements of the Fourth Amendment, we need not reach the government's alternative argument that the good faith exception applies to this case.").

[2]Neither party makes much of this ambiguity Abdalla states that the proper standard gives due deference to the lower court's application of the Guidelines to the facts, while the government contends that mixed questions of law and fact receive de novo review. Because the parties do not engage with this issue and Abdalla cannot prevail under any plausible form of deferential review, we need not determine the precise review standard.

United States, 532 U.S. 59, 64 (2001). So "the district court's application of the guidelines to the facts" should receive "due deference." *Uminn*, 2020 WL 3958199, at *2. And district courts receive "even greater deference" when their "findings are based on determinations regarding the credibility of witnesses[.]" *Anderson v. City of Bessemer*, 470 U.S. 564, 575 (1985).

First, Abdalla claims that the district court erred by not giving proper weight to his statement, made three days after the search, that he believed he was in a video game when he attacked the officers. During his interview with the police, Abdalla stated that he did not remember physically struggling with the officers and that he only became aware of his surroundings after being handcuffed. At sentencing, the district court did not accept Abdalla's contention that this statement showed that he lacked the requisite mens rea. Noting that the statement was "not . . . under oath," the district court instead gave stronger weight to other evidence showing Abdalla's lucidity during the raid, including his coherent statements to the officers about his medical condition. (R. 104, Sentencing Tr., Page ID # 748.) Still, Abdalla argues that the district court "appear[ed] to discount the weight of the statement due to the mistaken belief that it [was] a mere 'recounting,' when in fact the recorded statement . . . was validly entered as an exhibit." (Appellant Br. at 50.) But he cites no cases explaining why the sentencing judge erred by downplaying the statement's strength as an exhibit and finding the statement non-credible because Abdalla did not make it under oath. And the sentencing judge validly reasoned that self-serving testimony not given under oath did not "defeat[] the Government['s]" argument under a preponderance of the evidence standard. (R. 104, Sentencing Tr., Page ID # 748.) The judge did so because the government presented evidence that Abdalla understood and replied to questions posed by officers after the altercation. So the sentencing judge found that evidence more compelling than Abdalla's statement that he was so high he believed he was in a video game.

This determination over Abdalla's mental state receives deference. *See United States v. Ingle*, 460 F. App'x 593, 596 (6th Cir. 2012) (reviewing for clear error a district judge's determination that the defendant's alleged depression did not prevent him from forming the mens rea for assaulting an officer under U.S.S.G § 3A1.2(c)(1)). And Abdalla complains only that the court found his unsworn testimony given three days after the search less credible than the

officers' statements about Abdalla's coherence. At best, the evidence points both ways over Abdalla's mental state. And that is not enough to warrant reversal under any plausible form of deference, be it clear error or a less exacting standard.

Next, Abdalla asserts that the sentencing judge "ignore[d] key evidence regarding the scuffle." (Appellant Br. at 50.) During his conflict with the officers, Abdalla covered himself with a sheet to hide from officers and displayed a surprising amount of strength by ripping apart plastic restraints used by the officers. Abdalla claims that this unusual behavior supports his claim that he was too high to form the necessary mental state. And he believes the lower court improperly minimized this evidence while giving too much credence to testimony from the officers. This argument reformulates Abdalla's complaint about the sentencing judge's decision not to find Abdalla's video game statement credible. Here, the sentencing judge weighed testimony about the post-arrest questioning, which suggested that Abdalla had enough awareness to confront the police and answer questions, against Abdalla's bizarre behavior. And the judge concluded that, although Abdalla was high, he still knew that he was assaulting police officers. A defendant's actions can provide "evidence that he acted with the intent to commit" a crime, even when there is conflicting record evidence about that mental state. *Ingle*, 460 F. App'x at 596. Under that standard, Abdalla's citation of conflicting evidence does not require reversal. Because the sentencing judge relied on evidence showing Abdalla's lucid state shortly after the conflict, the judge's weighing of the evidence at Abdalla's sentencing does not suggest reversible error under deferential review.

Finally, Abdalla claims that Judge Richardson, who inherited the case from Judge Crenshaw, wrongly ignored Judge Crenshaw's determination that Abdalla was too high during the search to voluntarily, knowingly, and intelligently waive his *Miranda* rights. Judge Crenshaw, before exiting the case, found that Abdalla lacked the mental state to waive his *Miranda* rights when questioned during the search. Abdalla believes that ruling should have precluded the sentencing enhancement because it showed he lacked the mens rea to knowingly assault officers. To support that argument, Abdalla relies on a law-of-the-case theory that "findings made at one stage in the litigation should not be reconsidered at subsequent stages of that same litigation." *Dixie Fuel Co. v. Dir., Office of Workers' Comp. Programs*, 820 F.3d 833,

843 (6th Cir. 2016). Abdalla asserts that Judge Crenshaw's finding that Abdalla lacked capacity to waive his *Miranda* rights should have controlled Judge Richardson's determination of Abdalla's mental state during the scuffle. So Abdalla contends that Judge Richardson erred by finding that Abdalla's "waiver of *Miranda* rights is a different question than whether he was in a frame of mind where he could form the mens rea to commit an assault." (R. 104, Sentencing Tr., Page ID # 748–49.) Because Judge Richardson did not thoroughly distinguish between the *Miranda* mens rea and the sentencing enhancement mens rea, both of which contain a "knowing requirement," Abdalla believes that the sentencing judge wrongly applied the enhancement.

Yet *Miranda* waivers and the Guidelines enhancement for assaulting an officer are distinct legal issues. Defendants must knowingly and intelligently waive their *Miranda* rights, which courts analyze given the "totality of the circumstances." *Garner v. Mitchell*, 557 F.3d 257, 260 (6th Cir. 2009). Under that inquiry, courts also look to two "dimensions," "voluntariness and comprehension," to decide whether a defendant freely and knowingly chose to talk with police despite *Miranda* protections. *Id.* at 263. For the § 3A1.2(c)(1) assaulting an officer enhancement, the defendant must (1) intend to assault another person, (2) know that this person is an officer, and (3) recklessly create a substantial risk of injury. Although both mens rea requirements contain a knowing requirement, knowingly assaulting an officer differs from a defendant comprehending and voluntarily waiving his *Miranda* rights. So we are unpersuaded that Judge Richardson committed a reversible error by finding the two legal questions distinct.

VI.

For the reasons above, we AFFIRM.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	**No. 2:17-cr-00007**
	)	**CHIEF JUDGE CRENSHAW**
SAMER WALID ABDALLA	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

On June 17, 2018, members of the Fifteenth Judicial Drug Task Force executed a warrant to search a residence located at 332 New Hope Road, Alexandria, Tennessee. As a result of the search and a subsequent interrogation, Samer Walid Abdalla was charged in this Court in a one-count Indictment with possessing five firearms after having previously been convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924. He has filed a Motion to Suppress (Doc. No. 20), that has been exhaustively brief by the parties (Doc. Nos. 20, 22, 24, 27, and 28), and which was the subject of an evidentiary hearing on July 31, 2018. For the reasons that follow, the Motion will be granted in part and denied in part.

I. Discussion

Abdalla's Motion to Suppress is multi-faceted. He seeks to suppress both the fruits of the search (the firearms), and statements he made, both at the scene of his arrest and while in custody. He also requests a hearing pursuant to pursuant to Franks v. Delaware, 438 U.S. 154 (1978).

A. Motion to Suppress the Fruits of the Search

Abdalla first moves to suppress the firearms that were found in his residence because the information used to obtain the search warrant was allegedly stale. According to the Search Warrant Affidavit, three controlled buys of narcotics were made over a span of four months. More specifically, it states that (1) on February 2, 2017, a confidential informant ("CI") went to the New Hope Road residence, "made contact" with Courtney Paris, and purchased $90 worth of heroin while Abdalla and Ernest Tanner were in the home; (2) on March 16, 2017 the CI went to the residence and made contact with both Abdalla and Paris and purchased $150 worth of heroin; and (3) on June 2, 2017, the same events were repeated with the CI making contact with both Abdalla and Paris, but this time a Ruger 9mm pistol was displayed.

"In the context of drug crimes, information goes stale very quickly 'because drugs are usually sold and consumed in a prompt fashion.'" United States v. Brooks, 594 F.3d 488, 493 (6th Cir. 2010) (quoting United States v. Frechette, 583 F.3d 374, 378 (6th Cir. 2009)). Nevertheless "[w]hether information is stale in the context of a search warrant turns on several factors, such as 'the character of the crime (chance encounter in the night or regenerating conspiracy?), the criminal (nomadic or entrenched?), the thing to be seized (perishable and easily transferable or of enduring utility to its holder?), [and] the place to be searched (mere criminal forum of convenience or secure operational base?).'" Id. (quoting United States v. Hammond, 351 F.3d 765, 771–72 (6th Cir. 2003)). Simply put, "'[t]he function of a staleness test in the search warrant context is not to create an arbitrary time limitation within which discovered facts must be presented to a magistrate.'" United States v. Spikes, 158 F.3d 913, 923 (6th Cir. 1998) (quoting United States v. Henson 848 F.2d 1374, 1382 (6th Cir.1988)).

Here, the last purchase was made one week before the application for the search warrant. By itself, this does not render the information from the CI stale. See United States v. Jeanetta, 533 F.3d 651, 655 (8th Cir. 2008) ("Standing alone, the fact the controlled buy was made two weeks before the warrant issued does not render the information in the application stale."); United States v. Ortiz, 143 F.3d 728, 732-33 (2d Cir. 1998) (citation omitted) ("In investigations of ongoing narcotics operations, intervals of weeks or months between the last described act and the application for a warrant [does] not necessarily make the information stale."). Besides, "even if a significant period of time elapsed, it is possible the magistrate judge may infer that a search would uncover evidence of wrongdoing." United States v. Pinson, 321 F.3d 558, 565 (6th Cir. 2003).

Such an inference could easily be made in this case. Three purchases were made from two individuals in the residence in a four month period. This suggests not a "chance encounter in the night," but rather purchases from "a secure operational base." Moreover, a 9mm handgun was displayed during the last purchase. While Abdalla correctly points out that DeKalb County Judge David A. Patterson issued the Search Warrant after finding probable cause to believe that felony trafficking or felony money laundering might be occurring at the New Hope road premises, the judge also described the evidence to be seized as including "firearms, ammunition, [and] receipts of purchase of firearms[.]" (Doc. No. 20-1 at 14-15). Any reasonable jurist knows that ""drugs and guns go 'hand in hand'" and that "firearms are tools of the drug trafficking trade." United States v. Hornbeak, 575 F. App'x 618, 621 (6th Cir. 2014) (citation omitted). Accordingly, the firearms will not be suppressed on the grounds that the information in the warrant was stale.

In his Second Supplemental Brief, Abdalla argues that the search warrant was improperly issued because there was insufficient information supplied to Judge Patterson to determine whether

the CI was reliable. Arguing the typical indicia of reliability was lacking, he writes:

> There is no statement that the confidential informant was reliable or had been used before. There is no statement that the confidential informant was named to the magistrate judge. There is no statement that officers searched the confidential informant before and after the controlled purchases, which is in many ways the very definition of a "controlled" purchase. Although we are told that the confidential informant was given "buy money," there is no statement that it was pre-recorded or otherwise documented. Although we are told that the confidential informant was issued "monitoring equipment," there is no statement that officers used this equipment to monitor the confidential informant. There is no statement that the drugs allegedly acquired in the controlled purchases were field-tested positive for narcotics. In fact, we now know that they were not tested until months later, and the powder purchased in one of the three controlled buys contained no narcotics at all.

(Doc. No. 28 at 4).

Were the Court addressing the issue of probable cause in the first instance, Abdalla's arguments might have some purchase. However, the Supreme Court has "repeatedly said that after-the-fact scrutiny by courts of the sufficiency of an affidavit should not take the form of *de novo* review." Illinois v. Gates, 462 U.S. 213, 236 (1983). Instead, "reviewing courts are to accord the magistrate's determination 'great deference.'" United States v. Allen, 211 F.3d 970, 973 (6th Cir. 2000).

"[I]ndependent corroboration of a confidential informant's story is not a *sine qua non* to a finding of probable cause," United States v. McCraven, 401 F.3d 693, 698 (6th Cir. 2005), but, "in the absence of any indicia of the informants' reliability, courts insist that the affidavit contain substantial independent police corroboration." United States v. Frazier, 423 F.3d 526, 532 (6th Cir. 2005). Stated somewhat differently, "an affidavit that supplies little information concerning an informant's reliability may support a finding of probable cause, under the totality of the circumstances, if it includes sufficient corroborating information." United States v. Coffee, 434 F.3d 887, 893 (6th Cir. 2006) (citation omitted); see also United States v. Tuttle, 200 F.3d 892, 894 (6th

Cir. 2000) (noting that "information received from an informant whose reliability is not established may be sufficient to create probable cause when there is some independent corroboration by the police of the informant's information"). Ultimately, the issuing judge must answer "the commonsense practical question whether there is 'probable cause to believe that contraband or evidence is located in a particular place.'" Gates, 462 U.S. at 230

Judge Patterson could properly conclude from the Search Warrant Affidavit that illegal narcotics would be found at 332 New Hope Road. He was presented with information that a CI had made narcotics purchases there, not once, but on three occasions in the past few months. He was also informed that the CI had been issued "monitoring equipment and drug buy money," and that, after each transaction, the "evidence [wa]s logged into the 15th Drug Task Force Evidence." (Doc. No. 20-1 at 8). Further, the Search Warrant Affidavit stated that, on the first two occasions, the CI and an undercover agent were "surveilled" going to the house; on the third occasion an undercover agent drove the CI to the residence. (Id.).

While the Search Warrant Affidavit could have been more detailed and written clearer, "line-by-line scrutiny" is inappropriate and an "affidavit should be reviewed in a commonsense rather than a hypertechnical-manner." United States v. Woosley, 361 F.3d 924, 926 (6th Cir. 2004). Even though the search warrant affidavit does not state that the CI had proven reliable in the past, by the time he made his third purchase, the CI had successfully purchased what he thought to be heroin[1] from the residence at 332 New Hope Road on two prior occasions. See United States v.

[1] In his Supplemental Brief, Abdalla notes that a September 2017 report from the Tennessee Bureau of Investigations indicates the substance purchased on February 2, 2017 contained "no controlled substances." (Doc. No. 28 at 2). From this he argues that "[one] third of the probable cause in the warrant was likely baking soda or some other benign powder." (Id.). This argument goes nowhere.

There is absolutely nothing in the record to suggest that either the CI or the occupants of 332 New

Greene, 250 F.3d 471, 480 (6th Cir. 2001) ("Circuit precedent clearly establishes that the affiant need only specify that the confidential informant has given accurate information in the past to qualify as reliable."). Abdalla's suggestion that the transactions were not monitored and the buy money was not recorded is untrue (as he now knows). Besides, "[t]he affidavit is judged on the adequacy of what it does contain, not on what it lacks, or on what a critic might say should have been added," United States v. Allen, 211 F.3d 970, 975 (6th Cir. 2000), and Judge Patterson was required to read the Search Warrant Affidavit "in a commonsense and realistic fashion," Coffee, 434 F.3d at 892. Based on such a reading, he could have properly concluded that the monitoring equipment was used, the money was recorded, and the CI was watched going to and from the residence.

Abdalla also moves to suppress the firearms on the ground that the Search Warrant was executed on the wrong house. He notes out that, immediately above Judge Patterson's signature is the command that officers search the residence and buildings located at 245 Carey Road in Hartsville, Tennessee. Not only is this the incorrect address, Hartsville is located in Trousdale County, while Alexandria is located in DeKalb County.

In support of his position that suppression is necessary, Abdalla relies on United States v. Durk, 149 F.3d 464 (6th Cir. 1998) for the proposition that "[i]t goes without saying that a search warrant that only authorizes search of the *wrong home* creates a high likelihood that officers would have searched the wrong premises in relying on this search warrant." (Doc. No. 20 at 9) (emphasis in original). He also quotes that case for the observation that a court's inquiry should be on whether

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Hope Road entered into an agreement to purchase $90 worth of non-narcotic powder. The only evidence before the Court is that the CI went to the address to purchase heroin. That later tests revealed the substance not to be heroin is beside the point because, under Tennessee law, it is a felony to sell a "counterfeit controlled substance." Tenn. Code Ann. § 39-17-423.

the place to be searched is "described with sufficient particularity to enable the executing officer to locate and identify the premises with reasonable effort, and whether there is any reasonable probability that another premises might be mistakenly searched." (Id., quoting Durk, 189 F.3d at 465).

In reality, Durk supports the Government's position that the firearms should not be suppressed. In that case, an officer seeking a warrant twice transposed the address number from 4216 Fulton, Royal Oak, Michigan, to 4612. He also identified the house as being approximately 3 houses to the east of Grandview when, in fact, it was 3 houses to the west. Upholding the execution of the search warrant, the Sixth Circuit wrote:

> The evil that the framers of the Constitution were trying to eradicate with the particularity requirement was the so-called general warrant that allowed officers to search at random. This requirement eliminates generalness and provides both a reason for and limitation of the search. These purposes were served in this case as the warrant sufficiently describes [defendant's] house despite the two inaccuracies. The warrant correctly identifies the house as a single-family red brick ranch home on the north side of Fulton street. Although brick, ranch style homes may be common in [defendant's] neighborhood, the warrant also describes a more unusual feature: a ten by fifteen foot metal storage shed, the entrance of which is secured by a plastic tie. . . . Courts routinely have upheld warrants, such as the one at issue, "where one part of the description of the premises to be searched is inaccurate, but the description has other parts which identify the place with particularity."

Durk, 149 F.3d at 466 (internal citations omitted).

Even more so in this case than in Durk, "no reasonable probability existed that the officers would search the wrong premises as a result of the inaccuracies in the warrant." 149 F.3d at 466. While the address above the judge's signature was wrong, that was clearly the result of Agent Brandon Gooch cutting and pasting from an earlier warrant. Regardless, in the first paragraph of the warrant the address is correctly stated, with clear and detailed directions to the residence. Specifically, the warrant provides:

> TO ARRIVE AT THESE PREMISES, TRAVELING WEST ON I-40 TAKE EXIT RAMP 254. TURNING LEFT ONTO ALEXANDRIA HIGHWAY AND TRAVELING SOUTH 6.8 MILES TO DEKALB COUNTY LINE. CONTINUE TRAVELLING [SIC] SOUTH ON ALEXANDRIA HIGHWAY FOR 0.5 MILES. TO THE INTERSECTION OF ALEXANDRA [SIC] HIGHWAY AND NEW HOPE RD. TURNING LEFT ON TO NEW HOPE RD AND TRAVELING EAST FOR 0.1 MILE TO THE DRIVEWAY OF 332 NEW HOPE ROAD LOCATED ON THE RIGHT SIDE OF ROADWAY.

(Doc. No. 20-1 at 13). Lest there be any misunderstanding, the warrant also described what the premises looked like:

> ON [THE] PROPERTY THERE WILL BE A WHITE DOUBLE WIDE TRAILER WITH A GREEN FRONT PORCH AND A BLACK SHINGLE ROOF. IN THE BACK YARD THERE WILL BE A ALUMINA [SIC] BUILDING WITH AN UP STAIRS PORCH. ALSO ON THE FRONT PORCH OF THE DOUBLE WIDE THERE WILL BE AN AMERICAN FLAG AND AT THE ENTRANCE OF THE DRIVE WAY THERE WILL BE AN AUTO DETAIL SIGN.

(Id.). Absent exact GPS coordinates, the actual location of the search could not have been any clearer. Nor could any officer mistake this house for the one in Trousdale County, unless that residence, too, was a black shingled, white double wide trailer, flying an American flag, with an aluminum building on the premises and an auto detail sign at the entrance to the driveway. There is no evidence of that in the record.

Additionally, Agent Gooch, who drafted the affidavit, also participated in the search, and the Sixth Circuit "has previously upheld searches conducted pursuant to warrants listing incorrect addresses or property descriptions in part because the police officers involved in executing the search had also served as affiants or were otherwise familiar with the location to be searched." Knott v. Sullivan, 418 F.3d 561, 569 (6th Cir. 2005). Not only that, a pre-search briefing was held during which the other officers were provided the address and a description of the residence to be search, and they then traveled by caravan to 332 New Hope Road.

Moreover, and as in Durk, "additional circumstances" as set forth in the affidavit for search, "make clear that the inaccuracies in the warrant here would not lead to a mistaken search of other premises." 189 F.3d at 466. While "[t]he Fourth Amendment by its terms requires particularity in the warrant, not in the supporting documents," this is not to "say that the Fourth Amendment prohibits a warrant from cross-referencing other documents." Groh v. Ramirez, 540 U.S. 551, 557 (2004). "Indeed, most Courts of Appeals have held that a court may construe a warrant with reference to a supporting application or affidavit if the warrant uses appropriate words of incorporation, and if the supporting document accompanies the warrant." Id. at 557-58. This includes the Sixth Circuit. Sanders v. Parrish, 141 F. App'x 412, 416 (6th Cir. 2005) (collecting cases); United States v. Blakeney, 942 F.2d 1001, 1024 (6th Cir. 1991).

Incorporation requires "'suitable words of reference' evidencing the magistrate's explicit intention to incorporate the affidavit.'" United States v. Brown, 49 F.3d 1162, 1175 (6th Cir. 1995) (citation omitted). That said, the "'realities of administration of criminal justice,' . . . counsel against an overly exacting standard for determining when a warrant successfully incorporates a supporting affidavit," United States v. Maxwell, 920 F.2d 1028, 1033 (D.C. Cir. 1990), and, hence, "there are no required magic words of incorporation." United States v. SDI Future Health, Inc. 568 F.3d 684, 700 (9th Cir. 2009). In fact, a warrant that stated "upon the sworn complaint made before me there is probable cause to believe" was deemed sufficient, United States v. Vesikuru, 314 F.3d 1116, 1120–21 & n.4 (9th Cir.2002), as was the statement, "See attached affidavit," Rivera Rodriguez v. Beninato, 469 F.3d 1, 5 (1st Cir. 2006).

Contrary to Abdalla's argument, Judge Patterson more than sufficiently incorporated the Search Warrant Affidavit into the Search Warrant. Not only did he sign the Affidavit noting that

it had been subscribed and sworn to before him, he specifically based his probable cause determination on the fact that "PROOF HAVING BEEN MADE BEFORE ME AND REDUCED TO WRITING AND SWORN TO BY AGENT BRANDON GOOCH OF THE 15th JUDICIAL DISTRICT DRUG TASK FORCE." That affidavit, in turn, correctly identified the premises, going so far as to contain the heading:

APPLICATION FOR SEARCH WARRANT
TO SEARCH THE REAL PROPERTY OF

ERNEST TANNER
SAMER ABDALLA
COURTNEY PARIS

332 NEW HOPE ROAD, ALEXANDRA [SIC]
DEKALB COUNTY,
TENNESSEE

(Doc. No. 20-1 at 2).

Ultimately, "[t]he test for determining the sufficiency of the description of the place to be searched . . . can be divided into two components: (1) whether the place to be searched is described with sufficient particularity as to enable the executing officers to locate and identify the premises with reasonable effort; and (2) whether there is reasonable probability that some other premises may be mistakenly searched." United States v. Gahagan, 865 F.2d 1490, 1496–97 (6th Cir. 1989). Here, the record reflects that the residence was described with more than sufficient detail such that there was no reasonable probability that the wrong residence would be searched. Therefore, the firearms that were found in the home will not be suppressed on the ground that the Search Warrant at one point contained an incorrect address.

B. Motion to Suppress Statements

Abdalla moves to suppress statements that he made after he was read his Miranda rights on

the grounds that they were not voluntary. There are two such statements at issue. The first statement was made immediately after his arrest on June 9, 2017, at the New Hope Road residence. The second statement was made several days later at the DeKalb County Jail. No written waiver was executed by Abdalla for either statement, nor was the reading of the Miranda rights and Abdalla's voluntary relinquishment of those rights recorded, even though one of the officers recorded a part of the second statement on his cell phone after Abdalla had been read his rights.[2]

"Before the police may interrogate a suspect in custody, they must first read the Miranda warnings." United States v. Pacheco-Lopez, 531 F.3d 420, 423 (6th Cir. 2008) (citing Miranda v. Arizona, 384 U.S. 436 (1966)). "Miranda holds that '[t]he defendant may waive effectuation' of the rights conveyed in the warnings 'provided the waiver is made voluntarily, knowingly and intelligently.'" Moran v. Burbine, 475 U.S. 412, 420-21 (1986) (citations omitted). There are "two distinct dimensions" to the inquiry:

> First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. Only if the "totality of the circumstances surrounding the interrogation" reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the Miranda rights have been waived.

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[2] Obviously it would have been better for the officers to have Abdalla sign a written waiver or record the reading of the rights and acknowledgment. "That fact, however, is not determinative, as the record clearly reflects by a preponderance of the evidence that [defendant] knowingly and voluntarily waived his Miranda rights," United States v. Adams, 583 F.3d 457, 467 (6th Cir. 2009), at least with respect to the second statement. See North Carolina v. Butler, 411 U.S. 369, 371, 373 (1979) (rejecting inflexible rule requiring waiver where defendant stated, "I will talk to you but I am not signing any form"); United States v. Miggins, 302 F.3d 384, 397 (6th Cir. 2002) (observing that "no authority . . . can be found, for the proposition that a written waiver is necessary to establish a knowing, intelligent and voluntary waiver of Miranda rights").

Moran v. Burbine, 475 U.S. 412, 421 (1986) (citation omitted).

"For a defendant's confession to be involuntary, and therefore obtained in violation of the Fifth Amendment, 'coercive police activity' must have preceded the confession." United States v. Ray, 803 F.3d 244, 266 (6th Cir. 2015). There is no evidence of such tactics in this case. Instead, Abdalla argues that his statements should be suppressed because his excessive drug use prohibited him from having the requisite mental capacity to knowingly and intelligently waive his rights.

"It is well-established, in this circuit and others, that mental capacity is one of many factors to be considered in the totality of the circumstances analysis regarding whether a Miranda waiver was knowing and intelligent. Thus, diminished mental capacity alone does not prevent a defendant from validly waiving his or her Miranda rights." Garner v. Mitchell, 557 F.3d 257, 264–65 (6th Cir. 2009) (collecting cases). "Rather, that factor must be viewed alongside other factors, including evidence of the defendant's conduct during, and leading up to, the interrogation." Id.; see also United States v. Anderson, 695 F.3d 390, 395 (6th Cir. 2012) (affirming that the Sixth Circuit "looks to the 'conduct, speech, and appearance' of the accused 'during, and leading up to, the interrogation' to determine whether a Miranda waiver was knowing and voluntary").

Abdalla cites Miranda, 384 U.S. at 475, and Butler, 441 U.S. at 373 (1979), for the proposition that the "the government bears the 'great' burden of proving a valid waiver of [Miranda] rights," (Doc. No. 20 at 10), but the Supreme Court has subsequently observed that its comments about a "heavy" burden were "stated in passing" and that "the State need prove waiver only by a preponderance of the evidence." Colorado v. Connelly, 479 U.S. 157, 168 (1986); see Lego v. Twomey, 404 U.S. 477, 489 (1972) (holding that "the prosecution must prove at least by a preponderance of the evidence that the confession was voluntary," but observing that "the States are

free, pursuant to their own law, to adopt a higher standard"); United States v. Adams, 583 F.3d 457, 467 (6th Cir. 2009) ("It is the government's burden to establish a waiver by a preponderance of the evidence."). Either way, the Government has met its burden with respect to the second statement, but not the first.

At the evidentiary hearing, the Government did not call Mike Thompson, the Director of the 15th Judicial Task Force,[3] who was the person that actually read Abdalla his rights in relation to the first statement. Instead, Agent Gooch was called.

Agent Gooch testified that he was present when Thompson recited from memory the Miranda warnings to Abdalla. He testified that Abdalla (1) appeared calm and coherent; (2) did not appear to be intoxicated; (3) appeared to be oriented as to time and place; (4) did not ask that the rights be repeated or indicate that he did not understand his rights; and (5) nodded appropriately while the warning were being given. Agent Gooch also testified that Abdalla verbally relinquished his Miranda rights, and appeared to do so knowingly and voluntarily.

Even though the Court finds Agent Gooch's testimony on this score entirely credible, it only goes so far. Agent Gooch conceded that his observations were limited to the few minutes or seconds required to advise Abdalla of his Miranda rights. As such, he was not in a position to testify regarding Abdalla's conduct during, or leading up to, the interrogation.

According to the testimony of Rebecca Wright, a Putnam County Sheriff's Deputy, when officers arrived at 332 New Hope Road they made a forcible entry into the premises. Abdalla was located in the bedroom wearing nothing but shorts, and lying next to his girlfriend. Realizing people had entered his bedroom, Abdalla became startled and began fighting with the officers. In a later

[3] Apparently, Director Thompson was vacationing in Wisconsin at the time.

interview, Abdalla explained that he had injected heroin and fentanyl and taken methamphetamine before the raid, and that he thought he was in a video game when he was fighting with the officers. This is, of course, self serving. Regardless, Deputy Wright testified that Abdalla tried to bite two officers and came close to being shot during the struggle. As it happened, it took four officer to subdue Abdalla. Even when he was placed in flex-cuffs he managed to break them, something Deputy Wright had never seen before.

While there was some testimony at the evidentiary hearing that Abdalla had calmed down and became coherent between the time of the fraças with the officers and the interview with Director Thompson, the Court cannot make such a finding based upon the preponderance of the evidence. Nor does it have any evidence about what transpired during the interrogation because Director Thompson did not testify. Accordingly, the Court will suppress the statements that Abdalla made to Director Thompson at the New Hope Road residence.

The Court will not, however, suppress the statements made by Abdalla at the DeKalb County Jail on June 12, 2017 because the same evidentiary infirmities do not exist. To the contrary, while Deputy Wright conceded learning from Abdalla during his statement that he was a drug addict who used 3 grams of heroin or fentanyl a day, had used both methamphetamine and fentanyl on the morning of his arrest, and that withdrawal from drugs could be painful and take some time, she did not recall ever hearing Abdalla say that he was "dope sick,"nor did she see the need to request medical treatment She also testified that she read Abdalla his rights. Although Abdalla agreed to talk to her, he would not sign the waiver she provided him, which, as already noted, is not fatal. Upon further questioning by the Court, Deputy Wright said that on the morning of the 12th, Abdalla appeared normal, and that he was talkative, cordial and engaging. She further testified that he was

clean, groomed and coherent, and did not appear to be under the influence of any narcotics. Further, his speech was clear and Abdalla was easy to understand. The Court finds Deputy Wright's testimony entirely credible and, therefore, the June 12, 2017 statement will not be suppressed.

C. Request for a *Franks* Hearing

The standards relating to a Franks hearing have been stated on countless occasions, and the Court need not reinvent the wheel. For present purposes, the following summary suffices:

> In Franks, the United States Supreme Court recognized a "defendant's right to challenge the sufficiency of an executed search warrant by attacking the veracity of the affidavit supporting the warrant," and "granted defendants a limited right to an evidentiary hearing concerning the veracity of the affidavit." United States v. Fowler, 535 F.3d 408, 415 (6th Cir. 2008). "[W]here the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request." Franks v. Delaware, 438 U.S. 154, 155–56, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978). Thus, "[a] defendant is entitled to a Franks hearing if he: 1) makes a substantial preliminary showing that the affiant knowingly and intentionally, or with reckless disregard for the truth, included a false statement or material omission in the affidavit; and 2) proves that the false statement or material omission is necessary to the probable cause finding in the affidavit." United States v. Rose, 714 F.3d 362, 370 (6th Cir. 2013) (citing Franks, 438 U.S. at 171–72, 98 S.Ct. 2674).
>
> Both prongs must be satisfied before a hearing is required. "Therefore, 'if, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required.' " United States v. Mastromatteo, 538 F.3d 535, 545 (6th Cir. 2008) (quoting Franks, 438 U.S. at 171–72, 98 S.Ct. 2674). If, however, "both prongs are satisfied and at the evidentiary hearing, 'the allegation of perjury or reckless disregard is established by the defendant by a preponderance of the evidence, and, with the affidavit's false material set to one side, the affidavit's remaining content is insufficient to establish probable cause, the search warrant must be voided and the fruits of the search' suppressed.'" United States v. Graham, 275 F.3d 490, 505 (6th Cir. 2001) (quoting Franks, 438 U.S. at 156, 98 S.Ct. 2674).

United States v. Brown, 68 F. Supp. 3d 783, 791–92 (M.D. Tenn. 2014), aff'd, 857 F.3d 334 (6th Cir. 2017). With this standard of review, it is clear that a Franks hearing is inappropriate.

At the evidentiary hearing, counsel limited Abdalla's request for a Franks hearing to the issue of the failure of the Search Warrant Affidavit to explain that the amount of heroin (real or counterfeit) purchased on each occasion was approximately 3 to 5 grams, and that Abdalla allegedly used 3 grams daily. In his view this small amount goes to the issue of staleness because, presumably, a personal user is less likely to deal than a big-time trafficker.

Abdalla's argument relates to an act of omission, not commission, and the Sixth Circuit "has repeatedly held that there is a higher bar for obtaining a Franks hearing on the basis of an allegedly material omission as opposed to an allegedly false affirmative statement." Fowler, 535 F.3d at 415. That court has explained:

> [A] Franks hearing is only merited in cases of omissions in "rare instances." . . . "This is so because an allegation of omission potentially opens officers to endless conjecture about investigative leads, fragments of information, or other matter that might, if included, have redounded to defendant's benefit." To merit a hearing, the defendant must make a preliminary showing that the affiant engaged in deliberate or reckless disregard of the truth in omitting the information from the affidavit. The court must then consider the affidavit along with the omitted portions and determine whether probable cause still exists.

United States v. Graham, 275 F.3d 490, 506 (6th Cir. 2001)(citation omitted).

Leaving aside that dealing heroin is unlawful no matter the amount, Abdalla has not shown this to be the rare case warranting a Franks hearing, or that Agent Gooch knew of Abdalla's consumption habit, yet deliberately or recklessly excluded that information from the Search Warrant Affidavit. Regardless, Judge Patterson could not have been misled into thinking that Abdalla was a large drug trafficker because he was specifically informed that the purchase amount on the first occasion was $90 of heroin, and on both of the last two occasions it was $150 worth of heroin.[4]

[4] Additionally, in regard to the last purchase, the Search Warrant Affidavit indicates that the CI "purchased 3 points of heroin for $90." (Doc. No. 20-1 at 8). The reference to "points" is likely a scrivener's error.

Besides, even if Judge Patterson was aware that the purchases were made in the 3 gram range and that this was a personal use amount (at least for Abdalla), this does not change the fact that the New Hope Road residents had enough additional heroin to make sales to others on at least three occasions.

II. Conclusion

For the foregoing reasons, Abdalla's Motion to Suppress Evidence (Doc. No. 20) will be granted in part and denied in part. The Motion will be granted with respect to the statements he made to Director Thompson at the scene of the search on June 9, 2017, but in all other respects will be denied. His request for a Franks hearing will also be denied.

An appropriate Order will enter.

WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE

COUNTY OF DEKALB
STATE OF TENNESSEE

APPLICATION FOR SEARCH WARRANT

TO SEARCH THE REAL PROPERTY OF
ERNEST TANNER
SAMER ABDALLA
COURTNEY PARIS

332 NEW HOPE ROAD, ALEXANDRA
DEKALB COUNTY,
TENNESSEE

SEARCH WARRANT AFFIDAVIT

I, BRANDON GOOCH, YOUR AFFIANT, DO ON MY OATH SWEAR, MAKE COMPLAINT, SAY AND DEPOSE THE FOLLOWING:

1. YOUR AFFIANT IS CURRENTLY AN AGENT OF THE FIFTEENTH (15TH) JUDICIAL DISTRICT DRUG ~~TASK FORCE~~. I HAVE BEEN A LAW ENFORCEMENT OFFICER FOR OVER ELEVEN (10) YEARS, AND HAVE BEEN ASSIGNED TO THE FIFTEENTH ~~JUDICIAL DISTRICT~~ DRUG TASK FORCE SINCE 2011. I HAVE ACTED AND RECEIVED THE INFORMATION SET FORTH IN THIS AFFIDAVIT IN THAT CAPACITY.

2. I HAVE PROBABLE CAUSE TO BELIEVE AND I DO BELIEVE THAT EVIDENCE OF ILLEGAL NARCOTICS CRIMES AND PROCEEDS OF ILLEGAL NARCOTICS CRIMES ARE PRESENTLY LOCATED ON THE FOLLOWING DESCRIBED PREMISES, AND ON THE PERSONS FOUND THEREON BASED ON THE INFORMATION STATED IN THIS AFFIDAVIT. TO ARRIVE AT THESE PREMISES, TRAVELING WEST ON I -40 TAKE EXIT RAMP 254. TURNING LEFT ONTO ALEXANDRIA HIGHWAY AND TRAVELING SOUTH 6.8 MILES TO DEKALB COUNTY LINE. CONTINUE TRAVELLING SOUTH ON ALEXANDRIA HWY FOR 0.5 MILES. TO THE INTERSECTION OF ALEXANDRA HIGHWAY AND NEW HOPE ROAD. TURNING LEFT ON TO NEW HOPE RD AND TRAVELING EAST FOR 0.1 MILE TO THE DRIVEWAY OF 332 NEW HOPE ROAD LOCATED ON THE RIGHT SIDE OF ROADWAY. ON PROPERTY THERE WILL BE A WHITE DOUBLE WIDE TRAILER WITH A GREEN FRONT PORCH AND A BLACK SHINGLE ROOF. IN THE BACK YARD THERE WILL BE A ALUMINA BUILDING WITH AN UP STAIRS PORCH. ALSO ON THE FRONT PORCH OF THE DOUBLE WIDE THERE WILL BE AN AMERICAN FLAG AND AT THE ENTRANCE OF THE DRIVE WAY THERE IS A AUTO DETAIL SIGN. THESE PREMISES ARE KNOWN TO YOUR AFFIANT.

EXPERIENCE AND TRAINING OF AFFIANT

3. OVER THE COURSE OF MY LAW ENFORCEMENT CAREER I HAVE EITHER "HANDLED", PARTICIPATED IN, OR ASSISTED OVER 300 NARCOTICS INVESTIGATIONS. FURTHER, I HAVE ASSISTED IN THE PREPARATION OF CASES FOR TRIAL WHERE YOUR AFFIANT HAS TESTIFIED AS A WITNESS. I HAVE QUESTIONED SUSPECTS, DEBRIEFED INFORMANTS, AND HAVE CONSULTED WITH OTHER OFFICERS AND PROSECUTING ATTORNEYS INVOLVING THE INVESTIGATION AND PROSECUTION OF NARCOTICS TRAFFICKERS. THROUGH THESE EXPERIENCES, I LEARNED AND CONFIRMED THE METHODS OF NARCOTICS TRAFFICKERS AS TO THE MANUFACTURE, ACQUISITION, STORAGE, PACKAGING, TRANSPORTING, AND DELIVERY OF NARCOTICS. I FURTHER LEARNED AND CONFIRMED THE METHODS OF NARCOTICS TRAFFICKERS AS TO ASSET ACCUMULATION, RECORD KEEPING, STORAGE OF ASSETS, INCLUDING SUCH STORAGE IN BANK ACCOUNTS, SAFE DEPOSIT BOXES, VEHICLES, RESIDENCES, AND/OR STORAGE BUILDINGS, AS WELL AS THE METHODS OF NARCOTICS TRAFFICKERS OF CONCEALING EXPENDITURES AND CASH PROCEEDS DERIVED FROM NARCOTICS TRAFFICKING. ADDITIONALLY, I HAVE ATTENDED SCHOOLS TEACHING THE METHODS USED BY NARCOTICS TRAFFICKERS TO MANUFACTURE, ACQUIRE, STORE, PACKAGE, TRANSPORT, AND DELIVER NARCOTICS, AS WELL AS THE METHODS OF NARCOTICS TRAFFICKERS USED TO ACCUMULATE ASSETS, KEEP RECORDS, STORE ASSETS, AND TO CONCEAL EXPENDITURES AND CASH PROCEEDS DERIVED FROM NARCOTICS TRAFFICKING. I HAVE PERSONALLY ATTENDED THE ANNUAL TENNESSEE NARCOTICS OFFICERS CONFERENCE. DURING THESE SCHOOLS I LEARNED AND LATER CONFIRMED THROUGH MY EXPERIENCE INVESTIGATING NARCOTICS CRIMES AND THROUGH THE EXECUTION OF SEARCH WARRANTS THE METHODS DRUG TRAFFICKERS USE AND THE TYPES OF EVIDENCE OF DRUG CRIMES. ADDITIONALLY, I HAVE LEARNED THROUGH BOTH THE COURSES I HAVE ATTENDED AND THROUGH MY YEARS OF EXPERIENCE AND PRACTICE ASSET FORFEITURE RELATING TO THE INSTRUMENTALITIES USED IN THE COMMISSION OF NARCOTICS CRIMES OR PROPERTY, BOTH REAL PROPERTY AND PERSONAL PROPERTY, ACQUIRED THROUGH THE USE OF PROCEEDS OF ILLEGAL NARCOTICS ACTIVITY. FURTHER, I HAVE ALSO BEEN THE LEAD CASE OFFICER IN NUMEROUS CIVIL ASSET FORFEITURE CASES. AS A RESULT OF THESE TRAININGS AND EXPERIENCE, I HAVE GAINED CONSIDERABLE KNOWLEDGE IN THE METHODS AND EVIDENCE OF NARCOTICS TRAFFICKING AND MONEY LAUNDERING.

4. THROUGH YOUR AFFIANT'S TRAINING AND EXPERIENCE YOUR AFFIANT HAS LEARNED THE FOLLOWING:

   A) THAT NARCOTICS TRAFFICKERS KEEP ON THEIR PERSON OR IN THEIR POSSESSION, INCLUDING IN THEIR RESIDENCE OR VEHICLE, NARCOTICS FOR THE PURPOSE OF SALE OR DELIVERY

B) THAT NARCOTICS TRAFFICKERS KEEP PACKAGING MATERIAL AS WELL AS PARAPHERNALIA FOR THE USE OF NARCOTICS ON THEIR PERSON OR IN THEIR POSSESSION, INCLUDING IN THEIR RESIDENCE OR VEHICLE, TO FACILITATE THE PACKAGING AND SALE OF ILLEGAL NARCOTICS AND THE CONSUMPTION OF NARCOTICS BY THE TRAFFICKER AND HIS / HER CUSTOMERS.

C) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS MAINTAIN BOOKS, RECORDS, RECEIPTS, NOTES, LEDGERS, AIRLINE TICKETS, DIARIES, MONEY ORDERS, AND OTHER PAPERS RELATING TO THE TRANSPORTATION OF, ORDERING, SALE, AND DISTRIBUTION OF CONTROLLED SUBSTANCES; THAT NARCOTICS TRAFFICKERS COMMONLY "FRONT", OR LOAN ON CONSIGNMENT, DRUGS TO THEIR CUSTOMERS WHO MUST PAY FOR THEIR DRUGS FROM THE PROCEEDS OF THEIR RE-SALES. AS A RESULT THE DRUG DEALERS MUST KEEP RECORDS OF SUCH TRANSACTIONS AS A QUICK AND RELIABLE MEANS TO RECALL THE STATUS OF SUCH TRANSACTIONS. THESE RECORDS ARE MAINTAINED FREQUENTLY AT THEIR RESIDENCE AND / OR AT THE LOCATION WHERE THE DRUGS ARE SOLD.

D) THAT NARCOTICS TRAFFICKERS MAKE PHOTOGRAPHS, VIDEO TAPES, AND /OR AUDIO TAPES OF THEMSELVES AND /OR THEIR ASSOCIATES WITH THEIR ILLICIT PRODUCT, AND THAT THESE TRAFFICKERS COMMONLY MAINTAIN THESE PHOTOGRAPHS AND /OR TAPES IN THEIR POSSESSION.

E) THAT NARCOTICS TRAFFICKERS FREQUENTLY ARM THEMSELVES WITH FIREARMS AND AMMUNITION AND KEEP THEM AVAILABLE ON THEIR PERSON, AT THEIR PREMISES, OR IN THEIR VEHICLES. THIS IS PRIMARILY DUE TO THE LARGE AMOUNTS OF CASH OR VALUABLE CONTRABAND INVOLVED IN THE DRUG TRADE AND TO THE FACT NARCOTIC TRAFFICKERS TEND TO RESORT TO VIOLENCE TO RESIST ROBBERY, TO SETTLE DISPUTES, TO THWART CAPTURE BY LAW ENFORCEMENT AND TO COLLECT UNPAID DRUG DEBTS. COURT DECISIONS IN BOTH FEDERAL AND STATE COURTS HAVE LONG RECOGNIZED THAT THE PRESENCE OF FIREARMS IS RELEVANT AND PROBATIVE AS SUCH ARE TOOLS OF THE DRUG TRADE.

F) THAT NARCOTICS TRAFFICKERS AND/OR MONEY LAUNDERERS FREQUENTLY TRANSACT THEIR BUSINESS OVER THE TELEPHONE, OFTEN UTILIZING CELLULAR TELEPHONES, PAGERS, CALLER IDENTIFICATION DEVICES, OR OTHER MACHINES DESIGNED TO FACILITATE COMMUNICATION, IN ORDER TO MAINTAIN STEADY CONTACT WITH CUSTOMERS AND SUPPLIERS. MOST COMMONLY BUYERS WILL CALL THE PREMISES IN ORDER TO CONFIRM THE PRESENCE OF CONTRABAND AND TO PLACE ORDERS. INTERCEPTING

SUCH CALLS, PAGES, OR COMMUNICATIONS WILL TEND TO PROVIDE ADDITIONAL EVIDENCE OF THE SALE OF CONTROLLED SUBSTANCES AND WILL INTEND TO IDENTIFY THE SELLER OF SUCH CONTRABAND. CALLERS OF LEGITIMATE AND INNOCENT REASONS WILL GENERALLY IDENTIFY THEMSELVES TO POLICE OFFICERS AND ACT AS WITNESSES TO ESTABLISH WHO HAS CONTROL OVER THE RESIDENCE OR PREMISES.

G) THAT NARCOTICS TRAFFICKERS AND/OR MONEY LAUNDERERS FREQUENTLY ACQUIRE GREAT PROFITS FROM THE SALE OF ILLEGAL NARCOTICS. NARCOTIC TRAFFICKERS COMMONLY MAINTAIN AND HAVE ACCESS TO LARGE AMOUNTS OF CASH FROM THE PROFITS OF THEIR ILLEGAL ACTIVITY IN ORDER TO MAINTAIN AND FINANCE THEIR ON-GOING NARCOTICS BUSINESS AND AT TIMES PLACE THE MONIES IN OTHER LOCATIONS SUCH AS BANKS, SAFES AND SAFE DEPOSIT BOXES. THE PURPOSE OF PLACING THE MONEY IN OTHER LOCATIONS IS TO PREVENT ITS THEFT BY OTHER NARCOTIC TRAFFICKERS AND TO PREVENT THE SEIZURE OF SAID MONEY BY LAW ENFORCEMENT OFFICERS. WHEN THE NARCOTIC TRAFFICKERS PLACE THE MONEY IN FINANCIAL INSTITUTIONS THEY WILL COMMONLY KEEP RECEIPTS OF SAID TRANSACTIONS AND KEYS TO SAFE DEPOSIT BOXES AT THEIR RESIDENCE FOR READY ACCESS.

H) THAT NARCOTICS TRAFFICKERS AND/OR MONEY LAUNDERERS WILL OFTEN USE THE PROCEEDS OF THEIR ILLEGAL DRUG TRANSACTIONS TO PURCHASE REAL ESTATE, STOCKS, BONDS, AND OTHER SECURITIES, AS WELL AS, HIGH PRICED ITEMS OF PERSONAL PROPERTY (E.G.: CARS, BOATS, JEWELRY, GOLD COINS AND ANTIQUES).

I) THAT A NET WORTH ANALYSIS AS WELL AS A SOURCE AND APPLICATION OF FUND ANALYSIS WILL SHOW THAT A NARCOTIC TRAFFICKER'S AND/OR MONEY LAUNDERER'S KNOWN EXPENDITURES AND /OR ASSET ACCUMULATION SUBSTANTIALLY EXCEED LEGITIMATE ACTIVITIES, BUT WILL BE CONSISTENT WITH ILLEGAL ACTIVITY SUCH AS NARCOTIC TRAFFICKING. THE NET WORTH ANALYSIS COMPARES A SUSPECTS NET WORTH (COST VALUE OF TOTAL ASSETS MINUS TOTAL LIABILITIES) AT A TIME JUST BEFORE THE SUSPECT COMMENCED HIS CRIMINAL ENTERPRISE TO HIS NET WORTH AT THE APPROXIMATE TIME OF HIS ARREST. THE SOURCE AND APPLICATION OF FUND ANALYSIS FOCUSES ON THE SUSPECTS EXPENDITURES DURING THE TIME AND PERIOD OF THE ILLEGAL ACTIVITIES AND COMPARES SUCH EXPENDITURES WITH HIS LEGITIMATE SOURCES OF INCOME. BOTH ANALYSES REQUIRE EVALUATION OF BANK RECORDS, CREDIT CARD RECORDS, LOAN RECORDS, DOCUMENTS EVIDENCING OWNERSHIP OF ASSETS, AND

OTHER DOCUMENTS EVIDENCING THE FINANCIAL PROFILE OF THE SUSPECT DURING THE COURSE OF THE ILLEGAL ACTIVITY, AS WELL AS A SHORT TIME PERIOD PRIOR TO THE ILLEGAL ACTIVITY (EG. ONE YEAR). OTHER THAN ASSISTING IN THE NET WORTH/SOURCE AND APPLICATION OF FUNDS ANALYSIS, A FINANCIAL PROFILE OF A SUSPECT PRIOR TO THE CRIMINAL ACTIVITIES EVIDENCES CHANGES IN LIFESTYLE, ASSET ACCUMULATION, AND EXPENDITURES BETWEEN THE TIME PERIOD PRIOR TO THE ILLEGAL ACTIVITY AND THE TIME DURING THE ILLEGAL ACTIVITY THAT ARE INCONSISTENT WITH A PERSON GENERATING INCOME FROM LEGITIMATE SOURCES. EVIDENCE OF A SUSPECT'S EXPENDITURES, ASSET ACCUMULATION, FINANCIAL LIFESTYLE, NET WORTH/SOURCE AND APPLICATION OF FUND ANALYSES, AND UNDERLYING FINANCIAL DOCUMENTS NECESSARY FOR SUCH ANALYSES ARE ADMISSIBLE UNDER BOTH FEDERAL AND STATE CASE LAW IN NARCOTIC TRAFFICKING AND MONEY LAUNDERING CASES.

J) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS SOMETIMES ASSUME FALSE IDENTITIES, FALSE NAMES, AND / OR PLACE THE ASSETS DERIVED FROM CRIMINAL ACTIVITIES IN NAMES OF OTHER PERSONS OR CORPORATE ENTITY. NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS ACTUALLY OWN AND CONTINUE TO USE SUCH ASSETS DERIVED FROM CRIMINAL ACTIVITIES AND EXERCISE DOMINION AND CONTROL OVER THIS PROPERTY, THOUGH THE ASSET MAY BE TITLED OR RECORDED IN THE NAMES OF OTHERS. THE USE OF FALSE NAMES, FALSE IDENTITIES, THE NAMES OF OTHER PERSONS, AND CORPORATE IDENTITIES IS TO AVOID DETECTION OF THESE ASSETS BY LAW ENFORCEMENT AGENCIES SO AS TO AVOID FORFEITURE OF THE SAME AND TO THEREBY PROTECT THEIR CRIMINAL INVESTMENTS

K) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS WILL KEEP EVIDENCE OF A CRIME FOR MANY YEARS AND WILL SOMETIMES STORE AND TRANSPORT THIS EVIDENCE WITH THEM WHEN THEY MOVE FROM ONE RESIDENCE TO ANOTHER. IN ADDITION TO THE OTHER ITEMS LISTED IN THIS DOCUMENT, THIS EVIDENCE CAN ALSO INCLUDE PILL BOTTLES, DOCTOR STATEMENTS, AND PHARMACEUTICAL RECORDS. THESE RECORDS MAY BE IN THE NARCOTIC TRAFFICKER'S NAME OR IN THE NAMES OF OTHER PEOPLE INVOLVED IN A CONSPIRACY WITH THE NARCOTIC TRAFFICKER.

L) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS VERY OFTEN WILL HID CONTRABAND, PROCEEDS OF DRUG SALES, AND / OR RECORDS IN SECURE LOCATION SUCH AS THEIR OWN RESIDENCES, LOCATIONS WHICH THEY CONTROL BUT WHICH ARE TITLED IN THE NAMES OF OTHERS, RESIDENCES OF OTHERS WHO ARE

PARTICIPANTS IN OR AIDERS AND ABETTORS OF THE DRUG CONSPIRACY, THEIR BUSINESSES, AND / OR BANK SAFE DEPOSIT BOXES TO CONCEAL THEM FROM LAW ENFORCEMENT OFFICIALS.

M) WHEN NARCOTICS TRAFFICKERS AMASS LARGE SUMS OF MONEY FROM THE SALE OF DRUGS AND OTHER RELATED CRIMINAL ACTIVITIES, THEY WILL ATTEMPT TO LEGITIMIZE THESE ILLEGAL PROFITS SO AS TO AVOID SUSPICION FROM LAW ENFORCEMENT OFFICIALS, SEIZURE AND FORFEITURE OF SUCH WEALTH, AND TO FURTHER AVOID FEDERAL TAX LIABILITIES. THESE NARCOTICS TRAFFICKERS THEN "LAUNDER" THEIR ILL-GOTTEN GAINS THROUGH THE USE OF BANKING FACILITIES, THE PURCHASE OF CASHIERS CHECKS, WIRE TRANSFERS OF FUNDS, BANK MONEY DRAFTS, LETTERS OF CREDIT, PURCHASE OF STOCKS, BONDS AND MUTUAL FUNDS FROM BROKERAGES HOUSES AND OTHER SIMILAR FINANCIAL INSTITUTIONS, THE PURCHASE OF AUTOMOBILES, REAL ESTATE INVESTMENTS, THE FALSE REPORTING OF THE ACTUAL PURCHASE PRICES OF PROPERTY, THE STRUCTURING OF FINANCIAL TRANSACTIONS TO AVOID FEDERAL CURRENCY REPORTING REQUIREMENTS, THE ESTABLISHMENT OF PHONY OR "SHELL" CORPORATIONS, THE ESTABLISHMENT OF BUSINESS "FRONTS" WHICH PRESENT AN EASY METHOD OF CLAIMING THAT ONE'S WEALTH ACTUALLY GAINED FROM CRIMINAL ACTIVITIES WAS DERIVED FROM A LEGITIMATE SOURCE.

N) THAT COURT DECISIONS IN FORFEITURE CASES AS WELL AS CRIMINAL PROSECUTIONS HAVE RECOGNIZED THAT THE PRESENCE OF UNEXPLAINED WEALTH IS RELEVANT AND PROBATIVE EVIDENCE OF DRUG TRAFFICKING.

O) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS COMMONLY MAINTAIN ADDRESSES AND TELEPHONE NUMBERS IN BOOKS OR PAPERS WHICH REFLECT NAMES, ADDRESSES AND TELEPHONE NUMBERS OF THEIR ASSOCIATES OR CUSTOMERS IN THE DRUG TRAFFICKING ORGANIZATION.

P) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS SOMETIMES USE VARIOUS TYPES OF COMPUTER TECHNOLOGIES IN STORING OR PROCESSING RECORDS, INCLUDING COMPUTERS, LAP TOP COMPUTERS, COMPUTER DISKS, COMPUTER FLASH DRIVES OR "THUMB" DRIVES, PRINTERS, MODEMS, KEYBOARDS, DISPLAY SCREENS, COMPUTER SOFTWARE AND COMPUTER DATA STORAGE MEDIA.

Q) THAT NARCOTICS TRAFFICKERS AND / OR MONEY LAUNDERERS MAY USE VIDEO SURVEILLANCE CAMERAS IN ORDER TO OBSERVE THE

ACTIVITIES OF OTHER INDIVIDUALS OUTSIDE OF THE BUILDING WHEREIN THE DRUGS ARE STORED OR MAINTAINED OR WHEREIN THE DRUG TRANSACTIONS TAKE PLACE.

R) THAT PERSONS WHO ARE FOUND ON THE PREMISES WHERE DRUG TRANSACTIONS ARE CONDUCTED ARE FREQUENTLY CUSTOMERS, EMPLOYEES, PARTNERS, DEALERS, ASSOCIATES, CO-CONSPIRATORS, OR OTHER PERSONS ENGAGED IN THE ILLEGAL PURCHASE OR SALE OR DELIVERY OF NARCOTICS, AND THAT AS SUCH, THESE PERSONS OFTEN HAVE ON THEIR PERSON EVIDENCE OF SUCH ILLEGAL DRUG TRANSACTIONS.

ON 2/2/2017 AGENTS GOOCH AND HOLDER OF THE 15TH DRUG TASK FORCE AND AGENT WRIGHT OF THE 13TH DRUG TASK FORCE MET WITH CI 9526 AT A SECURE LOCATION IN SMITH COUNTY. . CI IS ISSUED MONITORING EQUIPMENT AND DRUG BUY MONEY. CI HAD A PREARRANGED DEAL TO GO TO THE ADDRESS OF 332 NEW HOPE ROAD IN DEKALB COUNTY TO PURCHASE HEROIN. AGENTS THEN SURVEILLED SAID C.I. AND UC AGENT WRIGHT TO THE ABOVE ADDRESS. WHEN THEY ARRIVED, SAID CI MADE CONTACT WITH COURTNEY PARIS AND PURCHASED $90 WORTH OF HEROIN, WHILE SAMER ABDALLA AND ERNIE TANNER WHERE IN THE HOUSE ALSO. UC AND SAID CI THEN RETURNED TO AGENTS GOOCH AND HOLDER. THIS EVIDENCE IS LOGGED INTO THE 15TH DRUG TASK FORCE EVIDENCE.

ON 3/16/2017 AGENTS GOOCH AND HOLDER OF THE 15TH DRUG TASK FORCE AND AGENT WRIGHT OF THE 13TH DRUG TASK FORCE MET WITH CI 9526 AT A SECURE LOCATION IN SMITH COUNTY. CI IS ISSUED MONITORING EQUIPMENT AND DRUG BUY MONEY. CI HAD A PREARRANGED DEAL TO GO TO THE ADDRESS OF 332 NEW HOPE ROAD IN DEKALB CO TO PURCHASE HEROIN. AGENTS THEN SURVEILLED SAID C.I. AND UC AGENT BECKY WRIGHT TO THE ABOVE ADDRESS. WHEN THEY ARRIVED, SAID CI MADE CONTACT WITH COURTNEY PARIS AND SAMER ABDALLA AND PURCHASED $150 WORTH OF HEROIN. THIS EVIDENCE IS LOGGED INTO THE 15TH DRUG TASK FORCE EVIDENCE.

ON 1 JUNE 2017 AGENTS GOOCH AND WRIGHT MET WITH CI 9526 AT A SECURE LOCATION IN SMITH COUNTY TENNESSEE. CI WAS ISSUED MONITORING EQUIPMENT AND DRUG BUY MONEY. UC AGENT WRIGHT THEN DROVE SAID CI TO 332 NEW HOPE ROAD ALEXANDRIA TENNESSEE. THERE CI MAKES CONTACT WITH COURTNEY PARIS AND SAMER ABDALLA AND PURCHASES 3 POINTS OF HEROIN FOR $90 DOLLARS. WHILE CONDUCTING THIS DRUG TRANSACTION THERE WAS A RUGER 9MM PISTOL BEING DISPLAYED . CI THEN TURNS THE EVIDENCE OVER TO AGENT WRIGHT. THIS EVIDENCE IS LOGGED INTO THE 15TH DRUG TASK FORCE EVIDENCE.

A CRIMINAL HISTORY CHECK REVEALED COURTNEY PARIS HAS TWO FELONY CONVICTIONS FOR SCHEDULE II DRUGS IN THE STATE OF TENNESSEE.

A CRIMINAL HISTORY CHECK REVEALED SAMAR ABDALLA HAS 8 FELONY CONVICTIONS IN THE STATE OF TENNESSEE.

CONCLUSION

5. BASED ON YOUR AFFIANT'S TRAINING AND EXPERIENCE AND THE FACTS SET FORTH IN THIS AFFIDAVIT, YOUR AFFIANT RESPECTFULLY STATES THAT THERE IS PROBABLE CAUSE THAT THE FOLLOWING ITEMS ARE LOCATED AT THIS RESIDENCE AND /OR PLACE OF BUSINESS AND SUCH ITEMS ARE EVIDENCE OF FELONY NARCOTICS TRAFFICKING (T.C.A. 39-17-401 ET.SEQ.) AND /OR FELONY MONEY LAUNDERING (T.C.A. 39-14-901 ET.SEQ.) AND /OR USED AS A MEANS OF COMMITTING NARCOTIC TRAFFICKING OR MONEY LAUNDERING, AND /OR EVIDENCE OF INTENT TO CONCEAL OR PREVENT THE DISCOVERY OF THE COMMISSION OF NARCOTIC TRAFFICKING OR MONEY LAUNDERING:

   A. HEROIN AND OTHER ILLEGAL NARCOTICS

   B. CONTROLLED SUBSTANCES PARAPHERNALIA, SCALES, MIXING DEVICES, ITEMS USED IN MANUFACTURE OF NARCOTICS, PACKAGING MATERIALS, INCLUDING BUT NOT LIMITED TO PLASTIC BAGGIES AND PILL BOTTLES, AND ANY OTHER ITEM ADAPTED AND USED FOR THE PURPOSE OF PRODUCING, PACKAGING, DISPENSING, DELIVERING OR OBTAINING CONTROLLED SUBSTANCES.

   C. UNITED STATES CURRENCY, NEGOTIABLE INSTRUMENTS, JEWELRY OR OTHER VALUABLE ITEMS OF PERSONAL PROPERTY.

   D. RECORDS OF THE ADDRESSES AND TELEPHONE NUMBERS IN BOOKS OR PAPERS WHICH REFLECT NAMES, ADDRESSES AND TELEPHONE NUMBERS OF THEIR ASSOCIATES OR CUSTOMERS IN THE DRUG TRAFFICKING ORGANIZATION

   E. FINANCIAL AND ACCOUNTING RECORDS INCLUDING LEDGERS, MEMORANDA AND NOTES, JOURNALS, FINANCIAL STATEMENTS, NEGOTIABLE INSTRUMENTS, TRAVEL RECORDS, BANK OR FINANCIAL

INSTITUTION ACCOUNT STATEMENTS AND RECORDS, BANK SIGNATURE CARDS, BANK BOOKS, CHECK REGISTERS, CANCELED AND UNCANCELED CHECKS, DEPOSITS, WITHDRAWAL, EXCHANGE, OR TRANSFER DOCUMENTS, CREDIT AND MEMORANDA, RECORDS OF BANKING FACILITIES, RECORDS OF THE PURCHASE OF CASHIERS CHECKS, RECORDS OF WIRE TRANSFERS OF FUNDS, BANK MONEY DRAFTS, LETTERS OF CREDIT, RECORDS OF THE PURCHASE OF STOCKS, BONDS AND MUTUAL FUNDS FROM BROKERAGES HOUSES AND OTHER SIMILAR FINANCIAL INSTITUTIONS, RECORDS OF THE PURCHASE OF AUTOMOBILES, RECORDS OF REAL ESTATE INVESTMENTS, RECORDS OF THE FALSE REPORTING OF THE ACTUAL PURCHASE PRICES OF PROPERTY, RECORDS OF THE STRUCTURING OF FINANCIAL TRANSACTIONS TO AVOID FEDERAL CURRENCY REPORTING REQUIREMENTS, RECORDS OF THE ESTABLISHMENT OF PHONY OR "SHELL" CORPORATIONS, RECORDS OF THE ESTABLISHMENT OF BUSINESS "FRONTS", DOCTOR STATEMENTS, PHARMACEUTICAL RECORDS AND STATE AND FEDERAL INCOME TAX RECORDS TENDING TO EVIDENCE THE CRIMES OF NARCOTICS TRAFFICKING AND / OR MONEY LAUNDERING. ALL FINANCIAL RECORDS PERTAINING TO THE DISPOSITION OF THE PROCEEDS OF THE VIOLATION OF THE CRIMINAL LAWS SPECIFIED ABOVE, AND ANY GOODS OR PERSONAL PROPERTY, INCLUDING UNITED STATES OR FOREIGN CURRENCY OR NEGOTIABLE INSTRUMENTS, CONSTITUTING PROCEEDS OF A VIOLATION OF THE LAWS SPECIFIED ABOVE OR FUNDS USED TO FACILITATE THE SAME, AND ANY EVIDENCE OR ITEMS WHICH WOULD BE USED TO CONCEAL THE FORGOING OR PREVENT ITS DISCOVERY

F. PERSONAL DIARIES, TELEPHONE AND ADDRESS BOOKS, CALLER IDENTIFICATION EQUIPMENT (AND THE INFORMATION CONTAINED THEREIN) AND SUPPLIER AND CUSTOMER LISTS TENDING TO EVIDENCE THE CRIMES OF NARCOTICS TRAFFICKING AND MONEY LAUNDERING.

G. COMPUTER HARDWARE, INCLUDING BUT NOT LIMITED TO DRIVES, PRINTERS, MODEMS, KEYBOARDS, AND DISPLAY SCREENS, COMPUTER SOFTWARE AND COMPUTER DATE STORAGE MEDIA (E.G. FLOPPY DISK, CD ROM'S AND TAPES) AND THE INFORMATION CONTAINED WITHIN.

H. SAFE DEPOSIT BOX RECORDS, KEYS, OR RENTAL DOCUMENTS FOR THE SAME. STORAGE FACILITY RECORDS, KEYS, OR RENTAL DOCUMENTS FOR THE SAME. DOCUMENTATION TENDING TO ESTABLISH THE OWNERSHIP, DOMINION, AND / OR CONTROL OF RESIDENCES, REAL PROPERTIES, PERSONAL PROPERTIES, AND VEHICLES, INCLUDING RENTAL RECEIPTS, MORTGAGE PAYMENTS, UTILITY BILLS AND OTHER SUCH DOCUMENTS.

I. FIREARMS, AMMUNITION, RECEIPTS OF PURCHASE OF FIREARMS.

J. ANY AND ALL EVIDENCE OF OCCUPATION, OWNERSHIP, DOMINION, CONTROL, POSSESSION, RIGHT TO POSSESSION OR USE OF THESE PREMISES LOCATED AT THE ABOVE DESCRIBED PREMISES, INCLUDING BUT NOT LIMITED TO CONTRACTS, UTILITY AND TELEPHONE BILLS, MAIL CORRESPONDENCE, CREDIT CARD APPLICATIONS AND RECORDS, VEHICLE REGISTRATION AND PHOTOGRAPHS.

K. CELLULAR PHONES, PAGERS, AND THE INFORMATION CONTAINED WITHIN AND RENTAL CONTRACTS FOR THE SAME.

L. PHOTOGRAPHS, VIDEO TAPES, AND /OR AUDIO TAPES OF THEMSELVES AND /OR THEIR ASSOCIATES INVOLVED IN THE CRIMINAL CONDUCT.

M. ANY EVIDENCE OF FALSE IDENTITIES, FALSE NAMES, AND / OR THE USE OF THE NAMES OF OTHER PERSONS OR OF A CORPORATE ENTITY.

N. ANY VIDEO SURVEILLANCE CAMERAS, VIDEO RECORDING DEVICES, VIDEOS, DVDS, OR OTHER STORAGE MEDIA.

O. BLANK AND WRITTEN PRESCRIPTIONS, EMPTY PRESCRIPTION BOTTLES.

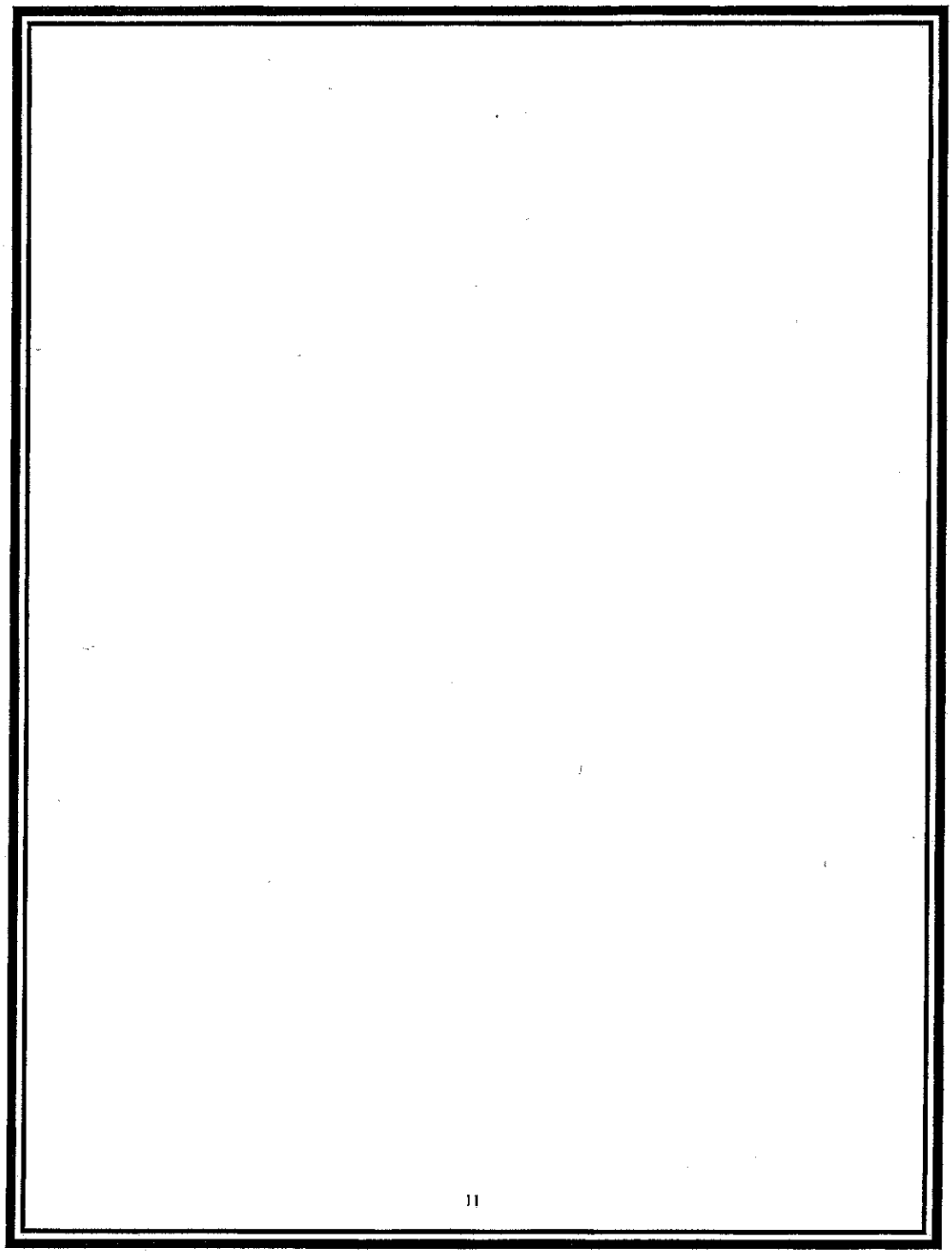
YOUR AFFIANT THEREFORE PRAYS THAT A SEARCH WARRANT BE ISSUED FOR THE PREMISES AND THE PERSONS FOUND THEREON UPON THESE FACTS, FOR THE SEIZURE OF SAID EVIDENCE AND PROPERTY, OR ANY PART THEREOF, AND THAT THE SAME BE BROUGHT BEFORE THIS COURT AS PROVIDED BY LAW.

FURTHER THE AFFIANT SAITH NOT.

BRANDON GOOCH
AFFIANT
15TH JUDICIAL DISTRICT DRUG TASK FORCE

Sworn to and subscribed before me on the 8th **day of** June **, 2017.**

JUDGE
DEKALB COUNTY, TENNESSEE



SEARCH WARRANT

STATE OF TENNESSEE, DEKALB COUNTY

TO AGENT BRANDON GOOCH, OR ANY LAW ENFORCEMENT OFFICER OF SAID COUNTY:

PROOF HAVING BEEN MADE BEFORE ME AND REDUCED TO WRITING AND SWORN TO BY AGENT BRANDON GOOCH OF THE 15TH JUDICIAL DISTRICT DRUG TASK FORCE THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT EVIDENCE OF FELONY NARCOTICS TRAFFICKING (T.C.A. 39-17-401 ET.SEQ.) AND /OR FELONY MONEY LAUNDERING (T.C.A. 39-14-901 ET.SEQ.) IS LOCATED UPON THE FOLLOWING DESCRIBED PROPERTY AND ALL PERSONS, RESIDENCES, PREMISES, OUTBUILDINGS, BARNS, CONTAINERS, AND/OR VEHICLES FOUND THEREON, WHICH SAID PREMISES MAY BE ARRIVED TO ARRIVE AT THESE PREMISES, TRAVELING WEST ON I -40 TAKE EXIT RAMP 254. TURNING LEFT ONTO ALEXANDRIA HIGHWAY AND TRAVELING SOUTH 6.8 MILES TO DEKALB COUNTY LINE. CONTINUE TRAVELLING SOUTH ON ALEXANDRIA HWY FOR 0.5 MILES. TO THE INTERSECTION OF ALEXANDRA HIGHWAY AND NEW HOPE ROAD. TURNING LEFT ON TO NEW HOPE RD AND TRAVELING EAST FOR 0.1 MILE TO THE DRIVEWAY OF 332 NEW HOPE ROAD LOCATED ON THE RIGHT SIDE OF ROADWAY. ON PROPERTY THERE WILL BE A WHITE DOUBLE WIDE TRAILER WITH A GREEN FRONT PORCH AND A BLACK SHINGLE ROOF. IN THE BACK YARD THERE WILL BE A ALUMINA BUILDING WITH AN UP STAIRS PORCH. ALSO ON THE FRONT PORCH OF THE DOUBLE WIDE THERE WILL BE AN AMERICAN FLAG AND AT THE ENTRANCE OF THE DRIVE WAY THERE BE A AUTO DETAIL SIGN. THESE PREMISES ARE KNOWN TO YOUR AFFIANT.

AND SUCH EVIDENCE BEING MORE SPECIFICALLY DESCRIBED AS:

HEROIN OTHER CONTROLLED SUBSTANCES, CONTROLLED SUBSTANCES PARAPHERNALIA, SCALES, MIXING DEVICES, ITEMS USED IN MANUFACTURE OF NARCOTICS, PACKAGING MATERIALS, PLASTIC BAGGIES, PILL BOTTLE, ANY OTHER ITEM ADAPTED AND USED FOR THE PURPOSE OF PRODUCING, PACKAGING, DISPENSING, DELIVERING OR OBTAINING CONTROLLED SUBSTANCES.

BLANK AND WRITTEN PRESCRIPTIONS, EMPTY PRESCRIPTION BOTTLES. UNITED STATES CURRENCY, NEGOTIABLE INSTRUMENTS, JEWELRY OR OTHER VALUABLE ITEMS OF PERSONAL PROPERTY, RECORDS OF THE ADDRESSES AND TELEPHONE NUMBERS OF ASSOCIATES OR CUSTOMERS IN THE DRUG TRAFFICKING ORGANIZATION, FINANCIAL AND ACCOUNTING RECORDS, LEDGERS, MEMORANDA AND NOTES, JOURNALS, FINANCIAL STATEMENTS,

NEGOTIABLE INSTRUMENTS, TRAVEL RECORDS, BANK OR FINANCIAL INSTITUTION ACCOUNT STATEMENTS AND RECORDS, BANK SIGNATURE CARDS, BANK BOOKS, CHECK REGISTERS, CANCELED AND UNCANCELED CHECKS, RECORDS OF DEPOSITS, RECORDS OF WITHDRAWALS, RECORDS OF EXCHANGES, TRANSFER DOCUMENTS, CREDIT AND MEMORANDA RECORDS, RECORDS OF BANKING FACILITIES, RECORDS OF THE PURCHASE OF CASHIERS CHECKS, RECORDS OF WIRE TRANSFERS OF FUNDS, BANK MONEY DRAFTS, LETTERS OF CREDIT, RECORDS OF THE PURCHASE OF STOCKS, BONDS AND MUTUAL FUNDS FROM BROKERAGES HOUSES AND OTHER SIMILAR FINANCIAL INSTITUTIONS, RECORDS OF THE PURCHASE OF AUTOMOBILES, RECORDS OF REAL ESTATE INVESTMENTS, RECORDS OF THE FALSE REPORTING OF THE ACTUAL PURCHASE PRICES OF PROPERTY, RECORDS OF THE STRUCTURING OF FINANCIAL TRANSACTIONS TO AVOID FEDERAL CURRENCY REPORTING REQUIREMENTS, RECORDS OF THE ESTABLISHMENT OF PHONY OR "SHELL" CORPORATIONS, RECORDS OF THE ESTABLISHMENT OF BUSINESS "FRONTS", DOCTOR STATEMENTS, PHARMACEUTICAL RECORDS, STATE AND FEDERAL INCOME TAX RECORDS, FINANCIAL RECORDS PERTAINING TO THE DISPOSITION OF THE PROCEEDS OF DRUG ACTIVITY OR MONEY LAUNDERING ACTIVITY, ANY GOODS OR PERSONAL PROPERTY THAT ARE PROCEEDS OF DRUG ACTIVITY OR MONEY LAUNDERING ACTIVITY, UNITED STATES OR FOREIGN CURRENCY OR NEGOTIABLE INSTRUMENTS CONSTITUTING PROCEEDS OF A DRUG ACTIVITY OR MONEY LAUNDERING ACTIVITY OR BEING FUNDS USED TO FACILITATE THE SAME, ANY EVIDENCE OR ITEMS WHICH WOULD BE USED TO CONCEAL OR PREVENT ITS DISCOVERY OF DRUG ACTIVITY OR MONEY LAUNDERING ACTIVITY OR HID THE PROCEEDS THEREOF, PERSONAL DIARIES, TELEPHONE AND ADDRESS BOOKS, CALLER IDENTIFICATION EQUIPMENT, SUPPLIER AND CUSTOMER LISTS OF NARCOTICS TRAFFICKING AND MONEY LAUNDERING, COMPUTER HARDWARE, COMPUTER DRIVES, PRINTERS, MODEMS, KEYBOARDS, DISPLAY SCREENS, COMPUTER SOFTWARE, COMPUTER DATA STORAGE MEDIA, SAFE DEPOSIT BOX RECORDS, KEYS, RENTAL DOCUMENTS FOR THE SAFE DEPOSIT BOXES, STORAGE FACILITY RECORDS, KEYS, OR RENTAL DOCUMENTS FOR STORAGE FACILITIES, DOCUMENTATION TENDING TO ESTABLISH THE OWNERSHIP, DOMINION, USE, POSSESSION, RIGHT TO POSSESS, AND / OR CONTROL OF INVOLVED RESIDENCES, REAL PROPERTIES, PERSONAL PROPERTIES, VEHICLES, SAFE DEPOSIT BOXES, OR STORAGE FACILITIES, INCLUDING RENTAL RECEIPTS, MORTGAGE PAYMENTS, UTILITY BILLS, CONTRACTS, TELEPHONE BILLS, MAIL CORRESPONDENCE, CREDIT CARD APPLICATIONS, VEHICLE REGISTRATIONS, PHOTOGRAPHS AND OTHER SUCH DOCUMENTS OR RECORDS, , AS WELL AS FIREARMS, AMMUNITION, RECEIPTS OF

PURCHASE OF FIREARMS, CELLULAR PHONES, PAGERS, RENTAL CONTRACTS FOR THE SAME, PHOTOGRAPHS AND /OR VIDEO TAPES AND / OR AUDIO TAPES OF PERSONS INVOLVED IN CRIMINAL CONDUCT, ANY EVIDENCE OF FALSE IDENTITIES, FALSE NAMES, AND / OR THE USE OF THE NAMES OF OTHER PERSONS OR OF A CORPORATE ENTITY, ANY VIDEO SURVEILLANCE CAMERAS, VIDEO RECORDING DEVICES, VIDEOS, DVDS, OR OTHER STORAGE MEDIA, AS WELL AS SPECIFICALLY ANY AND ALL INFORMATION CONTAINED WITHIN ANY OF THE AFOREMENTIONED ITEMS.

I NOW ISSUE THIS SEARCH WARRANT IN TRIPLICATE WHEREBY YOU ARE COMMANDED IN THE NAME OF THE STATE OF TENNESSEE TO SEARCH THE ~~RESIDENCE, REAL PROPERTY, OUTBUILDINGS, BARNS, AND~~ PREMISES LOCATED AT 245 CAREY ROAD, HARTSVILLE, TROUSDALE TENNESSEE AS WELL AS ALL ~~BUILDINGS, VEHICLES AND PERSONS FOUND THEREON,~~ AND SEIZE ANY AND ALL EVIDENCE SET FORTH ABOVE OR ANY OTHER ILLEGAL CONTRABAND WHICH MAY BE FOUND DURING THE COURSE OF THE SEARCH.

SHOULD YOU FIND THE SAME, YOU ARE TO BRING A RETURN OF THE SAME BEFORE ME UPON THE RETURN OF THIS WRIT.

I HEREBY CERTIFY THAT I HAVE DELIVERED THIS SEARCH WARRANT FOR EXECUTION TO BRANDON GOOCH OF THE 15TH JUDICIAL DISTRICT DRUG TASK FORCE AT 10:32 O'CLOCK A M. ON THIS THE 8 DAY OF June, 2017.

WITNESS MY HAND, THIS 8th DAY OF June, 2017.

JUDGE,
DEKALB COUNTY, TENNESSEE

OFFICER'S RETURN
AND SUMMARY INVENTORY OF PROPERTY SEIZED

THE WITHIN WARRANT CAME TO BE EXECUTED ON THIS THE _____DAY OF _____, 20____, BY SEARCHING THE PERSON OR PREMISES OR VEHICLE HEREIN DESCRIBED, AND TAKING THERE FROM THE FOLLOWING ITEMS AS REPORTED TO _____JUDGE FOR THE _____ _____ COURT, _____ COUNTY, TENNESSEE:

_____

AGENT BRANDON GOOCH
15TH DIST. DRUG TASK FORCE

STATE OF TENNESSEE
COUNTY OF DEKALB

JUDGMENT ON SEARCH WARRANT

DUE AND PROPER RETURN HAVING BEEN MADE OF THE WITHIN WARRANT, THE PROPERTY SEIZED AS DESCRIBED IN THE SAID RETURN SHALL BE RETAINED, SUBJECT TO THE ORDERS OF THIS COURT, AND THE WITHIN WARRANT AND RETURN SHALL BE FILED IN THE OFFICE OF THE CLERK OF SAID COURT.

This _____day of _____, 20____.

_____

JUDGE,
DEKALB COUNTY, TENNESSEE