APPENDIX TABLE OF CONTENTS

OPINIONS AND ORDERS

REHEARING ORDER

SEARCH WARRANT RELATED DOCUMENTS

APPENDIX TABLE OF CONTENTS (Cont.)

AFFIDAVIT AND DEPOSITIONS, RELEVANT EXCERPTS

OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT (JUNE 19, 2020)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

TERESA HOOKS, ET AL.,

Plaintiffs-Appellees,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants-Appellants.

No. 18-10628

D.C. Docket No. 3:16-cv-00023-DHB-BKE

Appeal from the United States District Court
for the Southern District of Georgia

Before: JORDAN, GRANT, and SILER,* Circuit Judges.

SILER, Circuit Judge:

In 2014, David Hooks (hereafter "Hooks") called the Laurens County Sheriff's Department to report a robbery on his property. Several items including a car went missing, so he asked officers to investigate, and they did. The next day, Hooks was dead—shot

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* Honorable Eugene E. Siler, Jr., United States Circuit Judge for the Sixth Circuit, sitting by designation.

and killed in his home by the same police department he had called seeking help.

The district court ruled that all claims must go to trial, so it denied qualified immunity to the officers, and they now appeal. On some claims, we agree, and on others we do not. We affirm in part, reverse in part, and remand.

Background

The Shooting.

As Teresa Hooks (hereafter "Teresa") got ready for bed one night in late September 2014, she looked out an upstairs window and saw several men clad in dark clothing running toward the back of her home. Her husband was asleep downstairs.

The day before, the Hooks's property had been robbed, so when dark-clothed men rushed toward the door shortly before midnight, Teresa was alarmed. She ran downstairs, banging on the walls to wake her husband. Hooks emerged from his slumber naked, holding a shotgun, and he asked his wife what was happening. The Hooks feared they again were being robbed.

But the men at the door were not there to break the law—they were the law. Believing Hooks was involved in the meth trade, members of the Laurens County Sheriff's Response Team had come to execute a search warrant. Officers breached the door, and seconds later they fired twenty-three shots. Hooks suffered fatal wounds.

The Previous Day.

To understand what led up to the shooting, we must go back to the day before. That's when Hooks noticed things missing from his property in East Dublin, Georgia, including a Lincoln Aviator and several guns. He called police, and Sgt. Robbie Toney and Deputy Brian Fountain went to the Hooks home to investigate. Hooks showed the officers around his property while Toney tried to collect fingerprints, which was unsuccessful. Hooks thought former employees might be to blame, but he was not sure, so police left with plans to stay in touch with Hooks. Toney left Hooks a voicemail the next morning and went to the Hooks property, but no one was home.

The Garrett Arrest.

At the same time, Laurens County Sgt. Ryan Brooks received a call from Beverly Garrett that her husband was having health issues. In truth, though, the Garretts lured Brooks over because they wanted their son, Rodney Garrett (hereafter "Garrett"), to turn himself in. Garrett had a warrant out for stealing a truck, and when police arrived, he walked out of the woods and said he messed up.

Garrett had been living in the woods to avoid police. He told Brooks about the truck theft, but also about a different car—a Lincoln Aviator. Garrett had the Aviator in his possession, so Brooks ran the VIN number, and the vehicle came back stolen—it was from the Hooks's property. Garrett explained that he had been wandering down the highway and randomly came across the Hooks's home, walked up the driveway, and noticed the Aviator was unlocked. So was another vehicle on the property, and in that car, Garrett took

digital scales, some money, and a bag. Then, Garrett said he went into the Hooks's garage, took a shotgun and rifle, and returned to the Aviator with his loot to drive off.

Garrett stopped at a gas station, opened the bag, and noticed a large amount of methamphetamine in it. Garrett, a known meth user who was admittedly high when he stole the Hooks's property, said the drug quantity scared him. Only a well-connected dealer would have so much meth, Garrett said, so he thought it best to turn himself in.

Eventually, Sgt. Christopher Brewer and Corporal Timothy Burris arrived at Garrett's property, searched the inside of the Aviator, and found two guns, as well as a black metal case, which apparently contained the meth. Deputies asked Garrett about other property in his shop, but Garrett denied anything else was stolen.

Back at the Sheriff's Office, Sgt. Lance Padgett, Brooks, Brewer, and Burris questioned Garrett, who relayed the same information about the drugs and guns. Garrett also told police he regularly received meth from his friend Chris Willis, with whom he lived in a tent in the woods. Garrett denied knowing Hooks, but police believed they had enough information to search Hooks's property.

The Warrant.

Worried that Hooks might learn about Garrett's arrest, Brewer acted quickly to obtain a search warrant. In the warrant affidavit, Brewer included the Garrett information, as well as information from a prior investigation involving a man named Jeffrey Frazier. In that case from five years earlier, Frazier told police he

supplied Hooks with meth from Atlanta. Both Brewer and Burris investigated at the time, but nothing ever corroborated Frazier's claim, and no file was ever opened on Hooks. Yet, Brewer's warrant affidavit stated:

> Your affiant is familiar with the residence and the occupant of the residence, David Hooks, from a prior narcotics investigation involving Jeff Frazier. During this investigation Frazier had been interviewed by law enforcement and stated that he had been the source of supply for multiple ounces of methamphetamine to Hooks which Hooks was redistributing.

The affidavit also stated that Garrett had "provided other information which led to the recovery of stolen property which law enforcement was unaware of prior to this confession."

A magistrate judge signed the search warrant at 9:56 p.m., just over two hours after police interviewed Garrett. The warrant allowed police to search the Hooks residence and curtilage. Sheriff William Harrell did not review the application, but he agreed that Brewer had probable cause based on what Brewer told him.

Warrant Meeting and Execution.

Officers then decided to bring in the Sheriff's Response Team to execute the warrant that evening. Moving quickly was important, Brewer claimed, because police had concerns that Hooks could destroy evidence. During the meeting, officers discussed the fact that Hooks had just been robbed and had weapons on the property, so they were told to be on high alert.

Shortly before midnight, a line of cars approached the Hooks's property. Teresa saw the cars, but did not know they were law enforcement, so she rushed downstairs, and tried to wake up her husband. As officers began pounding on the back door, Hooks came out of a bedroom, holding a gun.

Deputy Kasey Loyd, an officer involved in the execution of the warrant, said he saw a man and woman through the backdoor window and police knocked for about thirty seconds before entering the house. At that point, Hooks ran toward the dining room, shotgun in hand. That was the last time Teresa saw her husband alive. Seconds later, police fired shots, killing Hooks after, officers claim, he raised his gun.

Teresa ran into the master bedroom, locked the door, called her son to report that they were being robbed, and asked him to contact 911. After a few moments, Teresa recognized the sound of police radios, opened the bedroom door, and was handcuffed by Officer Steve Vertin. Vertin took Teresa out the backdoor and had her sit in a chair by the pool.

At that point things had changed. No longer would the Response Team be conducting the search it expected. Instead, the Georgia Bureau of Investigation would take over. Harrell knew "the search warrant was not going to go any further." Although not under arrest, Teresa was not free to leave until, Vertin testified, "GBI investigators . . . deemed she could go." A woman officer searched Teresa but found nothing.

After the GBI interviewed her, Teresa had zip-tie handcuffs removed and was free to leave. She rushed to the hospital in Macon, but her husband had already died. Police did not find any drugs.

The Lawsuit.

Teresa sued officers on behalf of Hooks's estate, as well as in her own capacity, alleging that the search of her home, the shooting death of her husband, and her detention violated the Fourth Amendment. She claimed that police included false information and omitted key facts in the warrant affidavit, making it and the warrant's execution invalid. Invoking qualified immunity, officers moved for summary judgment, but the district court denied the motion.

Jurisdiction and Standard of Review

Under the collateral order doctrine, we may review an interlocutory appeal of a district court's summary judgment order denying qualified immunity. *Behrens v. Pelletier*, 516 U.S. 299, 306-08 (1996). In exercising that authority, we (1) give no deference to the district court and (2) view all evidence and make all inferences in favor of the non-moving party. *Perez v. Susczynski*, 809 F.3d 1213, 1216-17 (11th Cir. 2016). Viewing the record that way, we determine whether qualified immunity shields officers—that is, whether the officers violated clearly established law. *Id.* We do not address factual disputes; we focus on purely legal questions. *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985).

Discussion

"[N]o Warrants shall issue, but upon probable cause, supported by Oath or affirmation." U.S. Const. amend. IV. Usually, a warrant establishes probable cause, but not when "the magistrate . . . issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth."

United States v. Leon, 468 U.S. 897, 923 (1984). When that occurs, the warrant is invalid if, without that information, the warrant would lack probable cause. In considering probable cause, we do not isolate events, but consider the "totality of the circumstances," to decide whether there was a "fair probability that contraband or evidence of a crime will be found in a particular place." *United States v. Kapordelis*, 569 F.3d 1291, 1310 (11th Cir. 2009) (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)). Affidavits support probable cause when they "establish a connection between the defendant and the residence to be searched and a link between the residence and any criminal activity." *United States v. Martin*, 297 F.3d 1308, 1314 (11th Cir. 2002).

Probable cause is "not a high bar." *District of Columbia v. Wesby*, 138 S. Ct. 577, 586 (2018) (quoting *Kaley v. United States*, 134 S. Ct. 1090, 1103 (2014)). The mere "probability or substantial chance of criminal activity" is all that is needed. *Id.* (quoting *Gates*, 462 U.S. at 243-44 n.13). This "flexible and fluid concept" turns on examining all information together. *Paez v. Mulvey*, 915 F.3d 1276, 1286 (11th Cir. 2019). Nothing even approaching "conclusive proof or proof beyond a reasonable doubt" is required. *Id.* And police need not "resolve every inconsistency found in the evidence." *Id.* Officers just have to be reasonable given the totality of the circumstances. *Id.*

At the same time, affiants cannot lie or omit critical information. *Paez*, 915 F.3d at 1286. In *Franks v. Delaware*, 438 U.S. 154, 171 (1978) the Supreme Court held that a warrant fails to provide probable cause if it includes a "deliberate falsity or . . . reckless disregard" for the truth. In those situations, courts put

aside all the recklessly included false information and determine whether the affidavit still supports probable cause. *Id.* This also extends "to information omitted from warrant affidavits." *Madiwale v. Savaiko*, 117 F.3d 1321, 1326 (11th Cir. 1997) (emphasis added). Minor or insignificant omissions, on the other hand, cannot invalidate a warrant. *Id.* at 1327.

To determine if officer conduct invalidates a warrant, then, we first ask if the affidavit included any "intentional or reckless misstatement or omission." *Paez*, 915 F.3d at 1287. Recklessness occurs when an officer "should have recognized the error, or at least harbored serious doubts" about the information. *United States v. Kirk*, 781 F.2d 1498, 1503 (11th Cir. 1986). An officer cannot ignore "easily discoverable facts" and "choose to ignore information." *Kingsland v. City of Miami*, 382 F.3d 1220, 1229 (11th Cir. 2004). If we determine that the officer acted recklessly, then, at the second step, we ask if those misstatements and omissions were material to the probable cause determination. *Paez*, 915 F.3d at 1287.

Taking all inferences in Teresa's favor, Brewer is not entitled to qualified immunity. First, Brewer made reckless misstatements and omissions. For example, Brewer's affidavit recites that Frazier told police Hooks was "redistributing" meth, but Frazier never said as much. Indeed, Corporal Burris—the person who interviewed Frazier at the time—could not remember Frazier's saying Hooks provided meth to any third party.

What's more, the investigation happened five years earlier, and nothing corroborated Frazier's claims. Police never interviewed Hooks, and no file was opened. Reading Brewer's affidavit gives one the impression

that Frazier had the goods on Hooks. Brewer should have realized this, or at least had serious doubts about the Frazier information. *Madiwale*, 117 F.3d at 1326-27; *Kirk*, 781 F.2d at 1503. Otherwise any information that someone at one time told police about someone else—no matter how old, or how wrong—could be used to support probable cause.

Nor can Brewer prevail by claiming he cleared the affidavit with Burris. He tries, arguing that if Burris saw the affidavit and confirmed it, then the act cannot be reckless—at worst, that's negligence, he claims. But the extent of his discussion with Burris is a factual claim, not a legal one. After all, a quick look at the record makes it far from clear what happened. Brewer testified that he "believe[d]" he talked with Burris about Frazier but when asked if he "talk[ed] to Burris about his contact with Frazier," Brewer "hesitate[d] to swear to that under oath." Brewer could not "recall specific questions that we talked about or information that we referenced," but it was "not . . . when was the time, what was the setting, where were y'all at." Burris, too, was vague. All he could say was that he "probably" looked at the warrant, but he could not "say for certain." Nor could Burris "specifically recall looking through" the warrant application. Yet, defendants claim that this record, as a matter of law, requires dismissal. Not so. Ultimately, Brewer's discussions with Burris might have provided a reason for including the Frazier information, but that's a factual question—one that lies beyond our reach at this time.

The same can be said about the affidavit's Garrett paragraph. Brewer, presumably to bolster Garrett's credibility, wrote that Garrett "provided other informa-

tion which led to the recovery of stolen property which law enforcement was unaware of prior to this confession." (emphasis added). It is true that police asked Garrett about other property—a four-wheeler, a generator, a chainsaw, a miter saw, and more. Then, only hours later, Brewer submitted his affidavit. So what supported his claim that Garrett's information led to recovery of previously unknown stolen property? In briefing, defendants say that Garrett admitted those items were stolen, but he did not. Garrett said he bought the four-wheeler. He denied any involvement with alleged stolen tools and a generator. He claimed a trailer was his, that he bought a chainsaw, as well as cutting torches and a miter saw. Like the district court, we are "unable to locate any crimes—other than his rampant prior possession and use of [drugs] and the theft of the Hooks's property" that Garrett admitted to. This is something Brewer should have known—indeed probably did know considering his involvement in the Garrett interview. Or, put another way, including this information in the affidavit was reckless. *Kirk*, 781 F.2d at 1503.

And clearly so. Thus, qualified immunity does not protect Brewer's conduct. *Wesby*, 138 S. Ct. at 589. True, Brewer was not required to "resolve every inconsistency in the evidence," *Paez*, 915 F.3d at 1286, or "explore and eliminate every theoretically plausible claim of innocence," *Kingsland*, 382 F.3d at 1229. But nor could he turn a blind eye to easily discoverable facts and ignore critical information. *Id.* Indeed, an officer must make some "basic investigatory steps." *Howard v. Gee*, 538 F. App'x 884, 890 (11th Cir. 2013). Brewer was not required to turn over every rock to confirm Frazier's story, but he should do something to ensure the affidavit's accuracy. *See*

Rankin v. Evans, 133 F.3d 1425, 1435 (11th Cir. 1998). And on that point, the record does not establish, as a matter of law, that Brewer did so.

Still, the misstatements and omissions must be material to the probable cause determination. *Paez*, 915 F.3d at 1287. If an officer recklessly includes irrelevant information in an affidavit, then probable cause remains intact and defendants prevail. *Id.* To determine materiality we delete the misstatements, include the omissions, and ask whether the affidavit still establishes probable cause. *Id.*; *Kirk*, 781 F.2d at 1502. Here, that means eliminating: (1) the Garrett "other crimes" information, and (2) the fact that Frazier said Hooks distributed drugs. And it means including: the five-year-old Frazier investigation turned up no information on David Hooks, and none of Frazier's claims had been corroborated. All police would have in this "new affidavit" is Garrett's saying he stole drugs from Hooks and questionable information from Frazier. Nothing would support drugs in the Hooks's home. The question is: does this amount to probable cause to search the Hooks's home? We think not. Although probable cause requires only a minimal showing, a warrant affidavit cannot be so hollow as to be meaningless—it must include a "probability or substantial chance of criminal activity." *Wesby*, 138 S. Ct. at 586.

Remember though, this is a qualified-immunity case. And that means plaintiff must show defendants not only violated constitutional rights—they violated clearly established ones. *Wesby*, 138 S. Ct. at 589-90. We define the right at issue with a high degree of specificity before determining whether the officer exceeded constitutional bounds. *Id.* at 590. So while it

is clearly established that an officer may not recklessly make material misstatements and omissions in a warrant affidavit, *Madiwale*, 117 F.3d at 1226-27, we must determine it was clearly established that *Brewer's conduct* violated these principles, *Wesby*, 138 S. Ct. at 589-90. That typically means that binding precedent controls the case, but such precedent need not be identical—it must only "squarely govern" our case. *Kisela v. Hughest*, 138 S. Ct. 1148, 1153 (2018) (per curiam).

Plenty of authority does. Misstatements and omissions in affidavits pierce qualified immunity only when the "new affidavit" lacks even arguable probable cause. *Madiwale*, 117 F.3d at 1324. This not-quite-probable-cause standard turns on whether "under all of the facts and circumstances, an officer reasonably could—not necessarily would—have believed that probable cause was present." *Crosby v. Monroe Cty.*, 394 F.3d 1328, 1332 (11th Cir. 2004). But it also requires us to consider whether an officer "in the same circumstances and possessing the same knowledge" as Brewer could have thought there was a significant chance that Hooks had methamphetamine in his home. *Grider v. City of Auburn*, 618 F.3d 1240, 1257 (11th Cir. 2010) (emphasis added). If factual questions remain about the information Brewer "possessed or could have possessed" we cannot conclude arguable probable cause existed because we cannot say that an officer with the same information as Brewer could think probable cause existed. *Kingsland*, 382 F.3d at 1232.

And those are things we do not know. Brewer was involved in the 2009 Frazier investigation, so he may have known that Frazier's information was bunk. Or, maybe not. Plus, the record is vague as to whether Brewer asked Burris about the Frazier

investigation before submitting the affidavit. In other words, there is a "question[ ] of fact regarding the information [Brewer] possessed or could have possessed." *Kingsland*, 382 F.3d at 1232. And "when it is unclear how much of the proffered evidence tending to support a finding of arguable probable cause was . . . misrepresented," we decline to find arguable probable cause. *Id.* If it turns out that Brewer knew the Frazier information was a misrepresentation and that he never confirmed it with Burris (or anyone else), his conduct would "create[ ] factual issues as to . . . honesty and credibility," *id.*, thus meaning officers "possessing the same knowledge" as he could not have reasonably thought probable cause existed, *Grider*, 618 F.3d at 1257. Besides, whether Frazier's information could establish arguable probable cause largely turns on the "veracity, reliability, and basis of knowledge, as well as any independent corroboration of the details of the tip." *Feliciano v. City of Miami Beach*, 707 F.3d 1244, 1254 (11th Cir. 2013). No doubt, the veracity and reliability of Frazier's information—and what Brewer knew about it—remains in play.

In short, we accept plaintiff's story and answer the pure legal question of whether that version amounts to a violation of clearly established law. *Al-Amin v. Smith*, 511 F.3d 1317, 1325 (11th Cir. 2008). In this context, a defendant does not violate clearly established law if he has arguable probable cause. But that turns on circumstances the defendant faced and knowledge the defendant had. And because those things are not clear, we cannot grant summary judgment to Brewer.

We reach the opposite result for Vertin and Harrell. As to Vertin, Teresa argues that he illegally detained her outside her house. But, at the very least,

Vertin did not violate any clearly established law, so he is entitled to qualified immunity. *See Croom v. Balkwill*, 645 F.3d 1240, 1246-47 (11th Cir. 2011). Officers may temporarily detain occupants of a house while executing a search warrant. *Muehler v. Mena*, 544 U.S. 93, 98 (2005). Yes, the GBI took over the investigation and Laurens County officers never executed the warrant they intended to, but there is no authority—let alone clearly established authority—that suggests this distinction makes a difference. *Wesby*, 138 S. Ct. at 589-90.

As to Harrell, the unlawful detention claim fails because Vertin is entitled to qualified immunity. *Myers v. Bowman*, 713 F.3d 1319, 1328 (11th Cir. 2013). And on the illegal search claim, plaintiff cannot meet the "extremely rigorous" supervisor-liability standard. *Piazza v. Jefferson Cty.*, 923 F.3d 947, 957 (11th Cir. 2019). Harrell must have "either directly participated in the unconstitutional conduct" or there must be "a casual connection . . . between the supervisor's actions and the alleged constitutional violation." *Keith v. DeKalb Cty.*, 749 F.3d 1034, 1047 (11th Cir. 2014). Neither exists here. Harrell was at the warrant execution meeting, but nothing suggests he was personally involved in unconstitutional conduct. *See Smith v. LePage*, 834 F.3d 1285, 1298 (11th Cir. 2016). He also had no role in securing the warrant. He did not "direct[ ] subordinates to act unlawfully or kn[o]w that the subordinates would act unlawfully and fail[ ] to stop them from doing so." *Cottone v. Jenne*, 326 F.3d 1352, 1360 (11th Cir. 2003). And nothing shows that Harrell "had subjective knowledge of a risk of serious harm" to the Hooks that he recklessly dis-

regarded." *Keith*, 749 F.3d at 1048. So he keeps his qualified immunity shield.

Two final notes: First, Teresa can pursue punitive damages against Brewer. Such damages are available in a § 1983 case "when the defendant's conduct is shown to be motivated by evil motive or intent or when it involves reckless or callous indifference to the federally protected rights of others." *Smith v. Wade*, 461 U.S. 30, 55 (1983). Hooks may attempt to prove this at trial.

Second, we do not address defendants' proximate-cause argument because it is outside our grasp. In reviewing the denial of qualified immunity, we have jurisdiction over only the legal issue of whether the defendant violated clearly established law, which does not include whether a genuine factual dispute exists as to an element of a claim (such as causation). *See Leslie v. Hancock Cty. Bd. of Educ.*, 720 F.3d 1338, 1344 (11th Cir. 2013). The causation issue is not "inextricably intertwined" with immunity, so we could not exercise pendent jurisdiction over it, either. *See Smith v. LePage*, 834 F.3d 1285, 1292 (11th Cir. 2016).

We AFFIRM the district court's order as to Brewer, REVERSE as to Harrell and Vertin, and REMAND for further proceedings consistent with this decision.

OPINION OF JUSTICE JORDAN CONCURRING IN PART AND DISSENTING IN PART

JORDAN, Circuit Judge, concurring in part and dissenting in part.

For the reasons stated in the majority opinion and in the district court's order, I agree that Officer Brewer is not entitled to qualified immunity on the unreasonable search claim. I also agree that Sheriff Harrell should not be held liable in his supervisory capacity on any claim, and that Ms. Hooks is entitled to pursue punitive damages.

I part ways, however, with the majority's holding that the two-hour detention of Ms. Hooks in cuffs following the shooting of her husband did not violate clearly established law. This detention of an innocent person—without probable cause, without a contemporaneous execution of a valid search warrant, and without exigent circumstances—is a clear Fourth Amendment violation far outside any narrow exception permitted by Supreme Court precedent. With respect, I dissent from the grant of qualified immunity to Officer Vertin and Sheriff Harrell on Ms. Hooks' detention claim.

[* * *]

The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. Amend. IV. A person is "seized" within the meaning of the Fourth Amendment when "there is a governmental termination of freedom of movement through means intentionally applied." *Brower v. Cty. of Inyo*, 489 U.S. 593, 597 (1989) (emphasis omitted). *See also Terry v. Ohio*, 392 U.S. 1, 16 (1981)

("[W]henever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person.").

As a "general principle . . . Fourth Amendment seizures must be supported by the 'long prevailing standards' of probable cause[.]" *Dunaway v. New* York, 442 U.S. 200, 212-13 (1979) ("The requirement of probable cause has roots that are deep in our history.") (citation and internal quotation marks omitted). *See also Michigan v. Summers*, 452 U.S. 692, 700 (1981) ("[E]very arrest, and every seizure having the essential attributes of a formal arrest, is unreasonable unless it is supported by probable cause."); *United States v. Virden*, 488 F.3d 1317, 1321 (11th Cir. 2007) (same).

The Constitution permits certain types of limited exceptions to this general rule, including some detentions not supported by probable cause. *See, e.g., Terry*, 392 U.S. at 20. The guiding principle is reasonableness —"balanc[ing] the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion." *United States v. Place*, 462 U.S. 696, 703 (1983). But unless one of these exceptions applies, all prolonged detentions must be supported by probable cause. *See Dunaway*, 442 U.S. at 210-13.

The majority bases its resolution of Ms. Hooks' detention claim on a narrow rule articulated in *Summers*, 452 U.S. at 704-05. *Summers* permits "temporary detentions by law enforcement of a premises' occupants while those premises are being searched pursuant to a search warrant." *Croom v. Balkwill*, 645 F.3d 1240, 1247 (11th Cir. 2011) (citing *Summers*, 452 U.S. at 705). *See also Muehler v. Mena*, 544 U.S. 93, 100-02 (2005)

(officers acted reasonably by detaining an occupant in handcuffs for two to three hours while a search of the premises was in progress given the fact that the warrant sought weapons and evidence of gang membership).

The problem with relying on *Summers*, of course, is that no search was ever conducted during the detention of Ms. Hooks. After the shooting, Officer Vertin handcuffed Ms. Hooks with metal handcuffs behind her back, took her out the back door to the side of the house, and had her sit on a patio chair by the pool. Another officer searched Ms. Hooks' person and found nothing of note. Officer Vertin removed the metal handcuffs and replaced them with plastic zip-tie handcuffs. Ms. Hooks' detention continued up to and through her eventual interview by GBI officers approximately two hours after her initial escort from the interior of the house. She was not permitted to leave the premises until approximately 1:30 a.m.

Both Officer Vertin and Sheriff Harrell testified that as soon as the shooting occurred, they knew Laurens County officers could not execute the search pursuant to the search warrant. This was because the established policy for officer-involved shootings was to secure the premises, cease any further investigation, and await the arrival of GBI to conduct an independent investigation. Significantly, even GBI did not conduct a search during the time Ms. Hooks was detained. In fact, GBI agents did not acquire a search warrant for the Hooks residence until approximately 1:52 a.m.—after Ms. Hooks was released. Thus, Ms. Hooks' detention was not incidental to <u>any</u> search whatsoever, as neither the GBI nor Laurens County officers conducted a search during the two-hour detention.

The majority does not address this fundamental contradiction with the precedent it cites. It says only that it finds irrelevant the fact that Laurens County officers did not execute their original search warrant because GBI took over the investigation. *See* Maj. Op. at 16. In just a few sentences, and without directly saying so, the majority endorses a dramatic broadening of what the Supreme Court intended to be an exception to the general rule that a seizure of this nature and duration must be supported by probable cause. *See Bailey v. United States*, 568 U.S. 186, 200 (2013) ("Because [the *Summers*] exception grants substantial authority to police officers to detain outside of the traditional rules of the Fourth Amendment, it must be circumscribed."). The majority's extension is so broad, in fact, that it essentially eliminates one of the exception's core elements: the requirement of a contemporaneous search pursuant to a valid warrant.

The majority's expansion of *Summers* (and *Mena*) would permit officers to detain innocent people virtually indefinitely, absent probable cause, as long as some warrant for the premises exists and some search is expected to happen eventually (whether or not the search is contemporaneous with the detention, or even imminent). The Supreme Court intended *Summers* to be a "categorical" exception not subject to ad hoc determination. *See Mena*, 544 U.S. at 97-98. *See also Bailey*, 568 U.S. at 193 ("The rule announced in *Summers* allows detention incident to the execution of a search warrant[.]"). By extension, the inverse of *Summers* must be similarly categorical: when no search is contemporaneously executed, its exception does not apply. We are simply not at liberty as a court of appeals

to fashion Fourth Amendment exceptions beyond what the Supreme Court has specifically authorized.

[* * *]

That is not my only concern. Assuming that the initial brief detention of Ms. Hooks was reasonable—and I believe it was, given the dangerous series of events that preceded it and the officers' need to secure the premises for safety—there was no justification for her continued lengthy detention in cuffs once the interests justifying that detention disappeared. As explained in *Croom*, "a seizure that is reasonable at its inception may quickly become unreasonable if it extends beyond its unique justification." 645 F.3d at 1250 (citing *Florida v. Royer*, 460 U.S. 491, 500 (1983)).

In the related *Terry* stop context, for example, the Supreme Court has held that the police may not extend an otherwise lawful traffic stop—without reasonable suspicion—to conduct an unrelated investigation. *See Rodriguez v. United States*, 135 S. Ct. 1609, 1612 (2015) ("A seizure justified only by a police-observed traffic violation . . . become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission of issuing a ticket for the violation.") (citation and internal quotation marks omitted). Indeed, as we recently recognized, when it comes to unlawfully prolonged detentions, even a relatively short prolongation violates the Constitution. *See United States v. Campbell*, 912 F.3d 1340, 1355 (11th Cir. 2019) (officer's 25-second-long questioning of a driver about "crime in general" impermissibly prolonged an otherwise lawful traffic stop and violated the Fourth Amendment because it was unrelated to the initial purpose of the stop and unsupported by reasonable suspicion) (quoting *Rodriguez*, 135 S. Ct. at 1616).

As set forth above, Ms. Hooks was held in cuffs for two hours while her husband was dying in the hospital, even though no search was being conducted. The Supreme Court—and we—have permitted detentions as long or longer than the one endured by Ms. Hooks, but in all of those cases the detentions were incident to and during the execution of a valid search warrant. *See Mena*, 544 U.S. at 97-98; *Croom*, 645 F.3d at 1249; *Daniel v. Taylor*, 808 F.2d 1401, 1402 (11th Cir. 1986). That critical fact is missing here.

Not only was Ms. Hooks' detention not incidental to any search, but the justifications for the *Summer* exception did not exist. *See Bailey*, 568 U.S. at 194 (cautioning that the *Summers* "exception to the Fourth Amendment rule prohibiting detention absent probable cause must not diverge from its purpose and rationale"). The Supreme Court has identified "three important law enforcement interests that, taken together, justify the detention of an occupant who is on the premises during the execution of a search warrant: officer safety, facilitating the completion of the search, and preventing flight." *Id.* (quoting *Summers*, 452 U.S. at 702-03) (internal quotation marks omitted). Not one of these interests justified the detention of Ms. Hooks.

First, Sherriff Harrell and Officer Vertin did not detain Ms. Hooks to facilitate the completion of the search (e.g., "to open locked doors or locked containers"). *See Summers*, 452 U.S. at 703. As they both acknowledged in their depositions, they knew they would not be searching the premises as soon as they heard Mr. Hooks had been shot, because GBI would take over. Thus, they knew they would not be needing Ms. Hooks' assistance to aid in a search.

Second, although Sheriff Harrell claimed that he detained Ms. Hooks to ensure officer safety, there was no reason to believe Ms. Hooks posed a safety risk. Unlike in *Mena*, 544 U.S. at 100, where the officers executed a search warrant of premises where "a wanted gang member reside[d]"—an "inherently dangerous situation[ ]"—here, there was no evidence Ms. Hooks was dangerous, there was no reason to suspect her of any wrongdoing, and no charges against her were contemplated. An officer had already searched her person, and Sheriff Harrell and his deputies had control of the premises.

Third, flight was not a concern. As the Supreme Court explained in *Summers*, flight becomes a risk "in the event that incriminating evidence is found." 452 U.S. at 702. But neither the Lauren County officers nor GBI were searching for evidence implicating Ms. Hooks, and there was no indication or fear that she would flee. Sheriff Harrell stated in his deposition that Ms. Hooks "need[ed] to be there until the GBI talked to her as a witness." D.E. 83-8 at 121:11-12 (emphasis added). Yet there was no reason to believe she would not freely and willingly make herself available to GBI later as a witness.

Holding Ms. Hooks in cuffs for two hours for questioning (when no search was being conducted) was not a valid reason to prolong a detention under *Summers*. *Cf. Mena*, 544 U.S. at 101 (holding that questioning Mena about her immigration status during the detention did not violate the Fourth Amendment because "the Court of Appeals did not find that the questioning extended the time Mena was detained"). Not surprisingly, our sister circuits have rejected the application of *Summers* to witness-detention scenarios divorced

from the execution of a search warrant. *See Cruz v. Barr*, 926 F.3d 1128, 1144 (9th Cir. 2019) (explaining that although officers may ask questions of *Summers* detainees, that "does not allow officers to conduct a *Summers* detention for the purpose of obtaining answers from detainees" or to "hold[ ] them long beyond the length of the search so they can be further interrogated"); *United States v. Watson*, 703 F.3d 684, 695 (4th Cir. 2013) (holding that *Summers* did not apply to officers' three-hour detention of a building occupant, while the officers sought to obtain a search warrant for the building, because "the presence of a search warrant was central to the Court's decision" in *Summers*).

As explained earlier, absent an exception to the probable cause requirement, Ms. Hooks' detention is governed by the "general rule that Fourth Amendment seizures are 'reasonable' only if based on probable cause." *Dunaway*, 442 U.S. at 213. The majority says the prolonged detention of Ms. Hooks did not violate any clearly established law, *see* Maj. Op. at 16, but the Fifth Circuit holds otherwise.

In *Heitschmidt v. City of Houston*, 161 F.3d 834 (5th Cir. 1998), the plaintiff, who was not a target of the police's investigation and was not suspected of any wrongdoing, was detained for four hours in handcuffs while the police searched his house during an investigation of illegal activity by another occupant. *See id.* at 835-36. The Fifth Circuit reversed the district court's grant of qualified immunity to the officers, holding that the plaintiff sufficiently alleged a violation of his clearly established right to be free from an unreasonable seizure. *See id.* at 839. In reaching this conclusion, the Fifth Circuit explained that the justifications supporting the plaintiff's detention were

"far less persuasive than was the case in *Summers*"—the plaintiff was not trying to flee, the officers had no reason to believe he was involved in any crime, and there was no reason to believe he would endanger the officers. *See id.* at 838-39 ("While the existence of a search warrant may, in some circumstances, support a reasonable belief that anyone present at the premises to be searched is engaged in criminal activity . . . that justification is significantly weakened when, as here, police know the occupant's identity and yet have no articulable reason for suspecting that person of criminal activity.").

Here, as in *Heitschmidt*, there was no justification for the prolonged detention of Ms. Hooks, who was a witness to the police shooting her husband but not a suspect of any crime. As the district court aptly noted: "[A]llowing [Ms. Hooks] to leave the premises to go to the hospital to attend to her dying husband would in no way have impeded any search or investigation under the totality of the circumstances; in fact, her continued detention most likely hampered the investigation by unnecessarily diverting manpower." D.E. 131 at 65 n.60. The majority does not explain why the result here should not be the same as in *Heitschmidt*.

[* * *]

Even if we were to assume that the general requirement of probable cause does not control, we would have to review the detention of Ms. Hooks under the longstanding Fourth Amendment principle of reasonableness, which requires "balancing the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion." *Place*, 462 U.S. at 703. "[W]e look to the 'objective rea-

sonableness' of the law enforcement officer's actions, asking: would the facts available to the officer at the moment of the seizure . . . warrant a man of reasonable caution in the belief that the action taken was appropriate?" *Croom*, 645 F.3d at 1249 (citations and internal quotation marks omitted).

After the shooting of her husband, Ms. Hooks was cuffed with zip-ties, searched, and placed in a chair by the pool on the side of her house. There she stayed for approximately two hours in the rain, at all times bound with zip-ties. She was held even though Officer Vertin and Sheriff Harrell testified there was no probable cause to arrest her. They also understood that, after the shooting of Mr. Hooks, no search of the premises would be conducted by Laurens County officers.

The two-hour involuntary detention of Ms. Hooks, while she was restrained by zip-tie cuffs and confined to a chair, hardly strikes me as a "slight" intrusion into her Fourth Amendment protected interests. Not only was the detention lengthy, but handcuffs as a use of force made the detention "more intrusive" than what was authorized in *Summers*. *See Mena*, 544 U.S. at 99.

Even if we accept that the intrusion here was "slight," the government interests on the other side of the Fourth Amendment ledger cannot be characterized as "substantial" as to justify the prolonged seizure. As discussed, the officers' articulated purposes for Ms. Hooks' detention were safety and awaiting the arrival of GBI to interview her. But once the premises were secured, and Ms. Hooks was searched and deemed not to be a threat, those safety concerns were substantially diminished. There was no evidence to indicate

that Ms. Hooks was a suspect or flight risk, that she would interfere with the search, or that she would be unavailable for interview by GBI at some later date. The justifications for detaining her absent any probable cause were simply non-existent.

[* * *]

I would hold that the two-hour detention of Ms. Hooks in cuffs, without probable cause to arrest her, with no ongoing search of the premises, and with no exigent circumstances, violated clearly established Fourth Amendment law. Accordingly, I would affirm the district court's denial of qualified immunity to Officer Vertin and Sheriff Harrell on Ms. Hooks' detention claim.

OPINION OF JUSTICE GRANT CONCURRING IN PART AND DISSENTING IN PART

GRANT, Circuit Judge, concurring in part and dissenting in part.

I agree that Sergeant Vertin has qualified immunity for his detention of Teresa Hooks. I also agree that the plaintiff has not met the "extremely rigorous" standard for holding Sheriff Harrell liable for the actions of his subordinates on any of the claims. *Piazza v. Jefferson Cty.*, 923 F.3d 947, 957 (11th Cir. 2019) (citation omitted). But I disagree with the majority's ruling denying qualified immunity to Sergeant Brewer for his search warrant application. According to the majority, the search warrant here was not valid —indeed, was not even arguably valid—even though the warrant (1) was based on the testimony of a witness who voluntarily admitted to serious crimes in order to talk to police; (2) explained that the witness rifled through the cab of a pickup truck parked next to a house; (3) relayed that the witness found a large amount of methamphetamine and digital scales; (4) stated that the witness grabbed those items and stole another car along with two guns from the same property; (5) reported that the house belonged to a man who had previously been named as a drug dealer by an informant; (6) was prepared by an officer who checked with an assistant district attorney to confirm that his affidavit would establish probable cause for a search of the car owner's house; and (7) was approved by a magistrate judge. That cannot be the rule. Because of that disagreement, I respectfully concur in part and dissent in part.

[* * *]

By the time he heard Rodney Garrett's unsolicited car-theft confession, Laurens County Sheriff's Office narcotics unit supervisor Christopher Brewer had heard from several sources over the years that David Hooks was trafficking in methamphetamine. One of those sources was a meth dealer named Jeff Frazier. In an interview with narcotics officers in 2009, Frazier described Hooks as a smart, careful drug dealer who was jealous of his territory and a dangerous guy to cross. According to Frazier, Hooks dealt mostly in cocaine but also did some business in methamphetamine. Frazier said that he personally delivered over 100 grams of meth to Hooks about once a month.

Sgt. Brewer hoped that Frazier's information might be the lead he needed to get something solid on Hooks. He drove out to Hooks's house in an unsuccessful effort to make contact with him, and he and other narcotics officers lingered in the area from time to time hoping to see something suspicious or make an informative traffic stop. But they were never able to corroborate Frazier's information—until Garrett came along.

In the late summer of 2014, Sergeant Brewer learned that Garrett had turned himself in to Sergeant Brian Brooks, who was a family friend of the Garretts and who had known Rodney Garrett since he was a child. Garrett was addicted to methamphetamine and had turned to stealing to support his habit. He confessed to Sgt. Brooks that he had stolen a luxury SUV, two guns, and a "large amount of meth" from David Hooks's property.

Garrett said that he had been kicked out of the house where he had been staying and wandered onto the Hooks property looking for something to steal,

stopping now and then to smoke meth along his way. At the end of a half-mile driveway, he saw two vehicles parked under the carport next to the house, a shed about 50 yards from the house, and a Lincoln Aviator, conveniently parked in the dark near the shed. The keys were in all three vehicles.

Garrett took two long guns from the shed and got into the Aviator. He saw that the Aviator was low on gas, so he rifled through the cab of Hooks's pickup truck, looking for gas money. He found some loose bills in the center console, as well as a neoprene bag shaped like a beer bottle. The bag felt like it might contain paper money, so Garrett grabbed it, along with a set of digital scales that he found in the console under the bag, and took off in the Aviator.

When Garrett got to a gas station and opened the bag, he was startled to find that it was full of meth—about three or four thousand dollars' worth, he thought. The rest of that night, and the next, Garrett hid out in the woods smoking some of the meth and trying to decide what to do. His mind raced—he was certain that only a big-time drug dealer would have that much meth lying around in his car. He considered selling the rest of it and getting out of town, but the only person he could think of who might buy it was his own drug source, and he couldn't trust that person to keep quiet. He saw no easy way out.

Finally, Garrett decided that his best course was to turn himself in and hand the drugs over to the police. He knew that between another vehicle theft a few days earlier and the theft of the Aviator and guns from the Hooks property he would get a stiff prison sentence. But he feared the big-time drug dealer whose property he had stumbled upon, and he hoped that

the police could protect him. So he went home, and his mother called Sgt. Brooks, who was a family friend. His confession followed.

When Sgt. Brewer heard Garrett's story, it added up. Sgt. Brewer was familiar with David Hooks's house from the Frazier investigation, so he recognized the Hooks property from Garrett's description of the location and layout of the house, carport, and shed. What's more, he knew that the guns and the Aviator had been stolen from Hooks just as Garrett claimed, because Hooks had reported the theft and provided a description of the guns and the VIN for the Aviator. Sgt. Brewer had reason to believe Garrett when he said that the methamphetamine came from Hooks's other car, based on past reports of Hooks's drug trafficking from Frazier and others. And to top it off, he had a meth addict who had been stealing to feed his habit but was willing to give up nearly a month's supply of the drug and go to jail out of fear for his safety.

Sgt. Brewer thought that he had enough to get a warrant to search Hooks's house. But just to be sure, he called an assistant district attorney and asked his opinion. The attorney thought that if Sgt. Brewer put Garrett's tip and all the corroborating information that he had in a search warrant application, it would be enough to find probable cause for the search. So Sgt. Brewer prepared an affidavit relating Garrett's story and added some of the reasons that he found Garrett's story believable.

Given these facts, I have no doubt that "reasonable officers in the same circumstances and possessing the same knowledge" as Sgt. Brewer "could have believed that probable cause existed." *Lowe v. Aldridge*, 958 F.2d 1565, 1570 (11th Cir. 1992) (citation omitted). And

surely it was at least arguably enough for the magistrate to make the "practical, common-sense judgment" that there was a "fair probability" of finding contraband or other evidence of criminal activity in David Hooks's house. *Illinois v. Gates*, 462 U.S. 213, 238, 244 (1983). That being so, the majority ought to have concluded that Sgt. Brewer is entitled to immunity from suit on any claim arising from his warrant application. *Lowe*, 958 F.2d at 1570. Instead, while paying lip service to the correct analytical framework, the majority begins its analysis with a clear factual error, continues by making too much of an irrelevant statement, and concludes by measuring its improperly truncated "new affidavit" against an artificially high legal standard.

The majority's first mistake is one of fact—Frazier did say that David Hooks was distributing methamphetamine, though not in so many words. The majority wrongly declares that "Frazier never said as much," based on the deposition testimony of Corporal Tim Burris, who interviewed Frazier in 2009 and contemporaneously reported the content of the interviews to Sgt. Brewer. It's true that Cpl. Burris testified in 2016 that he did not recall Frazier saying that David Hooks sold meth to "any third party."

The good news is that we are not forced to rely on Cpl. Burris's memory of the Frazier interviews—the record contains an audio recording that we can rely on instead. And in that recorded interview, Frazier referred to both Hooks's "meth business" and his "coke business." He also said that Hooks was angry because a nearby drug dealer was "moving a lot of dope" and "taking some of his business obviously." And if that is not enough to show that Frazier revealed Hooks to be a drug dealer, Frazier also told Cpl. Burris that

he was delivering about a quarter pound of methamphetamine (roughly 113 grams) to Hooks every month. That's a lot of meth—so much that no one would seriously suggest that it could be for personal use.

Moreover, the inference that Hooks was redistributing the methamphetamine that he got from Frazier was not just a matter of common sense. In Georgia, as Sgt. Brewer was no doubt aware, anyone who possesses 28 grams or more of methamphetamine is guilty of trafficking—a more serious offense even than possession with intent to distribute. *See* O.C.G.A. § 16-13-31(e); *United States v. Madera-Madera*, 333 F.3d 1228, 1231-32 (11th Cir. 2003). So while Sgt. Brewer's statement in the warrant affidavit that Frazier said "that he had been the source of supply for multiple ounces of methamphetamine to Hooks which Hooks was redistributing" was a rough summary of Sgt. Brewer's takeaway from the interviews rather than a direct quote, it was certainly "'truthful' in the sense that the information put forth is believed or appropriately accepted by the affiant as true." *Franks v. Delaware*, 438 U.S. 154, 165 (1978). The majority's decision to discard Frazier's information in its probable cause analysis was wrong.

The majority also finds fault with Sgt. Brewer's affidavit statement that Garrett had confessed to "other criminal offenses" not related to the Hooks theft and "provided other information which led to the recovery of stolen property which law enforcement was unaware of prior to this confession." Yes, that statement was partially false—though Garrett had confessed to stealing another car and buying a stolen chainsaw, police learned of both of those thefts before talking to Garrett. But even if this partial misstatement was inten-

tional or reckless (and it's not at all clear that it was either), it was not material to the analysis because probable cause would not "be negated if the offending statement was removed." *Paez v. Mulvey*, 915 F.3d 1276, 1287 (11th Cir. 2019). Considering all the other information in Sgt. Brewer's affidavit, whether Garrett also confessed to previous petty crimes just didn't matter. *See O'Ferrell v. United States*, 253 F.3d 1257, 1267 (11th Cir. 2001).

To put an even finer point on it, even if we were to make all the changes to the warrant that the majority suggests, the "new" search warrant affidavit would still establish (at least) arguable probable cause to search Hooks's home. *See Paez*, 915 F.3d at 1288. To begin, the majority seriously undervalues the information provided by Garrett, which formed the heart of Sgt. Brewer's probable cause showing. If believed, Garrett's claim that he had discovered digital scales and a significant amount of methamphetamine in David Hooks's car—while the car was parked a few feet from Hooks's back door, in the middle of the night in rural Laurens County—was enough to "supply the authorizing magistrate with a reasonable basis for concluding that [he] might keep evidence of his crimes at his home, *i.e.*, a 'safe yet accessible place.'" *United States v. Kapordelis*, 569 F.3d 1291, 1310 (11th Cir. 2009) (citation omitted).

The majority complains that Sgt. Brewer lacked direct evidence that Hooks kept methamphetamine in his home. But as we have said before, there "need not be an allegation that the illegal activity occurred at the location to be searched, for example the home," as long as the affidavit establishes "a connection between the defendant and the residence to be searched

and a link between the residence and any criminal activity." *Id.* (citation omitted). Sgt. Brewer made both connections here.

The affidavit explained that Sgt. Brewer was "familiar with" Hooks and his home from a prior investigation, meaning that he had personally driven to the Hooks home and was able to confirm that the house Garrett described belonged to David Hooks—thus establishing "a connection between the defendant and the residence to be searched." *Id.* And evidence that Hooks had 20 grams of methamphetamine—not an amount suitable for personal use—stashed right outside his house was enough to provide the required link to the house. *See United States v. Anton*, 546 F.3d 1355, 1358 (11th Cir. 2008) (evidence that a suspect possesses contraband of a type that he would normally be expected to hide in his home supports a finding of probable cause to search the home). "The justification for allowing a search of a person's residence when that person is suspected of criminal activity is the common-sense realization that one tends to conceal fruits and instrumentalities of a crime in a place to which easy access may be had and in which privacy is nevertheless maintained." *Kapordelis*, 569 F.3d at 1310 (citation omitted). The fact that Hooks had scales and a bag full of methamphetamine in his car raised a "fair probability" that he had drugs and related paraphernalia in his house too. *Gates*, 462 U.S. at 238.

The affidavit also contained enough information supporting Sgt. Brewer's belief in the truth of Garrett's statement about where he found the methamphetamine. Because the affidavit relied on hearsay from an informant, Sgt. Brewer was required to provide infor-

mation from which the magistrate could evaluate the informant's credibility, including his "veracity" and "basis of knowledge." *Gates*, 462 U.S. at 230. This does not mean that Sgt. Brewer was required to vouch for Garrett's good character; Garrett, like many police informants, was hardly a model citizen, and Sgt. Brewer did not try to cast him in that light in his affidavit. Where an informant's background and character are questionable or unknown, his "veracity" can be established by showing that "corroboration through other sources of information reduced the chances of a reckless or prevaricating tale," and provided "a substantial basis for crediting the hearsay." *Id.* at 244-45 (citation omitted). And the informant's veracity and basis of knowledge are "closely intertwined issues that may usefully illuminate the commonsense, practical question whether there is 'probable cause' to believe that contraband or evidence is located in a particular place." *Id.* at 230.

Sgt. Brewer's affidavit described three circumstances supporting the reliability of Garrett's information. *First*, in explaining how he got the methamphetamine, Garrett voluntarily confessed to stealing the Aviator and two guns, as well as the drugs and digital scales, from David Hooks's property. The fact that Garrett was willing to risk significant criminal exposure (he was later sentenced to 10 years with 5 to serve in prison) tended to make his account of where he found the methamphetamine more believable. Although the fact that an informant's statement is against his penal interests is not enough to establish probable cause standing alone, admissions "of crime, like admissions against proprietary interests, carry their own indicia of credibility" and provide at least some support for a

finding of probable cause. *United States v. Harris*, 403 U.S. 573, 583 (1971) (plurality opinion); *see United States v. Burston*, 159 F.3d 1328, 1334 (11th Cir. 1998).

Garrett also confessed that he often smoked a gram of meth a day, that he had been smoking meth on the night of the thefts, and that he was looking for something to steal in order to support his habit when he entered Hooks's property. This confession, besides being yet another statement against Garrett's penal interests, gave Sgt. Brewer an additional reason to believe that Garrett had stumbled on the drug stash as he said. After all, where would Garrett have gotten the money to buy 20 grams of methamphetamine? And if he had traded stolen goods for the drugs after leaving the Hooks property, as the district court suggested, why would he have turned it over to law enforcement, rather than keeping it for his own use? In this context, Garrett's explanation—that he was alarmed by the amount of meth that he found and afraid for his safety once the owner discovered its theft—made sense. *See Massachusetts v. Upton*, 466 U.S. 727, 734 (1984) ("internal coherence" of informant's story supported finding of probable cause).

Second, the fact that Garrett's knowledge was based on his personal observation supported the reliability of his information. *See United States v. Brundidge*, 170 F.3d 1350, 1353 (11th Cir. 1999). Garrett claimed to have found the methamphetamine in David Hooks's car himself—and he had proof of his firsthand experience, because he still had the drugs, along with the Aviator and guns that he admitted to stealing at the same time. It would have been a different matter if Garrett claimed that he had stolen a car and some drugs from Hooks but could not produce either one.

Third, Sgt. Brewer provided information from a previous informant (Frazier) who had also claimed that David Hooks was involved with methamphetamine. To be sure, Frazier's information was stale and had not been corroborated before. But otherwise-uncorroborated allegations made by two informants in separate statements can corroborate each other. *See United States v. Martin*, 615 F.2d 318, 326 (5th Cir. 1980).[1] And stale information connecting a suspect with drug trafficking in the past can provide support for allegations of more recent drug activity. *See United States v. Magluta*, 198 F.3d 1265, 1272 (11th Cir. 1999), *vacated in part on other grounds on reh'g* 203 F.3d 1304, 1305 (11th Cir. 2000); *United States v. Harris*, 20 F.3d 445, 450 (11th Cir. 1994).

With all of this information corroborating Garrett's claim that he found 20 grams of methamphetamine in Hooks's car, Sgt. Brewer had plenty of facts to support the magistrate's finding of probable cause—more than he needed to preserve his qualified immunity from the plaintiff's civil claims. To deny qualified immunity, we must conclude not only that the revised affidavit does not support a finding of probable cause, but also that "a reasonably well-trained officer" in the appellant's "position would have known that his affidavit failed to establish probable cause and that he should not have applied for the warrant." *Malley v. Briggs*, 475 U.S. 335, 345 (1986). And "if officers of reasonable competence could disagree on this issue,

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[1] *See Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc) (adopting as binding precedent all decisions of the former Fifth Circuit handed down before October 1, 1981).

immunity should be recognized." *Id.* at 341. Sgt. Brewer had at least arguable probable cause to obtain the search warrant, and he should not be held personally liable for any damages arising from the execution of the warrant.

[* * *]

If this search warrant application doesn't satisfy the "arguable probable cause" standard, I almost don't know what would. I therefore respectfully dissent to the majority's decision on the warrant, and join the remainder of the majority opinion.

ORDER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA (JANUARY 29, 2018)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually; and ESTATE OF DAVID HOOKS, by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER; STEVE VERTIN; and WILLIAM "BILL" HARRELL;

Defendants.

CV 316-023

Before: Dudley Hollingsworth BOWEN JR.
United States District Judge.

On September 24, 2014, Sheriff's Deputies with a search warrant forcibly entered the rural home of David and Teresa Hooks at 11:00 p.m. where they shot and killed David Hooks as he ran naked, holding a shotgun by his side. This suit for damages turns upon the issue of whether the search warrant was lawfully obtained. Motions for summary judgment filed

by Defendants Christopher Brewer and William "Bill" Harrell place the issue squarely before the Court. A thorough and sifting examination of the record reveals genuine disputes of material fact regarding the existence of probable cause to seek the warrant. Defendants' motions for summary judgment are therefore DENIED.[1]

I. Background

Around midnight on September 22, 2014 (into the early morning of September 23, 2014), numerous items were stolen from the curtilage of the rural residence of David and Teresa Hooks, located at 1184 Highway 319 North, East Dublin, Georgia. (*See* Doc. No. 83-18, at 3 (Sergeant Robbie Toney's investigative summary).) At approximately 2:00 p.m. on September 23, 2014, David Hooks called the Laurens County Sheriff's Office to report these thefts. (*Id.*) Sergeant Robbie Toney received the call, during which David Hooks reported, *inter alia*, that: (i) both his and his wife's personal vehicles had been entered and money and guns had been taken from these vehicles and a nearby detached garage; and (ii) an additional vehicle he owned, namely a Lincoln Aviator, had been stolen. (*Id.*) David Hooks provided Sergeant Toney with the Aviator's vehicle identification number ("VIN"), which Sergeant Toney entered into GCIC as a stolen vehicle. (*Id.*) Shortly thereafter, Sergeant Toney—joined by Laurens County Deputy Brian Fountain—went to the Hooks property. (*Id.*; *see also* Doc. No. 83-16 (Deputy Fountain's incident report listing all items purportedly stolen from

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[1] This Order also addresses the motions for summary judgment filed by Defendant Harrell and Defendant Steve Vertin respecting Plaintiff's illegal detention claim.

the Hooks property, including two pistols, five long guns, and several thousand rounds of ammunition).) David Hooks took the officers to the scene of the thefts, where the officers dusted for—but were unable to obtain—usable fingerprints. (Doc. No. 83-18, at 3.) The officers left shortly thereafter. (*Id.*)

At approximately 4:43 p.m. on September 24, 2014, Laurens County Sergeant Ryan Brooks received a personal phone call on his cell phone from Beverly Garrett. (Brooks Dep., Doc. No. 85, at 30; *see also* Doc. No. 76-9 (Sergeant Brooks' incident report).) During this call, Beverly Garrett requested that Sergeant Brooks come to her residence because her husband, Monty Garrett, was having issues with his blood pressure. (Brooks Dep. at 30.) Upon his arrival at the Garretts' residence, Beverly Garrett directed Sergeant Brooks to speak with Monty Garrett on their back porch; Monty Garrett, in turn, informed Sergeant Brooks that his son, Rodney Garrett, was scared and wanted to turn himself in to someone he trusted (*i.e.*, Sergeant Brooks).[2] (*Id.* at 31.) Monty Garrett then informed Sergeant Brooks that Rodney Garrett was "laying in the woods watching to make sure [Sergeant Brooks] was the only one coming." (*Id.*)

Sergeant Brooks turned around and saw an individual walking from the woods where Rodney Garrett was said to be hiding.[3] (*Id.*) As he started down the

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[2] Sergeant Brooks is a family-friend to the Garretts and has known Rodney Garrett since childhood. (Brooks Dep. at 5 ("We went to school together, went to church together. Just family friends. My family knows all of his family or a lot of his family.").)

[3] Because he was concerned law enforcement officers were looking for him in connection with the theft of a green truck owned by Hipolito Mendoza, Rodney Garrett was "living in the[se] woods

driveway to confront this individual, Sergeant Brooks recognized him as Rodney Garrett;[4] when they met,

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with Chris [Willis in a tent] for a day or two." (Garrett Interview Tr., Doc. No. 126-1, at 5; Garrett Dep., Doc. 101-1, at 47-48; *see also* Brooks Dep. at 19 (in the course of investigating Rodney Garrett's theft of Mr. Mendoza's truck, Rodney Garrett's wife informed Sergeant Brooks on or about September 21, 2014 that Rodney Garrett had been staying somewhere in the woods in a tent and that "he wasn't the same as he used to be and didn't act the same").) Sergeant Brooks and other Laurens County officers were aware that Chris Willis regularly supplied Rodney Garrett with methamphetamine and had previously attempted to fence stolen goods on Rodney Garrett's behalf. (*See*, *e.g.*, Garrett Interview Tr. at 4-5, 8-10; Brooks Dep. at 21-29.)

[4] Notably, Rodney Garrett's own testimony casts suspicions on the voluntary nature of his submission to Laurens County authorities. Indeed, Rodney Garrett's family had made several prior failed attempts to convince him to turn himself in to authorities. (Garrett Dep. at 19 (Q: "And would you agree with me that it—it's not surprising that there's some text messages back and forth from you to other people regarding looking—looking out for—for the law and whether or not the law was riding around your house, things of that nature?" A: "Well, my mother tried to get me to turn myself in several times, my sister did. Told me, just call and let them know where I was at and they—they would take me to the sheriff's department or get the sheriff's department to pick me up, but I just quit answering all together."). Undeterred, his family persisted in "trying to talk [him] into going to—turn [himself] in, come clean." (*Id.* at 55-56.) When Rodney Garrett failed to do so himself, however, Beverly Garrett called Sergeant Brooks and had him come to her house under false pretenses and, when he arrived, Sergeant Brooks went out into the woods, found Rodney Garrett and arrested him. (*Id.* (Q: "Now, it—and it—it was more or less your mother who—is it your understanding it was your mother who called Ryan Brooks—" A: "Em-hmm, yeah." Q: "—to come—come to her house?" A: "Yep." Q: "And is it your understanding that what she told Ryan Brooks to get him to come to her house was that your father was having blood pressure issues—" A: "Yeah." Q: "—and he needed checked on?" A: "Yeah. She was worried

they shook hands and embraced in a hug. (*Id.*) Notably, Sergeant Brooks was aware at the time of their interaction that Rodney Garrett: (i) was addicted to methamphetamine;[5] (ii) was presently under the influence of methamphetamine and had not slept in 7 to 10 days;[6] (iii) had a proclivity to deceive law enforcement as well as his friends and family; and

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about him because he knew that I—that I was out of the residence and they were trying to talk me into going to-turn myself in, come clean." Q: "Yeah. And then once Mr. Brooks got there, they told Mr. Brooks, Rodney is down in the woods?" A: "Yeah. I was actually at my house, but yeah." Q: "Yeah. And at that point in time, Ryan Brooks came down there, found you and—and arrested you?" A: "Yes, sir.").) Upon subsequent cross-examination by Defendants' counsel, however, Rodney Garrett amended his story and said he "was ready to come clean" and said he knew he was going to be arrested and was "going to turn [himself] in." (*Id.* at 69-70.)

[5] Rodney Garrett testified that from the end of 2012 through his arrest on September 24, 2014, he used methamphetamine every day and night, typically smoking approximately one to one-and-a-half grams of meth per day (which he stated was an $80-to $100-a-day habit). (Garrett Dep. at 12-14.) When he purchased methamphetamine, he typically bought between a gram and three and a half grams (colloquially known as an "8-ball") at a time. (*Id.* at 19-20.) At the time of his arrest, Rodney Garrett made approximately $550 to $750 per week after taxes and sustained his drug habit by stealing from neighbors and local businesses and then selling the stolen goods. (*Id.* at 15-18.)

[6] Rodney Garrett testified that, at the time he was arrested, he had been awake "for almost two weeks straight." (Garrett Dep. at 33.) Rodney Garrett further testified that when he "would stay up for 7 to 10 days" in a row he would "start to see—meth users call them 'shadow people.'" (*Id.* at 69.) He further testified that he had bought three and a half grams of methamphetamine approximately two days prior to burglarizing the Hooks property. (*Id.* at 49.)

(iv) had lied to Sergeant Brooks himself less than three days before regarding his involvement in suspected criminal activity. (Brooks Dep. at 10-11, 19, 27-28; Garrett Dep., Doc. No. 101-1, at 34, 69; *see also* Defendants' Response to Plaintiff's Statement of Material Facts Which Plaintiff Contends Create Genuine Issues ("DRPSMF"), Doc. No. 106, ¶ 14.)

At the end of their embrace, Rodney Garrett stated that he "had messed up." (Brooks Dep. at 31.) Believing that Rodney Garrett was referring to his suspected theft of a green truck owned by Hipolito Mendoza,[7] Sergeant Brooks told Rodney Garrett that they would "go to the office and talk about it and get everything sorted out." (*Id.*) Rodney Garrett, however, insisted that "[t]here's another vehicle you need to know about," at which point they walked back into the woods to where a Lincoln Aviator was parked. (*Id.* at 32.)

Rodney Garrett then attempted to explain his possession of the Aviator to Sergeant Brooks. (Brooks Dep. at 32-33; *see also* Doc. No. 76-9; Garrett Interview Tr., Doc. No. 126-1, at 2-3.) According to Sergeant Brooks' recollection of Rodney Garrett's account, Rodney Garrett was walking along Highway 319 around

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[7] At the time of their interaction, a warrant had been sworn out by Laurens County officers for Rodney Garrett's arrest in connection with the theft of Mr. Mendoza's truck. (*See* Garrett Dep. at 10; Frazier Dep., Doc. No. 83-7, at 6-7.) Rodney Garrett was aware that police officers were looking for him in connection with the theft of Mr. Mendoza's truck. (Garrett Dep. at 10-11, 18-19, 48.) Mr. Mendoza's truck had been recovered by Laurens County officers on September 21, 2014 without the assistance of Rodney Garrett. (Brooks Dep. at 26-29.)

midnight on the evening of September 22, 2014.[8] As he was walking, he saw a driveway with its gate open and decided to investigate.[9] (Brooks Dep. at 33.) Parked on the grass near the Hooks residence Garrett found the unlocked Lincoln Aviator with its keys inside. (*Id.*) Rodney Garrett then walked over to another vehicle located near a detached garage on the same property;[10] when he opened the door to this vehicle, he located a neoprene bag (which he believed to contain money) and some digital scales,[11] which he took. (*Id.*) He also looked around in the detached garage and found a gun safe,[12] from which he took a shotgun and a rifle. (*Id.*) He then entered the Aviator with the pilfered neoprene bag, scales, and firearms and drove away from the property. (*Id.*) Before

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[8] Rodney Garrett testified that, while walking down the highway, he stopped two or three times to smoke methamphetamine before reaching the Hooks property. (Garrett Dep. at 23.)

[9] Unbeknownst to Garrett, this was the Hooks driveway, which is approximately half-a-mile long. (Garrett Dep. at 24-27; Garrett Interview Tr. at 3, 7, 11.) While the mail address indicates proximity to the highway, the Hooks residence is thousands of feet from Highway 319. The seclusion of the home is important and easily seen on publicly-available satellite views of the property.

[10] Rodney Garrett testified that he smoked more methamphetamine while inside the detached garage. (Garrett Dep. at 26-28.)

[11] Rodney Garrett testified that he used his own set of scales to ensure he was not being swindled when he purchased methamphetamine. (Garrett Dep. at 47.) It is unclear whether Laurens County officers ever recovered the scales used by Rodney Garrett when he would purchase methamphetamine.

[12] (Garrett Interview Tr. at 3 ("Went over and looked the keys were in the ignition step into his shop there and he had what looked to be a metal gun safe that the locks had been ripped out of . . . I didn't do that . . . [sic] they were already gone[.]").)

returning to his home, however, Rodney Garrett stopped at a gas station and decided to inspect the contents of the pilfered neoprene bag. Therein, he claims to have then discovered approximately 20 grams of methamphetamine. (*Id.* at 33-34.) He later parked the Aviator in the woods near his parents' residence. (*Id.* at 34.)

After hearing Rodney Garrett's story, Sergeant Brooks called in the Aviator's VIN, which came back stolen. (*Id.* at 35-36.) Sergeant Brooks then called another Laurens County officer, Sergeant Gerald Frazier, who subsequently called Defendant Sergeant Christopher Brewer at approximately 5:30 p.m. and requested that Defendant Brewer travel to Sergeant Brooks' location.[13] (Doc. No. 76-9, at 2; Brewer Dep., Doc. No. 72-1, at 7.) Shortly thereafter, Defendant Brewer and Corporal Timothy Burris arrived at the Garretts' residence and the officers searched the Aviator's interior. (Brooks Dep. at 38.) Therein, they located scales and two firearms, but not the neoprene bag. (Doc. No. 76-9, at 2.) Instead, the officers discovered a locked metal case, approximately one foot square in size, which Rodney Garrett claimed was his own and into which he had placed the contents of the neoprene bag;[14] because it was locked, however, they were unable to examine its contents. (Brooks Dep. at 38-41; Brewer Dep. at 124-28; Doc. No. 76-9, at 2.) Defendant Brewer then asked Sergeant Brooks to take Rodney Garrett and find the key to the metal case, which Rodney Garrett claimed was at his residence (but

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[13] At the time of Rodney Garrett's arrest, Defendant Brewer was the supervisor of the Laurens County Sheriff's Office Narcotics Unit. (Brewer Dep. at 7.)

[14] Rodney Garrett later testified that he stole this metal case from the Hooks property. (Garrett Dep. at 61.)

was ultimately unable to locate it).[15] (Doc. No. 76-9, at 2.)

While at Rodney Garrett's residence, Sergeant Brooks read Rodney Garrett his Miranda rights and asked him to identify any property inside his shop that was stolen; in response, Rodney Garrett "looked around and said no yall [sic] got everything."[16] (*Id.*) Sergeant Brooks also asked Rodney Garrett about the location of a four-wheel ATV he had previously been seen operating. (Brooks Dep. at 42.) Rodney Garrett denied stealing the ATV but admitted that he knew where it was located;[17] accordingly, Rodney

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[15] The officers were never able to locate the key for the metal case. (Brewer Dep. at 124-28.) Somehow the case was opened later in Defendant Brewer's office. (*See* Brewer Dep. at 125 (Q: "The—the—when was the first time that you saw the contents of the bag that Garrett said he had taken from the console of the truck?" A: "When I returned to my office and began to inventory the items in the lockbox." Q: "Okay. When you received the lockbox—well, between the time you received the lockbox from Garrett and the time that you got to your office did you open it?" A: "No, sir." Q: "You obtained a key to open it, I take it?" A: "No, sir." Q: "Someone did?" A: "I don't think we ever found the key."); *see also* Brooks Dep. at 38-41 (Sergeant Brooks never saw the contents of the metal case); Burris Dep., Doc. No. 83-1, at 27-30 (Corporal Burris did not know what was in the metal case); Garrett Dep. at 61-65 (Rodney Garrett never saw the metal case opened (or its contents) after he turned it over to the officers).)

[16] Rodney Garrett was then-known to be a suspect in several other outstanding burglaries and/or thefts that occurred in the Laurens County area. (*See*, *e.g.*, Brooks Dep. at 7-16, 22-29, 45-48.)

[17] Rodney Garrett told the officers that he had purchased the ATV from Jimmy White a year or two before. (Garrett Interview Tr. at 5.)

Garrett and the officers drove out and found the ATV. (*Id.* at 42-43.)

The officers subsequently took Rodney Garrett to the Laurens County Sheriff's Office. (Brooks Dep. at 44; Doc. No. 76-9, at 2.) En route, Sergeant Brooks received a call from another Laurens County officer, Sergeant Lance Padgett, who stated that the stolen Aviator was his assignment and that he needed to question Rodney Garrett in regards thereto. (Brooks Dep. at 44.) Sergeant Padgett then called Sergeant Toney to inform him that David Hooks' Aviator had been located. (Doc. No. 83-18, at 4.)

When Rodney Garrett arrived at the Laurens County Sheriff's Office, Sergeant Padgett—along with Sergeant Brooks, Corporal Burris and Defendant Brewer—took him to an office for questioning, which began at approximately 7:45 p.m. (Brooks Dep. at 45; Garrett Interview Tr. at 2.) During this questioning, Rodney Garrett admitted to the officers that: (i) he was temporarily "living" in a tent in the woods with his friend, Chris Willis; (ii) Mr. Willis' house was littered with enough "baggies" that it "would have blowed [sic] your mind;"[18] (iii) he regularly bought methamphetamine from Mr. Willis (and/or an associate of Mr.

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18 This appears to be a reference to Mr. Willis' possession of bagged quantities of methamphetamine or other controlled substances. (*see* Garrett Interview Tr. at 8 (Padgett: "[W]hat about Chris [Willis]? What has he been up to?" Garrett: "[N]othing but wrong[.]" Padgett: "[W]ell, let's hear it[.]" Garrett: "I know meth probably hard too. He uh." Brooks: "[T]ell em what you was telling me about the false floors in his house[.]" Garrett: "[N]o uh it's not false floors its carpet . . . what would be carpet is baggies he's got that many laying on the floor. If you'd walked in it would have blowed [sic] your mind.").)

Willis, Jeremy Lumley, with Mr. Willis acting as an intermediary or broker); (iv) he was presently "strung out" on methamphetamine; (v) he had smoked approximately a half-gram of the methamphetamine purportedly taken from the Hooks property, up to and throughout the night before his arrest; and (vi) he had contemplated selling the methamphetamine to a few individuals, including Mr. Willis. (Garrett Interview Tr. at 2, 4-5, 8-10; *see also* Padgett Dep., Doc. No. 83-15, at 15-17; Garrett Dep. at 60-61, 78.) Despite the officers' repeated attempts to get him to admit otherwise, Rodney Garrett maintained that he had never had any prior interaction with David Hooks or his property. (Garrett Interview Tr. at 4, 7, 10-11; Garrett Dep. at 57-58; *see also* Brewer Dep. at 60-62 ("I don't know if this will help you, but after the interview concluded I do not recall any steps I took to determine if [Rodney] Garrett did, in fact, know [David] Hooks.").) Further, despite David Hooks having reported seven firearms and thousands of rounds of ammunition being stolen from his property, Rodney Garrett insisted that he only took a shotgun and a rifle.[19] (*See* Garrett Interview Tr. at 3-6, 10.) The officers also questioned Rodney Garrett about other thefts in which he was a suspect, for all of which he either denied having any knowledge or gave exculpatory

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19 (*See*, *e.g.*, Garrett Interview Tr. at 6 (Padgett: "[W]ell something is up cause you telling me you stole his truck and stole 2 guns and there is other guns in there that went missing[.]" Garrett: "[W]ell if I gonna admit to it . . . I would've.").) On October 11, 2014, Laurens County officers located additional stolen property at "a location that is associated with Rodney Garrett," namely his uncle Lenwood Lord's residence. (Doc. No. 83-18, at 5, 14-15.) Notably, this recovered property included a shotgun reported stolen by David Hooks on September 23, 2014. (*Id.)*

explanations.[20] (Garrett Interview Tr. at 3, 5-10; *see also* Brooks Dep. at 45-48.) Moreover, the officers also inquired whether he had swapped any of the items he had taken from the Hooks property for drugs or cash, which he denied. (Garrett Interview Tr. at 4, 6, 10.)

When the questioning ended at approximately 8:10 p.m., Sergeant Padgett wrote a citation against Rodney Garrett for his burglary of the Hooks property and directed Sergeant Brooks to have him booked in the Laurens County jail.[21] (Brooks Dep. at 45; DRPSMF ¶ 32.) Sergeant Padgett then called Sergeant Toney and informed him that Rodney Garrett had turned himself in and claimed that he did not steal any other property from the Hooks property other than the Aviator, two guns, scales, money, and methamphetamine. (Doc. No. 83-18, at 4; *see also* Toney Dep., Doc. No. 83-17, at 27-29.) At approximately 8:30 p.m., Defendant Brewer, Sergeant Padgett, and Corporal Burris called Laurens County's Deputy Chief Assistant District Attorney Brandon Faircloth and spoke with him "for a few minutes" about seeking a search warrant

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[20] *E.g.*, he found it broken down in the woods, bought it from a coworker "probably a year in [sic] a half two years ago," "was working on it for a man," "[t]hat was a different model than what he had," "naw that's good, that's mine," "bought it at a yard sell [sic]," "bought 'em never used 'em," etcetera. (*See* Garrett Interview Tr. at 3, 5-10.)

[21] Rodney Garrett was never charged with possession of the methamphetamine he professed to have taken from the Hooks property. (Garrett Dep. at 68.)

for the Hooks property.[22] (*See* Faircloth Dep., Doc. No. 83-5, at 10-11, 14-15, 17-43.)

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[22] What information was disclosed to—and what information was withheld from—Mr. Faircloth during this discussion remains unclear. Nevertheless, Mr. Faircloth testified that he explicitly advised the officers to provide the magistrate with each and every relevant fact they had in their possession to ensure they did not obtain a search warrant under false pretenses. (*See* Faircloth Dep. at 28-30 (Q: "And basically, what I'm understanding is that you left Brewer with the, I guess we would call it, advice that he should put everything he had into the affidavit to get the search warrant?" [objection to form] A: "I think that's fair. I mean, basically, we always advise officers that they want to make sure that they tell the full truth and that they give a full picture to the Magistrate. You don't want a situation where they think that something is not important—not that they're trying anything but they're just—they are focusing on things that they view as more important and so they leave something out that the Magistrate may think is the most important part either way. And so to make sure that the Magistrate is in the best position to rule whether to give a warrant or not, it's best to make sure they have all of the information. And so that's what we always tell them is, 'Everything that you know, you need to include in the affidavit. And if there's something that you know that's not in the affidavit, you need to make sure that you tell them,' because we don't want them to ever be—you know, getting a warrant obviously under false pretenses, which is not really an issue, but also just accidentally leaving something out that might be a critical point." Q: "So if Chris Brewer didn't put everything into the affidavit, he would have done that against your advice?" [objection to form] A: "I mean, I guess so. But again, you have to bear in mind that our advice is literally just that. It's our legal opinion because we have a duty to give law enforcement legal opinions on stuff when they need help on that. But our advice is never guidance. And it's never, you know, something they have to follow. And at no point do we try to supplant the idea that they may know better than us on whatever they're doing, not just, you know, going out to a crime scene or interviewing a witness but also preparing a search warrant. So, you know, ultimately, they're professionals. They

Significantly, Corporal Burris was the case agent investigating one Jeff Frazier in or around 2009. (Burris Dep., Doc. No. 83-1, at 9-24, 50-60; *see also* Doc. No. 83-2, at 5-28 (records relating to the investigation of Jeff Frazier).) During this investigation, Jeff Frazier-purportedly admitted to Corporal Burris that he was bringing methamphetamine back from Atlanta and distributing it to others, including David Hooks and other well-to-do businessmen, judges, and attorneys in the greater Dublin area. (Burris Dep. at 9, 15.) Importantly, Jeff Frazier's accusations were never corroborated, and no case file was opened regarding David Hooks in relation to the investigation of Jeff Frazier or otherwise, despite having Jeff Frazier under surveillance for over two months and conducting numerous controlled purchases via informants during that period. (Burris Dep. at 13-24, 59-60; *see also* Brewer Dep. at 78-79, 95-96.) Defendant Brewer was directly involved in the investigation of Jeff Frazier.[23]

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have to make the choice that they make as far as what information they include or not. And whether they listen to us or not, that's entirely up to them because we can't tell them what to do and we don't. But, by the same token, we do always advise them and give them—it's our opinion—make sure any relevant fact you include in your discussion with the Magistrate, whether it's on paper in the affidavit or in your sworn testimony.").)

[23] Defendant Brewer testified that he investigated David Hooks in connection with the investigation of Jeff Frazier by: (i) driving "up onto the [Hooks] property attempting to make contact with somebody"; (ii) "rid[ing] through and try[ing] to catch people leaving" the Hooks property; and (iii) attempting to set up controlled purchases from David Hooks. All of these attempts were unsuccessful and failed to corroborate Jeff Frazier's accusation. (*See* Brewer Dep. at 78-79, 94-97; *see also* DRPSMF ¶¶ 38-39.) Defendant Brewer testified that no records exist of any of these purported efforts and that no case file was

(*See* Brewer Dep. at 74, 78-79; Burris Dep. at 50-60; *see also* Doc. No. 83-2, at 29-30 (Defendant Brewer's narrative regarding October 2009 investigation of Jeff Frazier).)

Without further investigation, Defendant Brewer sought a search warrant for the Hooks residence and its curtilage.[24] (Doc. No. 1-2, at 3-5 (Defendant Brewer's

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initiated with regards to David Hooks. (Brewer Dep. at 78-79, 95-96.) Moreover, Defendant Brewer testified that he had been informed by Sergeant Gerald Frazier that Sergeant Frazier had interviewed a suspect by the name of "May" who had reportedly told Sergeant Frazier that David Hooks was distributing methamphetamine. (Brewer Dep. at 74-76.) In his own deposition, however, Sergeant Frazier testified that—approximately one year before Rodney Garrett's burglary of the Hooks property—he had "worked a break-in or a theft from [David Hooks'] truck" which resulted in the arrest of David Hooks' former employee, Markell May, but that there had been no criminal investigation of David Hooks as a result thereof (or for any other reason). (Frazier Dep. at 23-24.) Defendant Brewer testified that he did not include Mr. May's accusations in the affidavit in support of the Hooks search warrant because he "couldn't recall anything other than [he] remembered [Sergeant] Gerald [Frazier] telling me about this guy . . . but neither one of [them] could come up with enough information while [he] was writing to include that in the affidavit." (Brewer Dep. at 92-93.) Finally, Defendant Brewer testified that there was an accusation by a "Robbie Miller" in 2002 "[t]hat David Hooks was distributing methamphetamine," but provided no further information as to whether he was actually aware of this accusation by Mr. Miller at the time of applying for the search warrant on September 24, 2014 and/or the circumstances of such accusation. (*Id.* at 93, 96.)

[24] The search warrant sought controlled substances, particularly methamphetamine, and "[p]araphernalia necessary for manufacturing, packaging, cutting, weighing, and/or distributing controlled substances" as well as "[c]urrency of the United States obtained, connected with and/or possessed to facilitate the financing of illicit drug trafficking." (Doc. No. 1-2, at 1.)

affidavit in support of search warrant); Brewer Dep. at 4.) Because he was "trying to expedite the process" of securing a search warrant, Defendant Brewer did not "go back and pull Frazier's file" or otherwise review any records relating to the investigation of Jeff Frazier or any other individual(s) who may have claimed a connection between David Hooks and illegal activity. (Brewer Dep. at 77, 83-87, 90-94.) No additional oral testimony was provided to the issuing magistrate in support of the warrant application, other than possibly reciting the contents of the affidavit offered in support thereof.[25] (Brewer Dep. at 28-29.)

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[25] (Brewer Dep. at 28-29 (Q: "When you met with the magistrate, did you provide any testimony or information to the magistrate beyond what's contained within the application for the search warrant and affidavit?" A: "Yes. Is that a question or were you reading that from the document?" Q: "No. I'm asking that as a question." A: "I do not recall any oral testimony; however, in reviewing my document, there was a note in there that I provided her with a copy of the affidavit and provided her with oral testimony. Quite commonly, and I'm assuming that that's what this meant, was that I read her the part of the affidavit that specifically applied with this search warrant application." Q: "So you read the affidavit?" A: "Not the whole affidavit." Q: "Okay." A: "Just the part that specific—that would be a specific search warrant application." Q: "So in referencing the process of seeking the warrant to be signed by the magistrate, your testimony is that you read part of the warrant application/affidavit to the magistrate?" A: "That is my common practice." Q: "Okay. But beyond that, though, as you sit here today, do you recall providing information other than what you read from your application to the magistrate?" A: "No. I do not have an independent recollection of that." Q: "Do you have any record other than, I know you've referred to a record, some note you say that you—other than that is there any other record that might contain a notation by you to the effect of the information that you provided to the magistrate, if any—" A: "No, sir." Q: "—over

Laurens County Magistrate Judge Faith Snell signed the search warrant for the Hooks property on September 24, 2014 at 9:56 p.m. (*See* Doc. No. 1-2, at 1-2 (the search warrant).) The Laurens County Sheriff's Response Team ("SRT"), which would ultimately serve the search warrant, however, was assembled and briefed at some point between 8:00 p.m. and 10:00 p.m. Defendant Sheriff William "Bill" Harrell was present for this briefing and questioned Defendant Brewer regarding the factual basis for the search warrant and the steps he had taken to investigate these underlying facts.[26] (Harrell Dep., Doc. No. 83-8, at 55-70; Brewer Dep. at 176-77; Forte Dep., Doc. No. 83-6, at 11-14; Loyd Dep., Doc. No. 83-13, at 32-35; Meeks Dep., Doc. No. 83-14, at 21-23; Wood Dep., Doc. 83-20, at 9.) During the briefing, it was discussed that the executing officers should not be in a hurry and they should take their time with the "knock and announce" to allow sufficient time for any

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and above what was within the affidavit application?" A: "No, sir.").)

[26] Defendant Harrell further testified that he had conversations with Defendant Brewer regarding the warrant prior to the beginning of the SRT's briefing. (Harrell Dep. at 69 (Q: "You had had conversations with Brewer about the warrant prior to the briefing starting?" A: "Yes." Q: "And those would be face-to-face conversations?" A: "Yes." Q: "And in those face-to-face conversations he outlined to you what he had done and what his probable cause was?" A: "Best I recall, yes." Q: "And you agreed that his actions at that point in time were appropriate?" A: "Yes.").) Defendant Harrell admits that he had "the authority at any time to pull the plug" on the execution of the search warrant. (*Id.* at 70.) He testified, however, that he could not recall whether he was present prior to Judge Snell signing the search warrant. (*Id.* at 54-55.)

occupants to come to the door. (Loyd Dep. at 39, 43, 48-49.)

The SRT and other members of the Laurens County Sheriff's Office, including Defendants Brewer, Harrell, and Corporal Steve Vertin, drove out to Highway 319 North, down the half-mile driveway and arrived at the Hooks residence to execute the search warrant at approximately 11:00 p.m.[27] Deputy Kasey Loyd was stationed at the residence's back door in standard uniform (navy hat, navy shirt, khaki pants), while the other-executing officers-stacked behind Deputy Loyd-wore dark-green tactical gear with the word "SHERIFF" sewn in black stitching on the front of their bulletproof vests. (Loyd Dep. at 35-36, 60; Vertin Dep., Doc. No. 83-19, at 18, 31; Wood Dep. at 19.)

At the time Laurens County officers were approaching her residence, Teresa Hooks was upstairs getting ready for bed. (Hooks Aff., Doc. No. 90, ¶ 2.) As she turned off the light beside her bed, she heard the sounds of a car approaching. (*Id.*) While Defendants state that their vehicles' blue lights were activated before service of the warrant, Teresa Hooks states that she looked out of her upstairs window and could not *see* anything other than a dark vehicle and

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[27] At the time the officers approached the Hooks residence, it was nighttime, cloudy, and windy, but not raining. (Loyd Dep. at 61-62.) It began raining shortly after the officers entered the Hooks residence and continued throughout Teresa Hooks' subsequent pool-side detention. (Hooks Aff., Doc. No. 90, ¶ 12.) Weather reports recorded at nearby Dublin Municipal Airport indicate that it was 61 degrees Fahrenheit and "misting" at the times in question. (Doc. No. 127-2, at 4, 9; *see also* Doc. No. 87-1, at 1-2 (Laurens County 911 computer-aided dispatch report indicating at 11:14 p.m. that "air evac cannot lift due to weather").)

several people dressed in dark colors with head cover "rushing towards" the back of her home. (*Id.* ¶¶ 2-3; Hooks Dep., Doc. No. 69, at 112; *see also* Frazier Dep., Doc. No. 83-7, at 16 (blue lights were not activated).) She then heard pounding on her back door and indiscernible yelling. (Hooks Dep. at 120-22; Hooks Aff. ¶ 11.) Fearing that her property was being burglarized again, she ran down the stairs while banging on the wall in the hopes of waking David Hooks, who was asleep in the master bedroom on the first floor. (Hooks Aff. ¶ 4; Hooks Dep. at 15.) As she reached the bottom of the stairs, David Hooks opened the master bedroom door—naked and holding a shotgun—and asked what was happening.[28] (Hooks Aff. ¶ 5.) David Hooks stepped back into the master bedroom to put on a pair of pants; before he could do so, however, the back door was forcibly breached.[29] (*Id.*; *see also* Hooks Dep. at 104-24.)

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[28] These would be the last words spoken between David and Teresa Hooks. (Hooks Dep. at 166, 169-170.)

[29] According to Deputy Loyd, he knocked on the back door two or three times and announced "sheriff's office, search warrant." (Loyd Dep. at 50-54.) While Defendants assert that there was a pause of approximately 20 to 30 seconds between each such announcement, Deputy Loyd himself testified that the entire "knock and announce" phase lasted less than 30 seconds. (*Id.*) After his initial knocking, Deputy Loyd claims he saw a woman in a red shirt and a man through the back door's window. (*Id.* at 53.) While he originally believed that these individuals were coming to answer the back door, he claims that before reaching the door the individuals "dipped off to the last room on the right." (*Id.* at 55-56.) Believing that these individuals were attempting to flee or destroy evidence, Deputy Loyd made the decision to breach the back door and stepped out of the way to allow the other officers to knock-down the door with a battering ram and enter the residence. (*Id.* at 38, 56-59.) As they crossed

In response to the sound of the back door being forcibly opened, David Hooks rushed across the foyer and into the living room—heading towards the dining room, the kitchen and back door—with his shotgun down by his side and with Teresa Hooks following close-behind. (Hooks Aff. ¶ 6.) Before the Hooks could reach the dining room, however, the officers fired 23 shots. In the resulting hail of bullets, David Hooks was struck by three.[30] (Hooks Aff. ¶¶ 7, 13; Hooks Dep.

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the threshold into the residence's kitchen, the officers yelled "Sheriff's office with a search warrant." (*Id.* at 59.) Notably, Teresa Hooks attests that "the layout of [her] house makes it physically impossible to *see* the foyer from the backdoor of [her] home." (*See* Hooks Aff. ¶ 14 & Exs. 1 & 2.) Moreover, she testified that she was not aware that the individuals forcibly-entering her home were law enforcement officers and further attests that "[a]t no time during the course of events, including before they forcibly entered my home, could [she] ever understand anything that was being said by the individuals." (Hooks Dep. at 127-28; Hooks Aff. ¶ 11 ("All I ever heard was yelling by multiple people but nothing was ever clear about what was being said.").)

[30] David Hooks remained conscious after being shot. (Jones Dep., Doc. No. 83-12, at 51-54; Johnson Dep., Doc. No. 83-11, at 13-14, 16-17, 19-20, 22-23.) Immediately after he was shot, the SRT's paramedics tended to David Hooks' injuries in an attempt to stabilize him for transport. (Woods Dep. at 25-30.) Emergency services were called but, due to the inclement weather, air evacuation was not possible. (Jones Dep. at 55; Johnson Dep., Doc. 83-11, at 23-24; Doc. No. 87-1, at 1-2.) An ambulance arrived on the premises at approximately 11:14 p.m. and left shortly thereafter with David Hooks headed for the nearby Fairview Park Hospital. (Johnson Dep. at 9-10, 15-16; Harrell Dep. at 112-13.) The paramedics knew at the time that they were headed to Fairview Park that its facilities were inadequate given the severity of David Hooks' injuries, but were afraid that he would not survive a longer trip if he was not properly stabilized first. (Wood Dep. at 33 (Q: "At some point in time during your involvement with Mr. Hooks, did you realize he

at 124-27; Forte Dep. at 33.) David Hooks never raised or fired his shotgun. (Hooks Aff. ¶¶ 6-7; Hooks Dep. at 127.)

During the gunfire, Teresa Hooks turned around, ran across the living room and through the foyer and ducked, unscathed, into the master bedroom, locking the door behind her. (Hooks Aff. ¶ 7; Hooks Dep. at 129-30.) From the master bedroom, she called her son, Brandon Dean, and told him that she was being robbed, shots had been fired, and he should call 911.[31]

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was going to have to go somewhere other than Fairview Park?" A: "Yes, sir." Q: "Okay. About when did you come to that realization?" A: "Whenever we was (sic) on the scene. We tried to originally try to fly him out. Could not fly him out due to weather. Due to transport time it was too long to try to leave [the] scene to make it to Macon in case something did happen to him." Q: "Right." A: "So we elected to carry him to Fairview Park to make sure he was stabilized so other transportations [sic] could be evaluated for him.").) David Hooks was subsequently transported via ambulance from Fairview Park Hospital's emergency room to the Coliseum Hospital in Macon. (Johnson Dep. at 23-26; Hooks Dep. at 175.) Notably, it is an approximately 8-mile drive from the Hooks residence to the Fairview Park Hospital, and an approximately 50-mile drive from Fairview Park Hospital to the Coliseum Hospital.

[31] Brandon Dean's residence is located across a pond from the Hooks residence; after receiving the aforementioned phone call from Teresa Hooks, he immediately called 911 to inform them of the shooting. (Dean Dep. at 51-54; Hooks Dep. at 153-54.) The 911 operator told him to stay on the phone until law enforcement arrived at the Hooks residence. (Dean Dep. at 51-54.) Shortly thereafter he saw blue lights from across the pond and was disconnected from the 911 operator, so he got in his truck and drove over to the Hooks residence. (Dean Dep. at 51-54; Hooks Dep. at 153-54.) Upon arriving at the Hooks residence, he exited his vehicle unsure of what was transpiring; he was quickly tackled by Laurens County officers and handcuffed behind his back. (Dean Dep. at 55-61; Brooks Dep. at 54-55;

(Hooks Dep. at 131-32; Dean Dep., Doc. No. 70, at 51-52.) Aware that there was at least one other individual in the house besides David Hooks, now incapacitated and moribund, the officers began shouting for whoever was still in the house to come out. (Vertin Dep. at 34.) Teresa Hooks testified that she did not hear any commands prior to opening the door, but rather recognized the sounds of police radio chatter from inside the master bedroom; accordingly, she slowly opened the door, showed her empty hands, and walked out of the bedroom towards Defendant Vertin in response to his commands. (Hooks Dep. at 162-64; Vertin Dep. at 37-38.)

Defendant Vertin handcuffed Teresa Hooks with metal handcuffs behind her back and took her out the back door because he "knew that area was secure and there was nobody there possibly going to shoot at us or shoot us."[32] (Vertin Dep. at 37-39; Hooks Dep.

Hooks Dep. at 154; Frazier Dep. at 18.) He was placed in the back of a police vehicle and detained for interview by the GBI. (Dean Dep. at 61-63.) Defendant Harrell and the other Laurens County officers were aware that Teresa Hooks had called Brandon Dean and that he was on his way to the Hooks residence before he arrived. (Brooks Dep. at 54 ("The Sheriff come (sic) over the radio and said that Ms. Hooks had called her son and he was supposed to be on the way to the location and he told us to just watch out for him to get there."); Vertin Dep. at 39 ("I asked her if anybody else was in the house. She told me, no, but she had called her son and he was on the way over. I yelled out to the perimeter guys that her son was on the way over."); *see also* Doc. No. 87-1, at 3-4 (Laurens County 911 dispatch report of call received from Brandon Dean at 11:02 p.m.).)

[32] To reach the back door, Defendant Vertin required Teresa Hooks, who was barefoot, to walk through broken glass and her husband's blood. (Hooks Dep. at 137-38 ("He walks me to the

at 137.) Defendant Harrell "told somebody, 'Y'all get her separated and go from there and provide somebody with a seat if they needed a seat to sit down.'" (Harrell Dep. at 116.) Defendant Vertin then took Teresa Hooks to the side of the house and had her sit in a patio chair by the pool. (Vertin Dep. at 38-39; Hooks Dep. at 141-42.)

Defendant Vertin testified that "as soon as the shooting happened," he knew that Laurens County officers would not be involved in the search of the Hooks property; rather, any search would be handled by the Georgia Bureau of Investigation ("GBI").[33] (Vertin Dep. at 47; *see also* Harrell Dep. at 113; Burris Dep. at 69-70; Doc. No. 87-1, at 5.) Further, while

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living room, put the handcuffs on me, behind me. He tells me to follow him and to keep looking at him, and he walks me through the living room and the dining room. Then when we get to the kitchen I see blood. He walks me through the glass and the blood because I was barefooted. He takes me outside, puts me in a chair by the pool."); *see also* Vertin Dep. at 38-40, 45; Forte Dep. at 37; Jones Dep. at 57-58.) When she reached the back door of the house, she could see her husband lying on a stretcher. (Hooks Dep. at 139.) Teresa Hooks was wearing a shirt and sweatpants that had no pockets. (Hooks Dep. at 160-61; Vertin Dep. at 39.)

[33] Defendant Harrell similarly testified that he knew that "the search warrant was not going to go any further." (Harrell Dep. at 113.) Indeed, at approximately 11:15 p.m. on September 24, 2014, Laurens County's Captain Stan Wright contacted GBI Special Agent Jerry Jones requesting "GBI assistance . . . regarding an officer involved use of force incident." (Doc. No. 87-1, at 5.) During this phone call, Captain Wright informed Special Agent Jones that "[t]he scene had been secured and [Laurens County] sheriff's office members involved in the incident were waiting to be interviewed" and that the request for assistance was made "on behalf of [Defendant] Harrell." (*Id.*)

Defendant Vertin testified that Teresa Hooks was not under arrest and that he had no probable cause to arrest her, he admits that she was not free to leave and that he posted a guard with her to ensure that she would be unable to leave. (Vertin Dep. at 40-42; *see also* Jones Dep., Doc. No. 83-12, at 58-65.) Indeed, Defendant Vertin testified that he detained Teresa Hooks "for the [GBI] investigators . . . until they deemed she could go," and asserts that it was standard operating procedure to detain anybody "in the house . . . until the investigators decide whether they need them or not." (Vertin Dep. at 46.) Defendant Harrell testified that, once Teresa Hooks was taken outside of the house, Laurens County officers had complete control of the inside and outside of the residence and deemed the property "cleared"; nevertheless, Defendant Harrell maintains that Teresa Hooks' continued detention was for her own safety (and the safety of the Laurens County officers) and to ensure she remained on the premises to be interviewed by GBI. (Harrell Dep. at 118-21.)

During her pool-side detention, Defendant Vertin directed a female Laurens County officer, Deidre Byrd, to search Teresa Hooks' person. She found nothing of note. (Vertin Dep. at 41-43.) Defendant Vertin later removed the metal handcuffs from Teresa Hooks but immediately replaced them with plastic zip-tie handcuffs. (*Id.* at 41.) During her detention, Teresa Hooks was "terrified" and pleaded with the officers to find out about her husband's status and whether she could visit with him, all of which were ignored or denied. Indeed, she was told she could not

move until GBI interviewed her.[34] (Hooks Dep. at 140-41, 145-47, 194; Jones Dep. at 59; Loyd Dep. at 73-75.) Her detention continued up to and through her eventual interview by GBI officers approximately two hours after her initial escort from the interior of the house. (Hooks Aff. ¶ 12; Doc. 94-1, at 10 (GBI interview summary indicating that Teresa Hooks' interview began at approximately 12:43 a.m. on September 25, 2014).)

After being interviewed by GBI agents, Defendant Harrell removed the zip-tie handcuffs from Teresa Hooks and allowed her to leave the premises at approximately 1:30 a.m. on September 25, 2014. (Hooks Dep. at 140-42, 150-51; Hooks Aff. ¶ 12.) No search of the Hooks residence or other property occurred while she was on the premises. (Hooks Aff. ¶¶ 7-8; *see also* Doc. No. 87-1, at 8-10.) She and Brandon Dean then got in his truck and drove approximately 55 miles to the Coliseum Hospital in Macon where David Hooks had been transported. (Hooks Dep. at 157, 175.) David Hooks died of his injuries shortly after Teresa Hooks arrived at the hospital in Macon, but before she and her children were able to see him.[35] (Hooks Dep. at 160, 175-76; Dean Dep. at 75-76.)

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[34] Notably, no questions were asked of Teresa Hooks during her detention prior to her questioning by GBI agents. (Hooks Dep. at 142.) Only after her questioning by GBI agents, she learned that her husband had been taken to the hospital. (*Id.* at 157, 164.)

[35] Hooks Dep. at 175-77 (Q: "Okay. All right. So you got to Macon, got to the hospital. Tell me what happened next." A: "We—They called—When we got there, they—on the phone they had told me to let them know at the front desk that I was there and they would meet me. And they did. And we went to

At approximately 1:52 a.m. on September 25, 2014, GBI Special Agent Lindsey Giddens acquired a separate search warrant for the Hooks residence on the grounds that "there [was] probable cause to believe evidence of violations of Aggravated Assault on a Police Officer O.C.G.A. [§] 16-5-21(c) [was] located within the [Hooks] residence." (Doc. No. 87-1, at 6-9.) On September 26, 2014, GBI agents sought a "search warrant addendum," noting in their application that: (i) "Laurens County Sheriff's Office personnel ha[d] not executed a search of the residence, vehicles and outside buildings located within the curtilage for methamphetamine as authorized by the September 24, 2014 drug search warrant;" and (ii) GBI agents "began executing the search warrant issued to [Special Agent] Giddens on September 25, 2014" but "ha[d] not conducted a search for methamphetamine and paraphernalia." (*Id.* at 10.) The addendum application requested authorization for "GBI agents to search

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the waiting room. He was in surgery, and they told me they had lost him one time and got him back. And the nurse came out and told me that. And probably—probably between five and ten minutes, her—the nurse and the doctor came out and said that he-he didn't make it." Q: "And you understood that to mean he passed away, correct?" A: "Yes." [. . .] Q: "So your husband was still in—Where—When you saw your husband, where was he in the hospital? Was he still in the surgery room, or had he been taken to a different place?" A: "He was kind of in a corridor." Q: "On a stretcher—On a gurney?" A: "Yes." Q: "Okay. And you did in fact identify him as your husband to them, correct?" A: "Yes." Q: "And filled out paperwork indicating—" A: "Yes." Q: "—the same? Did you have time to interact with him and look at him in any way where you could see his injuries or see anything that had happened to him?" A: "I did." Q: "Okay. What is it that you saw?" A: "His head was swollen, big; the side of his face was gone; his chest was open.").)

the residence, vehicles, and outside buildings located within the curtilage for controlled substances, specifically methamphetamine . . . because this was the reason Laurens County SRT and deputies were at this location." (*Id.*) The addendum was signed by Judge Snell on September 26, 2014. (*Id.*) No contraband or related items were located on the premises during GBI's search thereof. (Hooks Aff. ¶ 10.) Teresa Hooks was not allowed back into her home until approximately 8:00 p.m., September 26, 2014. (*Id.* ¶ 9.)

On April 19, 2016, Plaintiff Teresa Hooks—in both her individual capacity and as the administratix of the Estate of David Hooks—initiated this action against Defendants Brewer, Harrell, Vertin, and Randall Deloach in their individual capacities. (Doc. No. 1.) On August 29, 2016, Plaintiff requested leave to file an amended complaint, which the Court granted on September 6, 2016. (Doc. Nos. 32, 34; *see also* Doc. No. 35 (the Amended Complaint).) On January 24, 2017, the parties filed a stipulation of dismissal with prejudice with regards to Defendant Deloach, which the Court granted on February 2, 2017. (Doc. Nos. 61, 62.) Defendants Brewer, Harrell, and Vertin filed their respective motions for summary judgment on May 18, 2017. (Doc. Nos. 75, 77, 78.) On November 29, 2017, the Court entertained oral argument by the parties on the aforementioned motions. At the summary judgment hearing, the Court allowed the parties to submit additional materials relevant to the matters in dispute for the Court's consideration, including information regarding the weather conditions on the date of the incident, investigative photographs, and search warrants obtained by Defendant Brewer in

other matters.[36] The Court also allowed the parties to submit supplemental briefing on Defendants' motions for summary judgment, which the parties filed on December 15, 2017. (*See* Doc. Nos. 126, 127.)

II. Summary Judgment Standard

The Court should grant summary judgment only if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The purpose of the summary judgment rule is to dispose of unsupported claims or defenses which, as a matter of law, raise no genuine issues of material fact suitable for trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986).

In considering a motion for summary judgment, all facts and reasonable inferences are to be construed in favor of the nonmoving party. *Hogan v. Allstate Ins. Co.*, 361 F.3d 621, 625 (11th Cir. 2004). Moreover,

> [t]he mere existence of some factual dispute will not defeat summary judgment unless the factual dispute is material to an issue affecting the outcome of the case. The relevant rules of substantive law dictate the materiality of a disputed fact. A genuine issue of material fact does not exist unless there is sufficient evidence favoring the nonmoving party for a reasonable jury to return a verdict in its favor.

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[36] While the majority of these additional materials have not been filed with the Clerk because of their voluminous nature, the Court has nevertheless expanded the record to include these materials to the extent they are referenced in this Order.

Chapman v. AI Transp., 229 F.3d 1012, 1023 (11th Cir. 2000) (*en banc*) (quoted source omitted) (emphasis supplied). The party opposing the summary judgment motion, however, "may not rest upon the mere allegations or denials in its pleadings. Rather, its responses . . . must set forth specific facts showing that there is a genuine issue to be tried." *Walker v. Darby*, 911 F.2d 1573, 1576-77 (11th Cir. 1990).

The Clerk has given the nonmoving party notice of the summary judgment motions and the summary judgment rules, of the right to file affidavits or other materials in opposition, and of the consequences of default. (Doc. No. 81.) Therefore, the notice requirements of *Griffith v. Wainwright*, 772 F.2d 822, 825 (11th Cir. 1985) (per curiam), are satisfied. The time for filing materials in opposition has expired, and the motions are ripe for consideration.

III. Discussion

In the amended complaint, Plaintiff asserts two primary causes of action, namely: (A) a claim—in both her individual and administratrix capacities—against Defendants Brewer and Harrell for illegally obtaining and executing the search warrant in violation of the Fourth Amendment; and (B) a claim—in her individual capacity—against Defendants Harrell and Vertin for detaining her in violation of the Fourth Amendment.[37] (Doc. No. 36, at 19-23.) Plaintiff seeks,

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[37] Out of an apparent abundance of caution, Defendants Harrell and Vertin have also analyzed Plaintiff's detention claim under state law (*i.e.*, Georgia's false imprisonment statute, O.C.G.A. § 51-7-20), arguing that they are entitled to official immunity from such a claim. (*See* Doc. No. 77-1, at 18-20; Doc. No. 78-1, at 16-20.) In her responses, however, Plaintiff has only analyzed her

inter alia, damages for the wrongful death of David Hooks, damages to the Hooks residence and related property, punitive damages and an award of her litigation expenses. (*Id.* at 24-26.) Defendants contend that they are entitled to qualified immunity on Plaintiff's claims.

Qualified immunity is a judicially-created affirmative defense under which "government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). "To receive qualified immunity, the public official must first prove that he was acting within the scope of his discretionary authority when the allegedly wrongful acts occurred." *Lumley v. City of Dade City*, 327 F.3d 1186, 94 (11th Cir. 2003) (citations omitted). Here, it is clear that Defendants were acting in their discretionary capacities when they engaged in the conduct presently challenged by Plaintiff, a point which Plaintiff does not contest. Accordingly, the burden shifts to Plaintiff to demonstrate that qualified immunity is not appropriate. *See id.*

"In resolving questions of qualified immunity at summary judgment, courts engage in a two-pronged inquiry." *Tolan v. Cotton*, 134 S. Ct. 1861, 1865 (2014). "The first [prong] asks whether the facts, taken in the light most favorable to the party asserting the

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detention claim under 42 U.S.C. § 1983. (*See* Docs. 87, 94.) Accordingly, the Court provisionally deems any such state-law claim abandoned. *See*, *e.g.*, *Clark v. City of Atlanta*, 544 F. App'x 848, 855 (11th Cir. 2013).

injury, show the officer's conduct violated a federal right." *Id.* (quoting *Saucier v. Katz*, 533 U.S. 194, 201 (2001) (alterations omitted)). "The second prong of the qualified-immunity analysis asks whether the right in question was 'clearly established' at the time of the violation."[38] *Id.* at 1866 (citing *Hope v. Pelzer*,

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[38] *Tolan*, 134 S. Ct. at 1866 ("Governmental actors are shielded from liability for civil damages if their actions did not violate clearly established statutory or constitutional rights of which a reasonable person would have known. The salient question is whether the state of the law at the time of an incident provided fair warning to the defendants that their alleged conduct was unconstitutional." (internal quotations, citations, and alterations omitted)); *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011) ("A Government official's conduct violates clearly established law when, at the time of the challenged conduct, the contours of a right are sufficiently clear that every reasonable official would have understood that what he is doing violates that right. We do not require a case directly on point, but existing precedent must have placed the statutory or constitutional question beyond debate." (internal quotations, citations, and alterations omitted)); *Hope*, 536 U.S. at 741 ("Our opinion in *Lanier* thus makes clear that officials can still be on notice that their conduct violates established law even in novel factual circumstances. Indeed, in *Lanier*, we expressly rejected a requirement that previous cases be 'fundamentally similar.' Although earlier cases involving 'fundamentally similar' facts can provide especially strong support for a conclusion that the law is clearly established, they are not necessary to such a finding. The same is true of cases with 'materially similar' facts." (citing *United States v. Lanier*, 520 U.S. 259 (1997))); *Hill v. Cundiff*, 797 F.3d 948, 979 (11th Cir. 2015) ("A right may be clearly established for qualified immunity purposes in one of three ways: (1) case law with indistinguishable facts clearly establishing the constitutional right; (2) a broad statement of principle within the Constitution, statute, or case law that clearly establishes a constitutional right; or (3) conduct so egregious that a constitutional right was clearly violated, even in the total absence of case law." (internal quotations and citations omitted)); *see also Ziegler v. Martin Cty. Sch. Dist.*, 831 F.3d 1309, 1326 n.12 (11th Cir. 2016) ("In

536 U.S. 730, 739 (2002)). "Courts have discretion to decide the order in which to engage these two prongs . . . [b]ut under either prong, courts may not resolve genuine disputes of fact in favor of the party seeking summary judgment."[39] *Id.* (citations omitted).

A. The Search Warrant

The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. Amend. IV. "Generally, a search is reasonable under the Fourth Amendment when supported by a warrant or when the search fits within an established exception to the warrant requirement."

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this circuit, the law can be clearly established for qualified immunity purposes only by decisions of the U.S. Supreme Court, Eleventh Circuit Court of Appeals, or the highest court of the state where the case arose." (citations omitted)).

[39] *Tolan*, 134 S. Ct. at 1866 ("This is not a rule specific to qualified immunity; it is simply an application of the more general rule that a judge's function at summary judgment is not to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial. . . . In making that determination, a court must view the evidence in the light most favorable to the opposing party." (internal quotations and citations omitted)); *see also Johnson v. Breeden*, 280 F.3d 1308, 1317 (11th Cir. 2002) ("[I]f the evidence at the summary judgment stage, viewed in the light most favorable to the plaintiff, shows there are facts that are inconsistent with qualified immunity being granted, the case and the qualified immunity issue along with it will proceed to trial."); *Simmons v. Bradshaw*, 2018 WL 345324, at *5 (11th Cir. Jan. 10, 2018) ("In other words, the question of what circumstances existed at the time of the encounter is a question of fact for the jury—but the question of whether the officer's perceptions and attendant actions were objectively reasonable under those circumstances is a question of law for the court." (citations omitted)).

United States v. Prevo, 435 F.3d 1343, 1345 (11th Cir. 2006). The Fourth Amendment further provides that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation." U.S. Const. Amend. IV.

"[P]robable cause is a fluid concept—turning on the assessment of probabilities in particular factual contexts—not readily, or even usefully, reduced to a neat set of legal rules." *Illinois v. Gates*, 462 U.S. 213, 232 (1983); *see also Arrington v. Kinsey*, 512 F. App'x 956, 959 (11th Cir. 2013) ("In determining whether probable cause exists, we deal with probabilities which are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." (internal quotations and alterations omitted) (citing *Rankin v. Evans*, 133 F.3d 1425, 1435 (11th Cir. 1998))). Accordingly, "[p]robable cause to support a search warrant exists when the totality of the circumstances allow a conclusion that there is a fair probability of finding contraband or evidence at a particular location." *United States v. Brundidge*, 170 F.3d 1350, 1352 (11th Cir. 1999) (citing *United States v. Gonzalez*, 940 F.2d 1413, 1419 (11th Cir. 1991)); *see also United States v. Martin*, 297 F.3d 1308, 1314 (11th Cir. 2002) ("[T]he affidavit must contain sufficient information to conclude that a fair probability existed that seizable evidence would be found in the place sought to be searched." (citations omitted)). Under this "totality of the circumstances" analysis, an affidavit in support of a search warrant "should establish a connection between the defendant and the [area] to be searched and a link between the [area to be searched] and any criminal activity" and

must be based on "fresh" information. *Martin*, 297 F.3d at 1314 (citations omitted).

An informant's veracity and basis of knowledge are relevant considerations—as opposed to independent essential elements—in assessing whether probable cause exists to support a search warrant. *Gates*, 462 U.S. at 233 ("[T]hey are better understood as relevant considerations in the totality-of-the-circumstances analysis that traditionally has guided probable cause determinations: a deficiency in one may be compensated for, in determining the overall reliability of a tip, by a strong showing as to the other, or by some other indicia of reliability."). Similarly, independent police corroboration of an informant's tip is a relevant consideration—as opposed to an essential requirement—in the Court's analysis. *Brundidge*, 170 F.3d at 1353 ("[I]ndependent police corroboration has never been treated as a requirement in each and every case."); *see also Martin*, 297 F.3d at 1314 ("[W]hen there is sufficient independent corroboration of an informant's information, there is no need to establish the veracity of the informant." (citations omitted)). Further, "making a statement against one's penal interests without more will not raise an informant's tip to the level of probable cause required under the Fourth Amendment." *Ortega v. Christian*, 85 F.3d 1521, 1525 (11th Cir. 1996) (citations omitted)).

Of direct pertinence to the instant claim, the Fourth Amendment prohibits officers from making deliberately-or recklessly-false statements to secure a search warrant. *Madiwale v. Savaiko*, 117 F.3d 1321, 1326 (11th Cir. 1997) (citing *Franks v. Delaware*, 438 U.S. 154, 171 (1978)); *see also Smith v. Sheriff, Clay Cty.*, 506 F. App'x 894, 898 (11th Cir. 2013) ("[T]he

existence of a warrant will not shield an officer from liability where the warrant was secured based upon an affidavit that contained misstatements made either intentionally or with reckless disregard for the truth." (citing *W. Point-Pepperell, Inc. v. Donovan*, 689 F.2d 950, 959 (11th Cir. 1982))); *Daniels v. Bango*, 487 F. App'x 532, 537 (11th Cir. 2012) ("A law enforcement officer recklessly disregards the truth when he should have recognized the error in the warrant application, or at least harbored serious doubts as to the facts contained therein. This is especially true when the inconsistency gives the agent cause to investigate further." (internal quotations and alterations omitted) (citing *United States v. Kirk*, 781 F.2d 1498, 1503 (11th Cir. 1986)); *cf. Madiwale*, 117 F.3d at 1326 ("Negligent or innocent mistakes do not violate the Fourth Amendment.").

This prohibition similarly "applies to information omitted from warrant affidavits," such that "a warrant affidavit violates the Fourth Amendment when it contains omissions made intentionally or with a reckless disregard for the accuracy of the affidavit." *Madiwale*, 117 F.3d at 1326-27 (citations omitted); *see also Kingsland v. City of Miami*, 382 F.3d 1220, 1228-29 (11th Cir. 2004) ("[O]fficers should not be permitted to turn a blind eye to exculpatory information that is available to them, and instead support their actions on selected facts they chose to focus upon . . . While the constitutional reasonableness of a police investigation does not depend on an officer's subjective intent or ulterior motive in conducting the investigation, it does not follow that the officer may then investigate selectively. . . . [A]n officer may not choose to ignore information that has been offered to him or her. . . . [n]or

may the officer conduct an investigation in a biased fashion or elect not to obtain easily discoverable facts. . . . " (internal citations omitted)); *cf. Madiwale*, 117 F.3d at 1327 ("Omissions that are not reckless, but are instead negligent, or insignificant and immaterial, will not invalidate a warrant." (internal citations omitted)).

Nevertheless, "when material that is the subject of the alleged falsity or reckless disregard is set to one side, and there remains sufficient content in the warrant affidavit to support a finding of probable cause, then the warrant is valid." *Madiwale*, 117 F.3d at 1326. Similarly, "even intentional or reckless omissions will invalidate a warrant only if inclusion of the omitted facts would have prevented a finding of probable cause." *Id.* at 1327. Moreover, even where a falsity or omission would otherwise invalidate a warrant, the relevant officers may still enjoy qualified immunity so long as they would have had "arguable probable cause" to seek the warrant (*i.e.*, a reasonable officer in the same circumstance and possessing the same knowledge as the defendants could have believed that probable cause supported the search). *See id.* ("[T]his circuit has previously reasoned that an officer would not be entitled to qualified immunity when the facts omitted were so clearly material that every reasonable law officer would have known that their omission would lead to a search in violation of federal law." (citing *Haygood v. Johnson*, 70 F.3d 92, 95 (11th Cir. 1995))); *Smith*, 506 F. App'x at 899 ("[T]o overcome summary judgment on qualified immunity grounds, Smith must identify certain facts omitted from the affidavit that were so clearly material that every reasonable law officer would have known that their

omission would lead to a search or seizure in violation of federal law." (internal quotations and citations omitted)); *Daniels*, 487 F. App'x at 537 ("[A]n officer will not receive qualified immunity if a reasonable officer should have known that the statements in the affidavit were included with a reckless disregard for the truth or that facts were recklessly omitted from the affidavit supporting probable cause." (citing *Kelly v. Curtis*, 21 F.3d 1544, 1554 (11th Cir. 1994))).

With these standards in mind, the Court now turns to an analysis of whether the warrant issued for the search of the Hooks residence was supported by probable cause. The affidavit provided by Defendant Brewer in support of the search warrant contains an approximately twenty-two paragraph narrative. (*See* Doc. No. 1-2, at 3-5.) Of these twenty-two paragraphs, the first eighteen are generalized statements and boilerplate language regarding Defendant Brewer's law-enforcement experience and general familiarity with drug-trafficking practices.[40] (*Id.*) The remaining

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[40] Defendants provided the Court with six "search warrants, sworn to by [Defendant] Brewer, in other unrelated matters." (*See* Doc. 127, at 22; *see also id.* at 22 n.10 ("Defendants contend that these search warrants are irrelevant to the matter presently before the Court and do not wish to place these warrants into the record. As such, Defendants have supplied the Court and opposing counsel with copies separate from the court record." (citations omitted)).) Defendants admit that "[t]hese search warrants are very similar to the search warrant in the instant matter, in that all of the search warrants give [Defendant] Brewer's extensive experience and training as an investigator with Laurens County Sheriff's Office Drug Unit . . . Many of the search warrants set out [Defendant] Brewer's background and experience, then give a brief description, of 1-4 paragraphs, of the basis for [Defendant] Brewer's probable cause for the issuance of the search warrant." (*Id.* at 22-23.) Notably, the

four paragraphs are substantive and are repeated below:

> Within the past 6 hours your Affiant spoke with Rodney Garrett after Garrett had waived his Miranda Rights in writing. Garrett was in custody for burglary and theft of a motor vehicle as well as other offenses. Garrett had been taken into custody after turning himself into Sgt. Ryan Brooks of the Laurens County Sheriff [sic] Office and reporting some of his crimes to Sgt. Brooks. Your affiant responded to the location where Brooks had met with Garrett where your affiant recovered approximately 20 grams of suspected methamphetamine, a digital scale, two firearms, and a Lincoln Aviator which Garrett stated he had taken from 1184 Highway 319 North, which is within the confines of Laurens County, Georgia.
>
> During the interview Garrett stated that during the previous night he had traveled to the residence at 1184 Highway 319 North with the intentions of committing a theft.

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affidavits provided by Defendant Brewer in support of three of these other search warrants contain the exact same generalized statements and boilerplate language regarding Defendant Brewer's law-enforcement experience and general familiarity with drug-trafficking practices contained in the affidavit in support of the Hooks search warrant. (*See* Warrants Nos. 2011-0995 (search warrant dated June 9, 2011 for residence of mother of convicted felon believed to be in possession of firearm), 2012-1518 (search warrant dated September 12, 2012 for residence where fugitive was believed to be located), and 2013-1989 (search warrant dated August 27, 2013 for data stored on cellular phone obtained during execution of earlier search warrant).)

> Garrett stated that he entered the interior of a pickup truck which was parked under the carport of the residence and removed a "neoprene" bag and a digital scale from the center console of the vehicle. Garrett stated that he believed the bag contain [sic] currency at the time he removed it from the vehicle. Garrett stated that after taking a Lincoln Aviator which was also parked at the residence and traveling into the city of Dublin he discovered the bag contained a large amount of suspected methamphetamine. Garrett stated that he then became scared for his safety and placed the bag and scale into a locked box which they had been recovered from by your affiant.
>
> Your affiant is familiar with the residence and the occupant of the residence, David Hooks, from a prior narcotics investigation involving Jeff Frazier. During this investigation Frazier had been interviewed by law enforcement and stated that he had been the source of supply for multiple ounces of methamphetamine to Hooks which Hooks was redistributing.
>
> Garrett also admitted to committing other criminal offenses for which he was a suspect and provided other information which led to the recovery of stolen property which law enforcement was unaware of prior to this confession.

(*Id.* at 5.)

Plaintiff asserts that the foregoing paragraphs contain numerous falsities and/or material omissions. Upon consideration of the record, as set forth in the factual background, *supra*, and detailed in the subsequent explanatory footnotes, the Court finds that there are genuine disputes of fact with respect to these falsities and omissions, and further, the disputes are material to the determination of probable cause. The falsities and material omissions include: (i) the falsity that Defendant Brewer was "familiar with" David Hooks and the Hooks residence from a prior narcotics investigation involving Jeff Frazier;[41] (ii)

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41 Defendant Brewer testified that at some undefined point in time he and/or other Laurens County law enforcement officers "drove out to the Hooks residence to verify that what [Jeff] Frazier had told us as far as where Hooks was living was actually true . . . [and that they] actually drove up onto the property attempting to make contact with somebody at that time," but that no such contact was ever made. (Brewer Dep. at 78.) Yet, Defendant Brewer further testified that his understanding of David Hooks' relation to the investigation of Jeff Frazier came primarily—if not entirely—from Corporal Burris's post-arrest interview of Jeff Frazier in 2009. (*Id.* at 71-85.) Corporal Burris testified, however, that Jeff Frazier: (i) never told Corporal Burris that David Hooks had ever distributed drugs to anyone; and (ii) never told Corporal Burris when and/or where he had provided methamphetamine to David Hooks (*i.e.*, whether it was at the Hooks residence or another location). (Burris Dep. at 14-24.) Corporal Burris further testified that: (a) Jeff Frazier's accusations regarding David Hooks were nothing more than a "generalized statement [along the lines of] 'I bring ounces back to David Hooks;" (b) Jeff Frazier was the only person who had previously accused David Hooks of drug-related activity; (c) there was never any kind of observation (*e.g.*, a stakeout, controlled purchase, etc.) of David Hooks and/or the Hooks residence for any reason at any time; (d) no information resulted from the investigation that would indicate that the Hooks residence contained equipment related to the manufacture, packaging,

the falsity that Jeff Frazier had stated during an interview that Hooks was "redistributing" methamphetamine that had been supplied by Jeff Frazier;[42] (iii) the falsity that Rodney Garrett had admitted to committing other criminal offenses for which he was a suspect;[43] (iv) the falsity that Rodney Garrett had

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cutting, and/or distribution of methamphetamine and/or currency connected to drug activity; (e) "there was nothing uncovered during the course of the investigation of Jeff Frazier . . . that signaled or indicated or in any way suggested that David Hooks had anything to with Jeff Frazier;" and (f) there was never "any information to the [Laurens County Sheriff's Office's] Drug Unit to the effect that there were any drugs at David Hooks' home or on his property other than what [Rodney] Garrett had to say." (*Id.*)

[42] *See* n.41, *supra*.

[43] During his deposition, Defendant Brewer was unable to specifically identify any—let alone catalog all—of the other crimes to which Rodney Garrett had purportedly confessed. (*See* Brewer Dep. at 34-42.) Indeed, while Defendant Brewer testified that Rodney Garrett had admitted to committing "other thefts, possible burglaries," Defendant Brewer was unable to say what items were stolen or from whom they were stolen. (*Id.* at 40-41.) Having reviewed the record in this matter in great detail, the Court is unable to locate any crimes—other than his rampant prior possession and use of methamphetamine (and marijuana) and the theft of the Hooks' property—for which Rodney Garrett had admitted culpability; rather, Rodney Garrett either outrightly denied any involvement in any other criminal activity or provided exculpatory explanations for possessing stolen goods (the great majority of which he denied were in fact stolen). For example, when questioned by Sergeant Brooks regarding a four-wheel ATV that Rodney Garrett had previously been seen operating, Rodney Garrett denied having stolen the ATV but admitted that he knew where the ATV was located; indeed, when questioned about it at the station, Rodney Garrett claimed that he had bought the ATV from a Mr. Jimmy White approximately one and a half to two years prior. (Garrett

provided other information which led to the recovery of stolen property which law enforcement was unaware of prior to his confession;[44] (v) the omission that

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Interview Tr. at 5; Brooks Dep. at 42-43.) When Sergeant Brooks asked Rodney Garrett to point out any items located inside his residence that were stolen (other than the Hooks' property) before taking Rodney Garrett to the Sheriff's Office, Rodney Garrett "looked around and said no gall [sic] got everything." (Doc. No. 76-9, at 2; *see also* Garrett Interview Tr. at 7 (Brooks: "[W]hat about the stuff I took from your house. The red trailer and black trailer[?]" Garrett: "[T]hat's mine[.]" Padgett: "[W]hat else is out there that you know is stolen that you can help us get our hands on[?]" Garrett: "[T]hat's it. We went out and look while ago. That was everything[.]" Padgett: "[A]nd what did y'all go out and look for?" Garrett: "[T]hey just wanted me to go out and look and make sure there wasn't anything else there that wasn't mine that I didn't buy and pay for[.]" Brooks: "[Y]eah and I took him out there and told him to show me anything else that we didn't get the other night that may have been stolen[.]").) When questioned whether he had stolen a Stihl chainsaw that was reported missing from a local business, Rodney Garrett denied having stolen the chainsaw and claimed that he bought it from a Mr. John Chinholster for $200 (although Rodney Garrett later conceded—after repeated questioning on the subject—that he had reason to question whether the chainsaw was "hot" because of the low price he paid for it). (Garrett Interview Tr. at 7-8; *see also* Brooks Dep. at 45-48.) When asked about tools that had been stolen from Mr. James Dixon, Rodney Garrett denied all knowledge and claimed that Mr. Dixon had a personal vendetta against him because of past business dealings. (*See* Garrett Interview Tr. at 5.) Indeed, the interview transcript is peppered with well-worn, self-serving explanations often uttered by those caught in possession of stolen property, ranging from his having bought the relevant property "at a yard sell [sic]," to having been "working on it for a man," to having found it broken down in the woods. (*See id.*, generally; *see also* n.20, *supra*.)

44 Notably, none of the "other information" provided by Rodney Garrett that purportedly led to the recovery of stolen property was provided spontaneously (*i.e.*, without prompting); rather, it

was only after he was accused of having stolen the specific property in question that he provided information as to its location (along with an exculpatory explanation for his possession of said property and/or knowledge of its location). *See* n.10, n.43, *supra*. Moreover, it is unclear from the ambiguous wording of Defendant Brewer's affidavit whether he was attesting that, prior to Rodney Garrett's statements to the officers, law enforcement was unaware that the property in question had in fact been stolen or whether they were simply unaware of its then-present location. If it is the former, this would be a false and/or misleading statement given that most if not all of the property about which Rodney Garrett was questioned was already known—or at least believed—to be stolen. (*See* Brooks Dep. at 7-11 (suspected theft by Rodney Garrett on or about August 19, 2014 of property owned by Mr. Faulk); *id.* at 11-16, 22-27 (suspected theft by Rodney Garrett on or about September 21, 2014 of tools and other property owned by Mr. Dixon); *id.* at 17-29 (suspected theft by Rodney Garrett on or about September 21, 2014 of a green truck owned by Mr. Mendoza).) If it is the latter, this still would be a false and/or misleading statement given that the locations of the vast majority of the stolen property about which Rodney Garrett was questioned on September 24, 2014 were previously known to Sergeant Brooks and other Laurens County law enforcement. (*See* Brooks Dep. at 24-26 (on September 21, 2014—at Sergeant Brooks' instruction and in his presence—Monty Garrett identified tools on Rodney Garrett's property that did not belong to Rodney Garrett); *id.* at 26-29 (on September 21, 2014, Chris Willis informed Sergeant Brooks regarding the location of the green truck stolen from Mr. Mendoza); *id.* at 45-48 (stolen Stihl chainsaw recovered by Sergeant Brooks prior to interview of Rodney Garrett at Sheriff's Office); *see also* Doc. No. 76-9 (Sergeant Brooks' incident report dated September 25, 2014).) Indeed, other than the property stolen from the Hooks, the only property that was located by officers as a result of Rodney Garrett's statements was a four-wheel ATV-that itself may not have even been stolen. (*See* Brooks Dep. at 21, 42-44; Garrett Interview Transcript at 5 (Rodney Garrett claimed that he bought ATV from Jimmy White).) Further, Rodney Garrett had never previously provided any accurate information to law

David Hooks had reported the midnight burglary of his property on the following afternoon of September 23, 2014;[45] (vi) the omission that Laurens County law enforcement officers met with David Hooks at the Hooks residence on September 23, 2014 to investigate the aforementioned burglary, including dusting for fingerprints in the detached garage and vehicles on the premises;[46] (vii) the omission that the "prior narcotics investigation involving Jeff Frazier" occurred in 2009;[47] (viii) the omission that the lengthy 2009 investigation of Jeff Frazier resulted in no corroboration of Jeff Frazier's assertion that he was supplying methamphetamine to David Hooks;[48] (ix) the omission of Rodney Garrett's criminal history, including

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enforcement officers that led to the recovery of stolen goods or evidence of other crimes. (Brewer Dep. at 102-03.)

45 (*See* Toney Dep. at 17; Doc. No. 83-18, at 3-6.)

46 (*See* Toney Dep. at 17-23; Doc. No. 83-18, at 3-4; *see also* Brewer Dep. at 100-02.)

47 (*See* Brewer Dep. at 71-96; Burris Dep. at 9, 39.) Defendants argue that any information gleaned from the 2009 investigation of Jeff Frazier would not be "stale" with regards to David Hooks' suspected distribution of methamphetamine in September 2014 because David Hooks' purported distribution of drugs was a "continuous crime"; Defendants, however, have failed to put forth sufficient evidence to demonstrate that they had a reasonable basis to believe David Hooks was distributing drugs, let alone on a protracted, repeated, or continuous basis. (*See* Burris Dep. at 14-24; Brewer Dep. at 112-13, 175-76; *see also* n.41 (regarding Burris' testimony that Frazier gave no information about the distribution of drugs), *supra*; n.56 (discussing the lack of evidence of manufacturing, processing, and/or packaging on the Hooks property), *infra*.)

48 (*See* Brewer Dep. at 71-97; Burris Dep. at 9-24, 50-60; DRPSMF ¶¶ 38-39.)

that he was a suspect in multiple thefts that had recently occurred in Laurens County, that he was suspected of dealing in stolen property, that there was a warrant out for his arrest for a theft unrelated to the Hooks (*i.e.*, the theft of a Mr. Mendoza's truck) of which he was aware, and that he denied culpability for any of these pending crimes;[49] (x) the omission of Rodney Garrett's extensive history of methamphetamine purchase and use, including that he had a regular supplier of methamphetamine with whom he was presently living, from whom he had purchased approximately 3.5 grams of methamphetamine less than three days before the Hooks burglary, and who had previously fenced stolen goods on his behalf;[50]

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[49] (*See*, *e.g.*, Brewer Dep. at 70-99; Brooks Dep. at 7-16; 22-29, 45-48; Garrett Dep. at 15-19, 48, 59; *see also* n.10, n.43, n.44, *supra*.)

[50] (Garrett Dep. at 11-14 (Q: "Okay. So you had been doing meth on a regular basis from the end of 2012 up until you were arrested for—for this—" A: "Em-hmm, yes, sir." Q: "—case in November—I'm sorry, September 24, 2014?" A: "Yes." Q: "How regular would you do it?" A: "Every day." Q: "Daily?" A: "Yes, sir." Q: "And how much meth do you think you would—you would do in a normal day?" A: "A gram to gram and a half, probably." Q: "Okay. And would that more or less be seven days a week?" A: "Yes, sir." Q: "Take me through when you would—when you were doing meth, what is the schedule like for something like that? Is that something you do throughout the day or is it something you do—" A: "Day and night." Q: "—day and night?" A: "It's almost impossible to sleep on it, they say, unless-unless you're on it for a long time and then you get to where you could sleep again, but I could never sleep." Q: "Okay. So, as far as actually doing it, would you do some early in the morning?" A: "Early in the morning and then maybe again after lunch, and then maybe again around 10 or 11:00 at night." Q: "Okay. So it was throughout the day?" A: "Yeah." Q: "Okay. Now, what was the—I'm assuming, since you were doing that much meth, that

(xi) the omission of Rodney Garrett's admission that he had smoked methamphetamine before, during, and after the burglary of the Hooks property, including having smoked some of the methamphetamine that he professed to have taken from the Hooks property;[51]

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you had to be purchasing it?" A: "Yeah." Q: "And what was the going rate for a gram of meth back then?" A: "80 to $100 a gram." Q: "Okay." A: "Usually." Q: "So your daily habit was an 80-to $100-a-day habit?" A: "Yeah."); *id.* at 19-20 (Q: "Okay. Okay. When you would—when you would purchase meth for your own use, what quantities would you purchase it in?" A: "Usually—usually anywhere from a gram to three and a half grams, what they call an 8-ball, a street 8-ball." Q: "Okay. So that would require you, based on your habit, to have to make purchases several times a week?" A: "Yes, sir."); *id.* at 49 (Q: "You've talked about doing a lot of methamphetamine that day and that evening, that night. When did you buy the methamphetamine that you were—you were doing that night?" A: "Either Saturday or Sunday. I think it was Saturday evening." Q: "Okay. And do you remember how much you bought at that point in time?" A: "Three and a half grams." Q: "Three and a half grams? That would be an 8-ball?" A: "Yes, sir." Q: "And I think you told—in your statement, you told Chris Brewer and Lance Padgett that you were buying your meth from Chris Willis?" A: "Yeah." Q: "And is that who you bought that from?" A: "That or either somebody he knew would come by—" Q: "Okay." A: "—and bring the drugs."); *id.* at 55, 60, 70-71; Garrett Interview Tr. at 4-5, 8-10).) Of note, Rodney Garrett testified that he used his own set of scales to ensure he was not being swindled when he purchased methamphetamine. (Garrett Dep. at 47.) Sergeant Brooks was previously informed by Chris Willis's father, Bobby Willis, that Chris Willis had attempted to sell stolen goods to Bobby Willis on behalf of Rodney Garrett. (Brooks Dep. at 21-27.)

51 (Garrett Interview Tr. at 10; Padgett Dep. at 15-17; *see* also Garrett Dep. at 21-34, 60-61, 77-79 (Q: "We're sitting here talking about all the methamphetamine you had smoked within the—" A: "Yes." Q: "—the house leading up to when you were there, and then you actually smoked some in the—" A: "In the

(xii) the omission that Sergeant Brooks "knew Rodney Garrett was a meth[amphetamine] addict . . . and knew at the time of his arrest he [*i.e.,* Garrett] was under the influence of methamphetamine and had not slept in 7 to 10 days;"[52] (xiii) the omission that Defendant Brewer and the other officers who were present for Rodney Garrett's interview were aware that Rodney Garrett was under the influence of methamphetamine at the time of the interview;[53] (xiv) the omission that Sergeant Brooks and other officers "knew [Rodney Garrett's] propensity to lie to law enforcement and his own family;"[54] and (xv) the omission that Rodney Garrett had never previously provided any accurate information to law enforcement officers.[55] Further, while Defendant Brewer states in the search warrant affidavit that the location to be searched was "the residence of David Nelson Hooks" where he assumed there would be located "[p]araphernalia necessary for manufacturing, packaging, cutting, weighing, and/or distributing controlled substances" as well as "[c]urrency of the United States obtained, connected with and/or possessed to facilitate the financing of illicit drug trafficking" (doc. no. 1-2, at 3), this conclusion was based solely on Rodney Garrett's statement that he had stolen approximately twenty grams of methamphetamine and a set of scales from a vehicle located

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room, in the shop, yeah." Q: "—shop. Would it be fair to say that at that point in time—" A: "You could have." Q: "—you were pretty high?" A: "Yes, sir. Em-hmm.").)

52 (DRPSMF ¶ 14; *see also* Garrett Dep. at 77-79.)

53 (DRPSMF ¶ 17.)

54 (DRPSMF ¶ 14; *see*, *e.g.*, Brooks Dep. at 8-18.)

55 (Brewer Dep. at 102-03.)

within the curtilage of the Hooks property, which Defendant Brewer himself testified "really ain't that much dope."[56]

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56 (*See* Brewer Dep. at 112-13 (Q: "In all of what you understood Garrett had said, did Garrett ever say that he saw any illegal substance inside of David Hooks' home?" A: "No, sir." Q: "Did he ever say that he saw any illegal substance in any location, other than in the truck from which he took the bag?" A: "No, sir." Q: "Did he ever identify—excuse me. Did he ever relay to you or to your knowledge to any other law enforcement officer on the day of the search warrant that he, Garrett, had observed any drug paraphernalia over and above a bag and after he opened the bag, a plastic bag?" A: "No. Other than the scale I don't recall anything else." Q: "Okay. Did he ever relay to you or to any other law enforcement officer on the day of the search warrant application any observation that reflected the presence on David Hooks' property of the equipment needed to process or produce illegal drugs?" A: "Not that I recall." Q: "Did he ever relay to you any information or to any other officer to the best of your knowledge on the day of the search warrant application that he, Garrett, saw items that consisted of packaging of drugs? Again, other than the bag and the plastic bag?" A: "No. Not that I recall."); *id.* at 175-76 (Q: "Okay. So in a manner of speaking, you weren't aware of any shipment about to be made?" A: "No, sir." Q: "Or sale about to take place?" A: "No, sir." Q: "Or manufacturing that was taking place at the Hooks' property?" A: "No, sir." Q: "Or evidence that reflected that chemicals needed for the manufacture of meth were going to be delivered?" A: "No, sir." Q: "Or were even present on the property?" A: "No, sir." Q: "And there was no specific information that you had to the effect that if there were illegal drugs there at the property that they were about to be moved." A: "Nothing specific."); *see also id.* at 115 (Q: "So as of the day of the search warrant was there any source of information, law enforcement or informant or citizen, any source of information that you had that provided you with information about any drug activity taking place inside the Hooks' home?" A: "If you specifically narrow it down to inside the home then I'd have to answer no.").) Notably, during Rodney Garrett's interview, Sergeant Padgett estimated that the street value of 20 grams of methamphetamine was

Taking the facts in the light most favorable to Plaintiff and drawing all reasonable inferences in her favor, the facts support a conclusion that Defendants Brewer and Harrell violated the Fourth Amendment in obtaining and/or executing the search warrant. Indeed, a reasonable factfinder could easily conclude that, in his presentation to Judge Snell, Defendant Brewer: (a) embellished, distorted, or otherwise supplied false inculpatory facts; and (b) disregarded, ignored, or otherwise omitted material exculpatory facts. Further, the aforementioned falsities and omissions are clearly integral to the "totality of the circumstances" of the probable cause analysis. Moreover, given that the material falsities and omissions in the affidavit were known or reasonably knowable by Defendant Brewer,[57] a reasonable factfinder could conclude that these falsities (and omissions) were included (and omitted) intentionally or with reckless disregard for the truth. *See Madiwale*, 117 F.3d at 1327 ("A party need not show by direct evidence that the affiant makes an omission recklessly. Rather, it is possible that when the facts omitted from the affidavit are clearly critical to a finding of probable cause the fact of recklessness may be inferred from proof of the omission itself." (internal quotations and citations omitted)). Similarly,

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between three and four thousand dollars, which Defendant Brewer testified "really ain't that much dope." (Brewer Dep. at 112; *see also* Garrett Interview Tr. at 11 (Padgett: "3 or 4 thousand dollars ain't that big of a deal with a regular dope dealer. Chris [Willis] could be making that everyday.").)

57 *Kingsland*, 382 F.3d at 1228 ("A qualified immunity analysis must charge the officer with possession of all the information reasonably discoverable by an officer acting reasonably under the circumstances." (alterations omitted) (quoting *Sevigny v. Dicksey*, 846 F.2d 953, 957 n.5 (4th Cir. 1988))).

Plaintiff has provided sufficient evidence from which a reasonable factfinder could conclude that the above-referenced falsities and material omissions were known or reasonably knowable by Defendant Harrell and that Defendant Harrell was personally involved in obtaining the search warrant or otherwise knew Defendant Brewer was acting unlawfully and failed to stop him from doing so. *See Keating v. City of Miami*, 598 F.3d 753, 762 (11th Cir. 2010) ("[S]upervisors are liable under § 1983 either when the supervisor personally participates in the alleged constitutional violation or when there is a causal connection between actions of the supervising official and the alleged constitutional violation. A causal connection can be established by, *inter alia*, facts which support an inference that the supervisor directed the subordinates to act unlawfully or knew that the subordinates would act unlawfully and failed to stop them from doing so." (internal quotations and citations omitted)); *Baskin v. Parker*, 602 F.2d 1205 (5th Cir. 1979) (sheriff may be personally liable under § 1983 for search carried out under illegally obtained warrant if he participated in obtaining the warrant and organizing search party).

While the Court concludes that a reasonable jury could determine that the affidavit contained falsities and material omissions, Defendants Brewer and Harrell may still enjoy qualified immunity if they nevertheless had "arguable probable cause" to seek the search warrant. When the aforementioned falsities are removed from—and omitted material facts are included in—the affidavit attested to by Defendant Brewer in support of the search warrant, however, arguable probable cause would not exist for the search of the Hooks residence. That is, viewing the facts in

the light most favorable to Plaintiff, a reasonable officer in the same circumstances and possessing the same knowledge as Defendants Brewer and Harrell could not have believed probable cause existed under the totality of the circumstances given they: (a) elected not to obtain easily discoverable facts, turned a blind eye to exculpatory information that was available to them, or otherwise conducted their investigation in a biased fashion; and (b) relied on an uncorroborated tip from a criminal suspect who was known to lie to law enforcement, even though the information supplied was against the suspect's penal interests. *See Gates*, 462 U.S. at 233; *Kingsland*, 382 F.3d at 1233; *Madiwale*, 117 F.3d at 1326-27; *Brundidge*, 170 F.3d at 1353; *Martin*, 297 F.3d at 1314. More particularly, in the absence of the alleged falsities and in consideration of the material omissions, Defendants Brewer and Harrell had only the uncorroborated word of a known liar and car thief to put methamphetamine and other evidence of drug activity in the home of David Hooks. No reasonable officer in the same circumstances and possessing the same knowledge could have believed probable cause existed to support the search warrant. *See Garmon v. Lumpkin Cty.*, 878 F.2d 1406, 1410-11 (11th Cir. 1989) ("[A] magistrate's decision to issue an arrest warrant does not absolve the officer who applied for the warrant from liability: The question is whether a reasonably well-trained officer applying for a warrant would have known that his affidavit failed to establish probable cause and that he should not have applied for the warrant. If such was the case, the officer's application for a warrant was not objectively reasonable.").

In conclusion, the disputed issues of fact are material because, if Plaintiff's version of the facts is accepted, the search warrant is unsupported by arguable probable cause. Accordingly, qualified immunity from suit on this issue is effectively unavailable at summary judgment, even though after a full trial Defendants Brewer or Harrell may yet prevail. *See Simmons*, 2018 WL 345324, at *4 ("If the official's motion [for summary judgment] does not succeed, however, then his qualified immunity defense remains intact and proceeds to trial."); *Herren v. Bowyer*, 850 F.2d 1543, 1546 (11th Cir. 1988) ("[I]f the legal norms allegedly violated were as a matter of law clearly established at the appropriate time, a genuine fact issue as to what conduct the defendant engaged in would preclude a grant of summary judgment based upon qualified immunity." (citations omitted)).

Before turning to Plaintiff's claim of unlawful detention, the Court must address Defendants Brewer and Harrell's argument that they are entitled to summary judgment on Plaintiff's claims for property damages, wrongful death, and punitive damages arising out of the alleged unlawful search.

Plaintiff may recover punitive damages against Defendants in their individual capacities if she can show that their conduct was "motivated by an evil motive or intent" or it involved "reckless or callous indifference to federally protected rights." *Anderson v. City of Atlanta*, 778 F.2d 678, 688 (11th Cir. 1985); *see also Christiansen v. McRay*, 380 F. App'x 862, 864 (11th Cir. 2010) ("[I]n order to receive punitive damages in § 1983 actions, a plaintiff must show that the defendant's conduct was motivated by evil motive or intent or involved reckless or callous indifference to

the federally protected rights of others.") Here, Defendants conclusorily contend that Plaintiff cannot make this showing. Yet, if the jury credits Plaintiff's version of events, it could reasonably find that Defendants were callously indifferent towards David and Teresa Hooks' federally protected rights. That is, Plaintiff's entitlement to punitive damages turns upon the same genuine disputes of material fact related to her claim of an unconstitutional search, and from those facts, a jury must determine whether Defendants' conduct manifested malevolent intent or reckless indifference to the Hooks' Fourth Amendment rights. Accordingly, the Court will not grant summary judgment in favor of Defendants on Plaintiff's claim for punitive damages. With respect to Plaintiff's claim for property and wrongful death damages, common law tort principles of damages and causation apply in the § 1983 context. *Jackson v. Sauls*, 206 F.3d 1156, 1168 (11th Cir. 2000). That is, § 1983 defendants are responsible for the natural and foreseeable consequences of their actions. *Id.* A plaintiff therefore must show that, except for the constitutional tort, the alleged "injuries and damages would not have occurred" and that "such injuries and damages were reasonably foreseeable consequences of the tortious acts or omissions in issue." *Id.* In this case, Plaintiff's entitlement to damages for property damage and wrongful death hinge upon the resolution of genuine disputes of material fact, especially with respect to proximate cause.

In response, Defendants Brewer and Harrell contend that Plaintiff's wrongful death claim is foreclosed by the recent decision of the United States Supreme Court, *County of Los Angeles, Calif. v. Mendez*, 137

S. Ct. 1539 (2017). The *Mendez* Court abrogated the Ninth Circuit's "provocation rule," which comes into play only after a determination has been made that a law enforcement officer's use of force was otherwise reasonable. *Id.* at 1546. The "provocation rule" "instructs the court to ask whether the law enforcement officer violated the Fourth Amendment in some other way in the course of events leading up to the seizure." *Id.* If a separate Fourth Amendment violation was committed, the "provocation rule" would provide a second path to liability for an officer's use of force and "render the officer's otherwise reasonable defensive use of force unreasonable as a matter of law." *Id.* (quoted source omitted) (emphasis in original). In rejecting the "provocation rule," the Court held that this approach "manufacture[d] an excessive force claim where one would not otherwise exist." *Id.*

The *Mendez* Court, however, did not foreclose the possibility of recovery for injuries proximately caused by an unconstitutional entry occurring prior to the use of force. Indeed, the Court recognized that the harm proximately caused by two torts (warrantless entry and excessive force) may overlap. *Id.* at 1548. Yet, the two claims should not be conflated. Rather, each claim must be analyzed separately to include damages and proximate cause. *Id.* at 1548-49. In fact, the Court remanded the case to the Ninth Circuit for an analysis of whether proximate cause allows the plaintiffs to "recover damages for their shooting injuries based on the deputies' failure to secure a warrant at the outset." *Id.* at 1549. Stated another way, the Supreme Court left open the possibility that a jury may "take into account unreasonable police

conduct prior to the use of force that foreseeably created the need to use it." *Id.* at 1547 n.*.

In this case, genuine disputes of fact remain regarding whether the risks associated with the execution of an invalid search warrant were reasonably foreseeable. The Court notes, for instance, in viewing the evidence in the light most favorable to Plaintiff, that Defendants sought a warrant and chose to execute it at night upon a rural, secluded home of a man who the officers knew owned firearms and had been burglarized the day before. Include therewith the fact that the officers did not knock and announce their presence, and a reasonable jury could conclude that the death of David Hooks was a reasonably foreseeable risk to their invalid entry. Of course, the issue of whether David Hooks' conduct—the material details of which are hotly disputed by the parties—was a superseding cause of his own death should also be left to the jury in its consideration of causation. Accordingly, genuine issues of material fact preclude the grant of summary judgment on these categories of damages.

B. Plaintiff's Detention

As previously noted, the Fourth Amendment protects "[t] he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. Amend. IV. A "seizure" occurs "when there is a governmental termination of freedom of movement through means intentionally applied." *Brower v. Cty. of Inyo*, 489 U.S. 593, 596-97 (1989); *see also Terry v. Ohio*, 392 U.S. 1, 16 (1981) ("It is quite plain that the Fourth Amendment governs 'seizures' of the person which do

not eventuate in a trip to the station house and prosecution for crime—'arrests' in traditional terminology. It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person.").

Generally, a seizure is reasonable if it is supported by probable cause. *Croom v. Balkwill*, 645 F.3d 1240, 1246 (11th Cir. 2011) ("Traditionally, seizures by law enforcement have been reasonable under the Fourth Amendment only if justified by probable cause to believe that the detainee committed a crime."); *Ortega*, 85 F.3d at 1525 ("A warrantless arrest without probable cause violates the Fourth Amendment and forms a basis for a section 1983 claim. An arrest made with probable cause, however, constitutes an absolute bar to a section 1983 action for false arrest." (citing *Marx v. Gumbinner*, 905 F.2d 1503, 1505 (11th Cir. 1990))); *Daniel v. Taylor*, 808 F.2d 1401, 1403 (11th Cir. 1986) ("As a general rule, an official seizure of a person must be supported by probable cause, even if no formal arrest is made." (citing *Dunaway v. New York*, 442 U.S. 200 (1979)). "Probable cause to arrest exists if the facts and circumstances within the officer's knowledge, of which he has reasonably trustworthy information, would cause a prudent person to believe, under the circumstances shown, that the suspect has committed or is committing an offense." *Ortega*, 85 F.3d at 1525 (citations omitted).

Notwithstanding the foregoing, "certain types of limited detentions—*i.e.* seizures lacking the essential attributes of full, custodial arrests—may be constitutional even in the absence of probable cause." *Croom*, 645 F.3d at 1246 (citing *Terry*, 392 U.S. at 20; and *United States v. Place*, 462 U.S. 696, 703 (1983)). One

such category of permissible "limited detentions" are "temporary detentions by law enforcement of a premises' occupants while those premises are being searched pursuant to a search warrant." *Id.* at 1247 (citing *Michigan v. Summers*, 452 U.S. 692, 705, 101 (1981); and *Muehler v. Mena*, 544 U.S. 93, 100-02 (2005)). Nevertheless, even under this "categorical" exception to the probable cause requirement, an officer's actions in detaining an individual must be objectively reasonable in light of the facts available to the officer. *See Croom*, 645 F.3d at 1249 ("When evaluating a limited seizure under an exception to the probable-cause requirement, we look to the 'objective reasonableness' of the law enforcement officer's actions, asking: 'would the facts available to the officer at the moment of the seizure or the search warrant a man of reasonable caution in the belief that the action taken was appropriate?'" (quoting *Terry*, 392 U.S. at 21-22)); *see also Messerschmidt v. Millender*, 565 U.S. 535, 547 (2012) ("[U]nder our precedents, the fact that a neutral magistrate has issued a warrant authorizing the allegedly unconstitutional search or seizure does not end the inquiry into objective reasonableness.").

In the case establishing the "temporary detention during search pursuant to search warrant" exception to the general requirement that probable cause exist for a seizure, the Supreme Court stated that it was "[o]f prime importance . . . that the police had obtained a warrant to search [the detainee's] house for contraband" because "[a] neutral and detached magistrate had found probable cause to believe that the law was being violated in that house and had authorized a substantial invasion of the privacy of the persons who

reside there" and therefore "detention of one of the residents while the premises [are] searched, although admittedly a significant restraint on [her] liberty, was surely less intrusive than the search itself." *Summers*, 452 U.S. at 701. Accordingly, the Supreme Court held that "for Fourth Amendment purposes, . . . a warrant to search for contraband founded on probable cause implicitly carries with it the limited authority to detain the occupants of the premises while a proper search is conducted." *Id.* at 705 (emphasis added) (footnotes omitted); *see also id.* at 705 n.21 ("Although special circumstances, or possibly a prolonged detention, might lead to a different conclusion in an unusual case, we are persuaded that this routine detention of residents of a house while it was being searched for contraband pursuant to a valid warrant is not such a case." (emphasis added)).

Here, viewing the facts in the light most favorable to the non-moving party and drawing all reasonable inferences in her favor, a reasonable factfinder could conclude that Defendant Harrell was the impetus for Plaintiff Teresa Hooks' detention or otherwise had knowledge of her detention by subordinate officers and failed to stop them from doing so. (*See* Harrell Dep. at 116-21.) Further, at least with respect to Defendant Harrell, Plaintiff has provided sufficient evidence to demonstrate a genuine issue of material fact as to whether Defendant Harrell had arguable probable cause to believe that the search warrant was valid. *See* Section III.A, *supra.* That is, a reasonable factfinder could conclude that Defendant Harrell himself was aware—at the time he instructed Defendant Vertin to detain Plaintiff—that the search warrant was invalid. Were the factfinder to reach such a conclu-

sion, no reasonable officer possessing the knowledge of Defendant Harrell could reasonably conclude that the detention of Plaintiff was lawful because he himself admits that he lacked probable cause to detain her.[58] Because Plaintiff's right to be free from seizure absent probable cause (or an exception thereto) was clearly-defined at the time of her detention and Defendant Harrell has provided no other lawful justification for Plaintiff's detention,[59] Defendant Harrell is not entitled to summary judgment on this issue.

But there is an even more fundamental reason why Defendants Harrell and Vertin are not entitled to rely on the "temporary detention during search pursuant to search warrant" exception to the requirement that they have probable cause to detain Plaintiff; no search occurred during—at least a significant portion of—Teresa Hooks' detention. Indeed, as admitted by both Defendants Harrell and Vertin, they were aware at the moment the officers fired their weapons that neither they nor any other Laurens County officer would be conducting a search pursuant to the search warrant. (Harrell Dep. at 113; Vertin Dep. at 47; *see*

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58 (*See* Harrell Dep. at 116-21 (only reasons for Teresa Hooks' detention was safety of herself and officers and to hold her until she could be interviewed as a witness by GBI agents); *see also* Vertin Dep. at 42-47 (no probable cause to arrest Teresa Hooks; rather, she was detained because it was "standard" to "detain [anybody in the house] until the [GBI] investigators decide whether they need them or not").)

59 Defendants Harrell and Vertin themselves both argue that "the case at bar is not a *Terry* stop case." (Doc. No. 105, at 3; Doc. No. 104, at 9 n.4 ("Sheriff Harrell adopts by reference as if restated verbatim herein . . . Section I of [Defendant] Vertin's Reply Brief. . . . ").)

also Burris Dep. at 69-70; Doc. No. 87-1, at 5.) Further, they knew their only role after the shooting was to secure the site until GBI agents arrived and further admit they were aware that the premises were secured by 11:15 p.m.—shortly after Plaintiff was taken outside the residence.[60] (*See* Harrell Dep. at 113; Vertin Dep. at 47; *see also* Burris Dep. at 69-70; Doc. No. 87-1, at 5.) Additionally, a Laurens County officer searched Plaintiff's person during her detention and found nothing of note, yet Defendants Harrell and Vertin continued to hold Plaintiff without probable cause.[61] (*See* Vertin Dep. at 41; Harrell Dep. at 117-21.)

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60 While not argued by Defendants in their briefing, Defendant Harrell testified that the only reasons he could conceive of for Teresa Hooks' detention was for her own safety, the safety of officers on the premises, and to ensure she could be interviewed as a witness by GBI. (*See* Harrell Dep. at 116-21.) While such rationale may in exigent circumstances justify warrantless action, *see*, *e.g.*, *Riley v. California*, 134 S. Ct. 2473, 2494 (2014), *United States v. Place*, 462 U.S. 696, 701-02 (1983), there is no indication that such exigent circumstances existed at the time of Teresa Hooks' detention given the premises had been secured by 11:15 p.m. Indeed, allowing Plaintiff to leave the premises to go to the hospital to attend to her dying husband would in no way have impeded any search or investigation under the totality of the circumstances; in fact, her continued detention most likely hampered the investigation by unnecessarily diverting manpower. *See Missouri v. McNeely*, 569 U.S. 141, 149 (2013) ("To determine whether a law enforcement officer faced an emergency that justified acting without a warrant, this Court looks to the totality of circumstances.") (citations omitted).

61 Again, the Court notes that Defendants Harrell and Vertin themselves assert that this "is not a *Terry* stop case." (*See* n.59, *supra*). And while Defendants Harrell and Vertin now attempt to argue that they would have had probable cause to arrest Teresa Hooks for obstruction (*i.e.*, O.C.G.A. § 16-10-24) because she purportedly "failed to comply with Defendant Vertin's orders/

Belying any argument that the GBI agents' search of the Hooks residence was somehow an extension or continuation of the Laurens County officers' search is the undisputed fact that the GBI agents did not rely on the search warrant obtained by Laurens County officers; rather, the GBI agents sought-and were granted on September 25, 2014 at 1:52 a.m.-their own search warrant for the premises based on their belief that probable cause existed to believe the residence contained "evidence of violations of Aggravated Assault on a Police Officer O.C.G.A. [§] 16-5-21(c)" (*i.e.*, the officer-involved shooting of David Hooks). (*See* Doc. No. 87-1, at 6-9.) Indeed, in identifying the scope of evidence or contraband sought to be located on the Hooks premises, the search warrant obtained by GBI originally made no mention of controlled substances; rather, it was not until GBI agents sought the addendum to their own search warrant on September 26, 2014 that they began to search for methamphetamine or other controlled substances. (*Compare id.* at 6-9; *with id.* at 10 ("The GBI CSS began executing the search warrant issued to [Special Agent] Giddens on September 25, 2014. The residence has been secured by law enforcement agencies since that time; however, GBI agents have not conducted a search for methamphetamine and paraphernalia.").) Moreover, in this addendum, the attesting agent specifically states that "Laurens County Sheriff's Office personnel have not executed a search of the residence, vehicles and outside buildings located within the curtilage for methamphet-

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requests" (doc. no. 78-1, at 15), reaching such a conclusion would require the Court to weigh the evidence and resolve a genuine dispute of material fact—which is wholly inappropriate at summary judgment. *See Tolan*, 134 S. Ct. at 1866.

amine and paraphernalia as authorized by the September 24, 2014 drug search warrant." (*Id.* at 10 (emphasis added).)

In sum, viewing the facts in the light most favorable to Plaintiff and drawing all reasonable inferences in her favor, a reasonable factfinder could conclude that Defendants Harrell and Vertin improperly took it upon themselves to treat the original search warrant for the Hooks premises and its occupants as an arrest warrant for Plaintiff or otherwise chose to detain her without probable cause or valid exception thereto (or at the very least expanded her detention past the clearly-established boundaries of such exception). *See Muehler v. Mena*, 544 U.S. 93, 101 (2005) ("[A] lawful seizure can become unlawful if it is prolonged beyond the time reasonably required to complete that mission." (internal quotations and citations omitted)). Indeed, no reasonable officer could have concluded that there was a justifiable benefit to detaining Plaintiff because the premises were secured, she was not a suspect, and she was readily available for interview at any subsequent point. *See Mincey v. Arizona*, 437 U.S. 385, 393 (1978) ("[T]he mere fact that law enforcement may be made more efficient can never by itself justify disregard of the Fourth Amendment."). Moreover, the law was clearly-established at the time of this detention that: (i) the general rule is that-absent an established exception thereto-probable cause is required to seize an individual "even if no formal arrest is made;" and (ii) the "temporary detention during search pursuant to search warrant" exception only applies "while a proper search is conducted." *See Summers*, 452 U.S. at 696, 705 (citations omitted); *see also Mena*, 544

U.S. at 101; *Croom*, 645 F.3d at 1247; *Prevo*, 435 F.3d at 1345.

Accordingly, viewing the facts in the light most favorable to the non-moving party and drawing all reasonable inferences in her favor, Defendants Harrell and Vertin's detention of Plaintiff was not objectively reasonable because no reasonable officer could believe their actions were appropriate in the absence of probable cause or an established exception thereto. *See Croom*, 645 F.3d at 1249. Therefore, summary judgment is not appropriate on this issue.

IV. Conclusion

Even under the rigorous standards imposed by qualified immunity, the Court concludes that Defendants are not now entitled to judgment as a matter of law. The record, viewed in the light most favorable to Plaintiff, establishes genuine disputes of material fact that preclude the protection of qualified immunity. These disputed facts include, but are not necessarily limited to the knowledge, actions, and intent of Defendants at the time they sought and executed the search warrant for the Hooks residence and the facts and circumstances attendant to Teresa Hooks' detention. These issues of fact and inference turn on credibility: obviously, the credibility of Rodney Garrett is important, but the credibility of Defendants Brewer, Harrell and Vertin are also under scrutiny here. Credibility determinations are particularly within the province of the jury. If there ever was a case before me involving an assertion of qualified immunity that demanded a trial by jury, this is it.

Moreover, at this pivotal summary judgment phase of the case, it is appropriate to emphasize that

the Court makes no factual findings but accepts the facts plead by Plaintiff, all reasonable inferences therefrom being drawn in favor of Plaintiff, who opposes the defense motions. The Court will not attempt to chronicle or catalogue the reasonable inferences which may flow from facts plead. Suffice it to say that a jury may find many more than those which presently occur to the presiding judge. For example, while the Court has confined its examination of the conduct of Sheriff Harrell and Sergeant Brewer to the moment of their submission of the search warrant application to the Magistrate, reasonable jurors may attach critical importance to the animus of Sheriff Harrell in gratuitously publishing false statements of DNA evidence purporting to link David Hooks to the methamphetamine found in possession of Rodney Garrett. (*See* Harrell Dep. at 149-52.) This single example may manifest itself inferentially in manifold ways. Suffice it to say that reasonable inferences from Plaintiff's factual allegations abound, belying the protestations of simplicity proffered by the defense under the rubric of qualified immunity. Facially, this case is one where, on the defense side perhaps a dozen eye witnesses are available and may testify. On Plaintiff's side, there were but two, one dead and one survivor, who was sequestered shortly after the shooting of her husband. Reasonable inferences drawn from all the facts established by the evidence in the case have at least the potential to overcome the apparent disparity in eye witness testimony. Inferences therefore are also of critical importance. Under the circumstances, it is all the more appropriate that this case, the facts which may be developed by the evidence adduced at trial, and all reasonable inferences

flowing therefrom, should be subjected to scrutiny under the bright and revealing light of a jury trial.

Upon the foregoing and due consideration, the Court concludes that Defendants are not entitled to summary judgment on Plaintiff's claims. Accordingly, Defendants' respective motions for summary judgment (doc. nos. 75, 77, 78) are DENIED.[62]

ORDER ENTERED at Augusta, Georgia, this 29th day of January, 2018.

/s/ Dudley Hollingsworth Bowen Jr.
United States District Judge

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62 Plaintiff and Defendants have also filed motions to exclude the proposed testimony of the parties' respective expert witnesses. (*See* Doc. Nos. 73, 74.) These motions remain pending before the Court and will be addressed in subsequent separate orders.

ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT DENYING PETITION FOR REHEARING EN BANC (SEPTEMBER 1, 2020)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

TERESA POPE HOOKS, Individually,
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs-Appellees,

v.

CHRISTOPHER BREWER, in His Individual Capacity, STEVE VERTIN, in His Individual Capacity, WILLIAM HARRELL, "Bill", in His Individual Capacity,

Defendants-Appellants,

RANDALL DELOACH, in His Individual Capacity,

Defendant.

No. 18-10628-JJ

Appeal from the United States District Court
for the Southern District of Georgia

Before: JORDAN, GRANT, and
SILER,* Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Panel Rehearing is also denied. (FRAP 40)

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* Honorable Eugene E. Siler, Jr., United States Circuit Judge for the Sixth Circuit, sitting by designation.

CASE SUMMARY SUBMITTED BY LAURENS COUNTY SHERRIFF'S DEPARTMENT (JANUARY 27, 2015)

INVESTIGATIVE REPORT DISTRICT ATTORNEY'S PACKET
Submitted By: Sgt. Robbie Toney
Laurens County Sheriff's Department

Defendant: Rodney Jason Garrett (Adult)

Victim: David Hooks (Adult)

LSCO Case #: 14-31855

Charge #1:
Burglary 2nd Degree
O.C.GA 16.7-1

Charge #2:
Burglary 2nd Degree (Entering Auto)
O.C.G.A. 16-7-1

Charge #3
Burglary 2nd Degree (Entering Auto)
O.C.G.A. 16-7-1

Restitution

- YES

Restitution owed to: David Hooks

Statement made by defendant?

- YES

Brief case synopsis:
See Investigative Narrative

Has a GCIC check been run on the defendant by any law enforcement agency?

- YES

CASE SUMMARY

Case #14-31855
Sgt Robbie Toney
David Hooks

On September 23, 2014 around 1400 hours David Hooks contacted me, Sgt Robbie Toney, at the Laurens County Sheriff's Office to report that someone had entered a shop at his residence located at 1184 Highway 319 North, East Dublin, Georgia. Hooks stated that he had several guns stolen from the shop, that both his vehicle and his wife's vehicle had been entered and money and guns taken, and a Lincoln Aviator that he had was also taken. I asked Hooks for the VIN on the Aviator so I could get it entered and that while doing that I would have a Deputy meet him at the house to start a report. Hooks then gave me the VIN of 5LMEU88H6ZJ1-3-092. I told him that VIN's do not contain dashes and I told him that I would run the VIN he gave me without the dashes to see if it was the correct VIN. I went to the GCIC room at the Sheriff's Office and the VIN was run and came back no record. I called Hooks back and he then gave me the VIN of 5LMEU88H64ZJ13092. This was the same VIN he gave previously but with the new character. I went back to GCIC and ran the VIN and it came back registered to Richard Jefferys on a 2004 Lincoln

Aviator. This is the correct VIN and was entered into GCIC as being a stolen vehicle.

After entering the Aviator into GCIC I went to the residence of Mr. Hooks. Upon arrival I met Deputy Brian Fountain who responded to the call and Mr. Hooks. Hooks stated to me that he woke earlier this morning to leave to go to work and when he got into his truck the keys were not in the ignition. Thinking that he left them in the house he went to get them and could not find them. He then went back to his truck and found the keys on the floor board. He then saw that the Aviator was missing and told his wife to check her vehicle. At that point they found that they had been entered because his wife was missing some cash from the vehicle and a pistol. He then looked around in the shop and saw that ammunition boxes he has on a shelf was open and that a cabinet full of more ammunition was pulled out and lying on the floor. He said that a gun safe he has in the shop was also open and several firearms were missing. He said that the lock on the gun safe is broken and was not locked but that the door was closed. Hooks said that after finding the items missing he left to go to work and that his wife had also gone to work. When he returned this afternoon around 200 PM he contacted me at the Sheriff's Office to report the theft.

Once Hooks had shown me where the items were located that had been taken I began to process the items to try and collect latent prints. I dusted the gun safe using fingerprint powder and attempted to recover a latent print but upon lifting the print found it to only be a smudge. I also attempted to dust a small plastic tote containing ammunition boxes but was again unable to find a usable latent print. Hooks

had also stated that a cabinet located behind the door of the shop had also been entered and I attempted to dust it for fingerprints but due to the makeup of the cabinet was unable to find a usable latent print. Due to Hooks leaving for work after finding the theft and reporting it later I did not attempt to process the truck. This was because any latent prints found on the outside of the vehicle or around the drivers area of the truck would have been contaminated or covered by Hooks getting in and out of the vehicle during the time he was gone. After processing the scene I asked Hooks if he had any ideas who may have done this and he said that it may have been an employee or former employee of his that knows the area due to his residence being located so far off the main highway. Hooks also stated that he would try and find any serial numbers he could for the stolen guns and give them to me as he finds them. I told Hooks that in the mean time the Aviator was entered into GCIC so if it was run by any law enforcement that it would come back stolen and that I would notify the pawn shops to be on the lookout for the firearms and other items that were stolen.

On September 24, 2014 I called Hooks on his cell phone but got his voicemail. I left a message for him to call me back requesting a list of his employees so that I could possibly obtain a suspect using that information. After leaving the message Sgt Steven Cox and I went to the residence of Hooks and attempted to make contact in person but upon arrival found no one at home.

This same date after normal working hours I was contacted by Sgt Lance Padgett. He contacted me around 1900 hours to report that the Aviator had

been located and he would contact me later with more information. Around 2000 hours Padgett called me back, saying that Rodney Garrett had turned himself in saying that he had taken the Aviator and two guns from a house on Highway 319. Padgett also told me that Garrett reported that a bunch of meth was taken from the truck but that he didn't know it was drugs until he stopped later to put gas in the Aviator. Padgett told me that the interview with Garrett was recorded and that Garrett was in custody for a warrant that Sgt Gerald Frazier had on an unrelated case involving Garrett. Padgett told me that one of the guns that was taken from Hook's was not reported. Garrett also said that those were the only two guns that he took and he also stated that he did not take any of the other property that was reported stolen.

On September 26, 2014 I obtained a warrant for Burglary 2nd Degree against Rodney Garrett for the burglary of Hook's shop. At this time none of the other property taken from Hook's shop has been recovered. Property that was recovered from Garrett for the unrelated warrant does not match any taken from Hooks. Investigators will continue to try and locate any and all property taken from Hook's shop. The items belonging to Hooks that was recovered are being kept in the Evidence room of the Laurens County Sherriff's and also the Aviator is being held at the impound lot of the Sherriff's Office.

On or about October 3, 2014 Bryant Hines came to the Sheriff's Office to speak to me about a four wheeler that had been reported stolen by Hooks in August and also the Aviator that was stolen. Hines stated that the four wheeler, which is a green in color Arctic Cat, belonged to him and that the Aviator

belonged to Dublin Auto Sales and they had asked him to come and get the car. Hines had brought with him a UCC Financing Statement from Wheeler County State Bank dba Atlantic State Bank. The statement showed Hines as being the debtor and also had the Arctic Cat listed as the collateral. Hines also had a copy of the title to the Aviator. This title showed the vehicle owner as being Richard Jefferys but on the back showed as the 1st and 2nd Dealers Assignment as being Dublin Auto Sales with the date of 09-08-14. I told Hines that none of the vehicles could be released yet due to the ongoing investigation.

Due to the statement by Hines stating that the four wheeler belongs to him and the Aviator belongs to Dublin Auto Sales I am going to file a OCGA 17-5-50 with the Laurens County Magistrate Court so that the rightful owners of the property can be identified.

On October 11, 2014 around 1330 hours Deputy Kasey Loyd called me on the cell phone to let me know that he had recovered some property from a location that is associated with Rodney Garrett. Deputy Loyd stated that he went to a residence on Wilkes Road and recovered a 12 gauge bolt action shotgun, a 4 HP Honda water pump, a Skilsaw, and a jewelry box containing several watches. I advised Loyd to put the items in evidence and I would check on it Monday morning.

On October 13, 2014 I had Sherry Mangum, Evidence Tech at the Sheriff's Office remove the property Deputy Loyd called me about from the Evidence drop box. The items are a JC Higgins 12 guage bolt action shot gun with no serial number, a red in color Skilsaw, a 4 HP Honda water pump, a brown wooden jewelry box containing four watches, and a red 12 gauge shotgun shell. The JC Higgins shotgun recovered matches

a shotgun reported stolen by David Hooks. The location where the property was recovered belongs to Lenwood Lord. Lord reported to the Sheriff's Office that when he went to check his property located at 623 Wilkes Road, Glenwood, Georgia he found the shotgun in a closet. He then contacted the Sheriff's Office and Deputy Loyd found the other property that Lord stated should not have been there. Lord told Deputy Loyd that Rodney Garrett is his nephew and had access to the property.

All property recovered was documented on Property Receipt 16486 by Loyd and turned over to the Laurens County Sheriff's Office Evidence room.

On this same date of October 13, 2014 around 1350 hours I interviewed Rodney Garrett about the recovered property and to also see if I could obtain the location of the remaining items. After waiving his Miranda warnings he stated that he could not remember where he had the remaining items. When I asked if he had been to his Uncle's house on Wilkes Road and left anything there he said that he could not remember. I then showed him photographs of the items recovered and he said that he must have gone there but still could not remember. I asked about the jewelry box containing the watches and he stated that they were his and that the pocket watch and a Citizens watch shown were gifts. I asked if he could remember going anywhere else and he said that the only place he really knew he went to was the woods where he had been sleeping. I asked if there was a possibility of the other items being in the woods he replied that it could be because he went to his Uncle's and didn't remember going. I then asked where he had been staying in the woods and he said near Five

Points. He said that it would be better to show me than tell me how to get there. I told him that I would have to check with my Superiors and that it was something that would have to happen. I gave Garrett my business card and told him that after I left if there was anything else that he could remember to help locate and recover the other property to get with the jail staff at the facility he is at and tell them to contact me with the information.

SEARCH WARRANT AND AFFIDAVIT BY INVESTIGATOR CHRIS BREWER (SEPTEMBER 29, 2014)

IN THE MAGISTRATE COURT OF LAURENS COUNTY
STATE OF GEORGIA
Warrant No. 2014 1735

To: All Peace Officers of the State of Georgia

Affidavit having been made before me by INV. Chris Brewer an officer charged with the duty of enforcing the Criminal Laws, that he has reason to believe that in Laurens County, Georgia on the following described person, premises, or property:

> The residence located at 1184 Highway 319 North, Laurens County, Georgia. The residence of David Nelson Hooks. To include all other vehicles, all other persons, and outside buildings located on the entire curtilage.

There is now located certain instruments, articles, person(s), or things, namely:

> Controlled substances in particular methamphetamine. Paraphernalia necessary for manufacturing, packaging, cutting, weighing, and/or distributing controlled substances. Currency of the United States obtained, connected with and/or possessed to facilitate the financing of illicit drug trafficking.

Which is a Violation of the Georgia Controlled Substances Act (O.C.G.A. 16-13-30)

Based upon the affidavit given under oath or affirmation and all other evidence given to me under

oath or affirmation, I am satisfied that there is probable cause to believe that a crime is being committed or has been committed and that the property described above is presently located on the person, premises, or property described above.

You are hereby commanded to enter, search and seize within ten (10) days of this date, the person, premises, or property described above. A copy of this Warrant is to be left with the person searched, of if no person is available, on the premises or vehicle searched, and a written return, including an inventory of any things seized, shall be made before me or a Court of competent jurisdiction without unnecessary delay after the execution of this Search Warrant.

SO ORDERED this 24th day of September, 2014 at 9:56 p.m.

/s/ Faith Snell
Judge of the Magistrate Court
Laurens County

RETURN OF SERVICE

I executed this Search Warrant on the 24th day of Sept, 2014, at 10:55 P.M. and searched the person, premises or property described in the warrant.

A copy of this warrant: Was left in the following conspicuous place: island in kitchen because no one was available to be given this warrant.

Attached hereto is an inventory consisting of 0 pages, of the instruments, articles or things which were seized pursuant to this Search Warrant. This inventory was made in the presence _____ of and I swear (affirm) that this inventory is a true and detailed account of all instruments, articles or things seized pursuant to this Search Warrant.

/s/ Chris Brewer
Affiant

Investigator
Title

Sworn and subscribed to before me this 29 day of September, 2014

/s/ Faith Snell
Judge of the Magistrate Court
Laurens County

AFFIDAVIT AND APPLICATION FOR A SEARCH WARRANT

IN THE MAGISTRATE COURT OF LAURENS COUNTY
STATE OF GEORGIA
Docket No. 2014-1735

The undersigned Inv. Chris Brewer being duly sworn, deposes and says: I am an officer of the State of Georgia or its political subdivisions charged with the duty of enforcing the criminal laws, and that I have reason to believe that in Laurens County, Georgia on the person, premises, or property described as follows:

> The residence located at 1184 Highway 319 North, Laurens County, Georgia. The residence of David Nelson Hooks. To include all other vehicles, all other persons, and outside buildings located on the entire curtilage.

There is now located certain instruments, articles, person(s), or things, namely:

> Controlled substances in particular methamphetamine. Paraphernalia necessary for manufacturing, packaging, cutting, weighing, and/or distributing controlled substances. Currency of the United States obtained, connected with and/or possessed to facilitate the financing of illicit drug trafficking.

Which is a Violation of the Georgia Controlled Substances Act (O.C.G.A. 16-13-30)

The facts tending to establish probable cause that a crime has been, or is being committed and the above described instruments, articles or things described

above are presently located at the above described premises or property are as follows:

AFFIANT has been employed in law enforcement since 1991.

AFFIANT is presently employed with the Laurens County Sheriff's Office Drug Unit as an investigator and has been employed as such since April of 1999. During this time AFFIANT has conducted, assisted or been the lead agent on more than 1000 drug investigations for violations of the Georgia controlled substances act including cocaine, marijuana, methamphetamine, and prescription drugs along with other substances. AFFIANT also made many other narcotic related arrests during its career prior to joining the drug unit.

AFFIANT has received advanced training in controlled substance investigations both on a state and federal level. Topics have included confidential informants, drug identification, prescription drug investigations, indoor marijuana grow operations, street level drug interdiction, field sobriety testing for persons under the influence of narcotics, search and seizure for narcotic investigations, interviews and interrogations, drug trends, physical and electronic surveillance, gang activity with drugs, field testing drugs, "crack" cocaine manufacturing, various types of methamphetamine manufacturing process's, symptoms of drug abuse, clandestine labs, money laundering, and reverse "sting" drug operations. AFFIANT has also been certified) as a drug detection canine handler.

AFFIANT has authored and/or executed more than 50 search and seizure warrants resulting in the

seizure of large quantities of controlled substances, drug related paraphernalia, large amounts of U.S. currencies and other assets of wealth (including jewelry, electronic goods and real estate), vehicles, firearms and other weapons, bank records, telephone books, receipts, list of known drug dealers and other documents and items relating to the transportation, ordering, purchasing and distribution of controlled substances.

It has been AFFIANT'S experience that items such as utility bills, phone bills, and rent receipts are essential in the investigation of narcotics violations in that they tend to establish control and/ or ownership of a residence or business.

AFFIANT is also familiar that drug traffickers often purchase and /or title assets in fictitious names, aliases, or in the name of relatives, or associate in order to avoid detection and seizure of these assets by governmental agencies even though the drug traffickers actually own and continually use these assets and exercise dominion and control over them.

AFFIANT is also familiar that persons dealing in narcotics often possess firearms to protect themselves and their property.

AFFIANT is also familiar that drug traffickers often maintain books, records, receipts, notes, ledgers, airplane and/or bus tickets, car rental agreements, and other written documents relating to the transportation, ordering, sale and distribution of controlled substances.

AFFIANT is also familiar that drug dealers commonly maintain addresses and telephone numbers

in books or papers which reflect the names, address's, and/or the telephone numbers of associates in their drug organization, their source of narcotics, and their drug customers.

AFFIANT is also familiar that persons dealing in narcotics often maintain pagers, cellular telephones, and walkie/talkies in order to contact their customers, their supplier and other persons who they use as security or lookouts during the course of them doing business.

It has been AFFIANT'S experience that drug traffickers frequently take or cause to be taken photographs or videotapes of themselves, their associates, their property, their product and large amounts of currency, and that they usually maintain these photographs and video tapes in their possession.

AFFIANT is also familiar that persons who deal in narcotics will often "front" drugs to buyers and that they keep records of these transactions in order to keep track of who owes what. These records are commonly referred to as "totes" or "ledgers" and will often be found in the residence of the dealer. Records of this nature are important to the investigation in that they tend to show the intent of the dealer to possess and/or distribute narcotics.

AFFIANT has also found that it is common for persons dealing in narcotics to keep items such as scales, plastic baggies, cigarette rolling papers, "pipes" used to smoke narcotics, and other drug paraphernalia and that these items are essential in the investigation of drug violations in that

they tend to establish the intent to possess and/ or distribute narcotics.

It has also been AFFIANT'S experience that drug traffickers often maintain amounts of currency that are the proceeds from drug transactions and which are used to maintain and finance future drug transactions.

Within the past 6 hours your Affiant spoke with Rodney Garrett after Garrett had waived his Miranda rights in writing. Garrett was in custody for burglary and theft of a motor vehicle as well as other offenses. Garrett had been taken into custody after turning himself into Sgt. Ryan Brooks of the Laurens County Sheriff Office and reporting some of his crimes to Sgt. Brooks. Your affiant responded to the location where Brooks had met with Garrett where your affiant recovered approximately 20 grams of suspected methamphetamine, a digital scale, two firearms, and a Lincoln Aviator which Garrett stated he had taken from 1184 Highway 319 North, which is within the confines of Laurens County, Georgia.

During the interview Garrett stated that during the previous night he had traveled to the residence at 1184 Highway 319 North with the intentions of committing a theft. Garrett stated that he entered the interior of a pickup truck which was parked under the carport of the residence and removed a "neoprene" bag and a digital scale from the center console of the vehicle. Garrett stated that he believed the bag contain currency at the time he removed it from the vehicle. Garrett stated that after taking a Lincoln Aviator which was also parked at the residence and

traveling into the city of Dublin he discovered the bag contained a large amount of suspected methamphetamine. Garrett stated that he then became scared for his safety and placed the bag and scale into a locked box which they had been recovered from by your affiant.

Your affiant is familiar with the residence and the occupant of the residence, David Hooks, from a prior narcotics investigation involving Jeff Frazier. During this investigation Frazier had been interviewed by law enforcement and stated that he had been the source of supply for multiple ounces of methamphetamine to Hooks which Hooks was redistributing.

Garrett also admitted to committing other criminal offenses in which he was a suspect and provided other information which led to the recovery of stolen property which law enforcement was unaware of prior to this confession.

I swear or affirm that all of the information contained in this Affidavit and all testimony given by me under oath is true to be best of my knowledge and belief.

Affiant: /s/ Chris Brewer
Title: Investigator

Sworn to and subscribed to before me this 24th day of September, 2014, at 9:56P.M.

/s/ Faith Snell
Judge of the Magistrate Court
Laurens Count

LAURENS COUNTY SHERIFF DEPARTMENT
RECEIPT FOR PROPERTY

No. 16088

Case No. 14-31866

Name of the person from whom property was obtained
Owner Rodney Garett/David Hooks

Address
1369 Fountain Drive, Dublin, GA 31021

Location where property was obtained
Lincoln Aviator

Date 9-24-14; Time 5:52 pm

Item No.: 1

Quantity: 1

File No.: A1B

Description of Property:

Silver "Lock box" containing Blue "beAed" zippered pouch containing Tanita brand digital scale model 1479V handtied plastic baggie containing a handtied bag of a (IBI) crystallized substance suspected to be methamphetamine.

Item No.: 2

Quantity: 1

File No.: A1B

Description of Property

Ruger All-weather 77/22 .22 caliber rifle bearing serial number 708-21522 with a Tasco 3-9 x 40 scope and magazine containing seven rounds of ammunition

Item No.: 3

Quantity: 1

File No.: A1B

Description of Property

Shandong 1st Moonine works 12 gauge shotgun bearing serial number YL 12-134; 04-00911 with six rounds of ammunition.

Signature

/s/ Chris Brewer
Badge Number 40IN

CHAIN OF CUSTODY

Item No. 1-3

Date: 9-26-14

Relinquished by: /s/ Chris Brewer

Received by: /s/ {illegible}

AFFIDAVIT OF TERESA POPE HOOKS RELEVANT EXCERPTS (JUNE 23, 2017)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually; and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, in His Individual Capacity, STEVE VERTIN, in His Individual Capacity, WILLIAM "BILL" HARRELL, in His Individual Capacity, and RANDALL DELOACH, in His Individual Capacity,

Defendants.

Civil Action File No.: 3:16-CV-00023-DHB-BKE

COMES NOW, before the undersigned officer authorized to administer oaths, TERESA POPE HOOKS, who upon being duly sworn states on oath as follows:

1.

My name is TERESA POPE HOOKS. I am over the age of eighteen years old and am otherwise compe-

tent to make this affidavit. This Affidavit is made based upon my own personal knowledge.

[. . .]

6.

David rushed across the foyer into the living room with his gun down by his side as I followed.

7.

Before David could reach the dining room while still in the living room, shots were being fired. I immediately turned and ran back across the foyer into the master bedroom locking the door behind me. After I was handcuffed by Vertin and taken outside my home, I was near the kitchen door and could see into the kitchen from where I sat. I did not see any law officers searching inside of my home for the entire time that I was in handcuffs. I was told that I could not go back inside of my home. "Crime Scene" tape was run around the place so no one could go in or out.

8.

After I left for the hospital in the early morning hours of Thursday, September 25, 2014, the GBI sought and received their own search warrant for my home, property, and vehicles. I was not present at my home at any time during their search. I received a copy of the Return of Search Warrant when I was finally allowed to re-enter my home.

FUTHER AFFIANT SAITH NOT.

/s/ Teresa Pope Hooks

Sworn and subscribed before me, This 23rd, day of June, 2017.

/s/ Candice Lynn Forrest
Notary Public
Dodge County, GA
Comm. Exp 5/26/20

DEPOSITION OF BUCK FORTE
RELEVANT EXCERPTS
(APRIL 4, 2017)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE of DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:CV00023-DHB-BKE

[April 4, 2017 Transcript, p. 28]

. . . So did Rusty. They kind of said it at the same time.

Q When the door was breached, my understanding is you would have been the second person through the door?

A That's correct.

Q There's an island in the middle of the kitchen.

A Correct.

Q As you went through the door, which side of the island did you go on?

A Okay. As you went through the door, Rusty went to my immediate right. So if you're facing directly in the doorway, he went to the right—

Q Okay.

A —and I went to the left side. So he would have been on the right side of the island and I would have been over on the left side.

Q Okay. Did you hear anybody say anything regarding a gun?

A Absolutely. Rusty immediately, as we were going through the door, he and myself were both yelling, "Sheriff's office, search warrant." And then he yelled, "Gun. Gun. Gun." And at that time, I was on the left-hand side. I was clearing that area for the rest of the guys who were coming in and when I turned, that's when I saw the gun.

Q Did you see a gun laying on the counter?

A I didn't until after the fact.

Q But you know there was a firearm laying—

A On the island?

Q —on the island?

A Yeah. After, after, you know, the—

Q Okay.

A —initial incident, I saw the firearm. But, at that time, the gun that I saw was the one that David was holding.

Q Okay.

A Where was David standing?

A Okay. If you go in the room where the island is, if you're facing directly into the foyer to the right side, there's some area that I don't know if it's a formal dining room or living room or what but he appeared from that side to Rusty. And Rusty—that's—as he was walking out, that's when Rusty saw him with a gun. When Rusty said, "gun, gun, gun," I immediately turned around and I saw the gun too because he, initially, was looking at Rusty. And then when I came in, he looked at me and he was pointing the gun directly at me.

Q And was he standing in that dining room area at that point in time?

A He was like in the doorway of it.

Q Okay.

A Like right there at the doorway.

Q All right. Did you recognize that he didn't have any clothes on?

A Not at the time, I didn't.

Q Okay. How would you characterize the lighting in there?

A Well, there was light from the foyer. I also had a flashlight in my hand. I had it palmed so I had turned the light on and I was focused on the shotgun.

Q And did everybody have a light?

A I want to say yes. Most guys, they carry it on their pistol. I didn't have one on my pistol that night.

Q Okay. What happened next?

A Well, when I turned and I saw David, he had a gun at what would be considered a low ready. So he was holding it like this and he was walking toward me.

MR. BUCKLEY: When he said, like this, he had his hands at chest high.

A THE WITNESS: Yeah, chest high. And so I flashed him with my flashlight and I said, "Drop the gun. Drop the gun. Drop the gun." And he kept walking toward me and he raised it up and he shouldered it. And once he shouldered it, that's when we had to eliminate him because he was a threat at that time.

Q So to your knowledge, everybody had their flashlight shined on David?

A I don't recall everybody. I know that I had flashed mine on him.

Q Okay.

A I don't recall everybody though. I mean, I can't speak for anyone else.

Q And when you went through the door, everyone was yelling, "Sheriff's department, search warrant"?

A I know I was and I heard Rusty say it as well.

Q And that would have pretty much put everybody yelling at the same time?

A Possibly. I could see that.

Q And it was kind of the same with the gun situation. Everybody was yelling—

A Well, Rusty said—

Q —put down the gun at the same time?

A —gun, gun, gun, and then when I saw it, I immediately started yelling, "Drop the gun. Drop the gun."

Q All right.

A I was so focused I don't know what anybody else was saying.

Q Okay. How many times did you fire your weapon?

A I want to say the GBI said seven. I don't—like, when it actually happened, I know I fired a lot.

Q Did you fire any rounds through the walls?

A I was aiming toward him so if there was a ricochet . . .

DEPOSITION OF KASEY LOYD
RELEVANT EXCERPTS
(DECEMBER 9, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3: 16CV00023-DHB-BKE

[December 9, 2016 Transcript, P. 40]

Q Right. I understand.

A Because I believe they were totally instructing me that night to knock on the door, wait so many seconds, knock on the door again and after the third attempt—and we felt confident that whoever was in the house had time to get to the door—then I was would step to the side and allow them to kick the door in.

Q So were you the person making the decision that night as to when the door was to be breeched?

A I ended up making that decision. I knew at the time that we were there—honestly, I was expecting contact to be made and everything just to go off, like, smooth, but I did end up making the decision. I can't remember if I was the sole one that would have made that decision. Usually the team leader in the stack is right there close by. Once it's knocked, you know the way they trained us, once you know knock on the door so many times and kind of feel really confident, hey, nobody's coming to the door, then usually they'll say go ahead and hit it. "Hit the door." "Go" or whatever they're going to say to cue you to move out of the way.

Q Based on your training, what's your understanding of what a reasonable amount of time to wait for somebody to come to the door is?

A I believe that night he said somewhere around five . . .

[. . .]

Q And you took a position on the left side of the door?

A Yes, sir. That was—I was supposed to be on the right side of the door. Part of the time I was in the front of the doorway because I remember at some point during the standing there I was, like, this probably isn't the best idea, you know, just in case something bad does happen. So I kind of moved over. I believe it was—I don't know, it's in the report—exactly when I felt that way but

yes, I was partially in front of the doorway to the left side of the door kind of back and forth and the SRT, the stack team was on my right.

Q And being to the left side of the door—

A Uh-huh, (affirmative). Yes, sir.

Q —versus the right side of the door. Based on the way the hallway goes down the Hooks' home, it would actually make you less visible being on the left side of the door. Would it not?

MR. BUCKLEY: Object to the form of the question.

A THE WITNESS: I don't see how it would.

Q Okay. You don't think it would?

A No, sir.

Q My understanding is that you knocked and announced. You said, "Sheriff's office with a search warrant."?

A Yes, sir.

[. . .]

Q —and after the second time, you saw the light flip on in the foyer?

A Yes, sir.

Q Okay. And after that, you saw a woman in a red shirt at the end of the hall in the foyer?

A Yes, sir.

Q And you knew that was Teresa. Right?

A I believed it to be Teresa. I mean, at the time I did assume that it was Teresa.

Q When you saw her you didn't *see* any weapons in her hand?

A I did not.

Q Okay. And yet at some point in time, she moved from the foyer into a different room?

A I'm going to refresh my memory. I know when I did see her, I looked away and I was in the process of telling the stack team to, you know, "Hey, they're coming to the door. We can stand down."

Q So while you're looking at it, let me ask you this; so, you're having this—

MR. BUCKLEY: Well, let's let him refresh since he wants to. He'd asked to refresh in response to your question.

MR. SHOOK: Okay. That's fine.

MR. BUCKLEY: I just think it would be more productive.

A THE WITNESS: Okay. If you'll repeat your question so I can remember?

Q Okay. You knocked and announced,—

A Yes, sir.

Q —waited four to five seconds, knocked and announced again,—

A Yes, sir.

Q —and after the second time, you saw the light come on?

A Yes, sir.

Q When you saw the light come on, you then saw a woman in a red shirt down the hall toward what you knew was the foyer?

A Yes, sir.

Q Once you saw her, you turned to the entry team and you were about to go into a conversation with them about them coming to the door?

A Yes, sir. I remember doing that. I looked away. The only reason I remember vaguely looking away is because I caught myself and was like, "That's not smart. I don't need to take my eyes off of what's in front of me just in case." But I did look at them and I said, "Hey," somewhere along the lines of, "Hey, I made contact," you know. Y'all can stand down. They're coming to the door. Something of that nature.

Q Okay. You never made another knock and announce?

A That's where—I couldn't remember that night when I was doing the interview and I read over this. At some point I do recall after seeing her, I knocked again. I don't recall if it was—no, but at the point after I told them they could stand down, I never did knock again. Because when I looked, I saw her and I know that my report says she stepped off into the last room on the right. I don't recall that point now, I'm sure. I mean, I would not have lied during this interview. I'm trying to now but I know this. But just memory sake, I do remember—I don't remember if she stayed there or she dipped off in the last room on the right.

I remember looking at them and when I looked back up, to the best of my knowledge, that's when I saw her and David there for a brief amount of time. And I still was under the impression that they were coming but this happened so quick.

Q And the point in time when you saw her and David, they were in the hallway down toward the foyer. Correct?

A Yes, sir.

Q You did not see any weapons in either David Hooks' hands or Teresa Hooks' hands?

A I've replayed that through my head a million times and I can't say that I did. I don't know if it was the island was in the way. That would be speculation. I cannot remember if he did or not.

Q You never indicated to anybody in the entry team that you saw any weapons or anything of that nature?

A I did not.

COURT REPORTER: Excuse me. You don't know if what was in the way?

THE WITNESS: They were in the kitchen—

MR. BUCKLEY: He said the island.

COURT REPORTER: Island. Okay. That's all. I just needed that word. Thank you.

Q MR. SHOOK: At the point in time when you saw Teresa and David together, you never knocked and announced again after that?

A Not that I recall. I think as soon as I saw them, at that point, they were looking at me. I was looking

at them. I mean, I could see them clearly, you know, in the foyer and I really, I thought they were coming to the doorway. There was not a part of me that thought that they were not coming to the door. And when I looked away from them and looked back, I saw David. I still thought they were coming to the door and at some point, he—the verbiage that I used was, "He dipped off to the last room on the right." I remember distinctly saying, "He dipped off in the last room on the right."

Q And that would have been the living room?

A I guess it is the living room. I still—I'm not sure.

Q So we've knocked and announced twice and that period of time is a matter of 15 seconds—

A I can't put a time on it.

Q —when the light comes on? And my understanding is that as opposed to knocking and announcing repeatedly again, you made the decision to order the breech?

A When he dipped off in the last room on the right, which is common with any, you know, training, once contact is made and it's an obvious attempt of either fleeing, possibly destroying evidence. At the point when they know the sheriff's office is at the door with a search warrant or we feel very confident that they know, hey, it is the sheriff's office at your house. They do have a search warrant. It's common to go ahead and effect your search warrant because you don't want them to be able to go to: one, barricade themselves into a room; to arm theirselves (sic); to, you know, me

personally, if they destroy evidence on a search warrant, that's not my main concern. My main concern would be the safety aspect of it so I would be more or less of arming themselves.

So I do remember stepping out of the way. I remember thinking they need to go ahead and breech it. I may have said, you know, hit the door. I don't know that I did. I . . .

[. . .]

. . . different than they might have been if you were at one of those other locations: a crack house, a gang hideout, somewhere like that?

A Yes, sir. That is why I believe the knock-and-announce was chosen. That's why I thought it was chosen because it wasn't that type of situation.

Q Well, the knock-and-announce was chosen but it really wasn't carried out. Was it?

MR. BUCKLEY: Object to the form. Argumentative.

Q MR. SHOOK: You think it was carried out?

A I do.

Q You think it was carried out properly?

A I do.

Q All right. Once you moved out of the way, the door was breeched and the entry team starts filing in?

A Yes, sir.

Q And within a matter of literally seconds you heard gunfire?

A Yes, sir. It was pretty quick after going in.

Q Now my understanding is that the entry team, as they were going in, all of them were yelling at the same time.

A It is a possibility, yes. Most people, as you cross the threshold into a house, we would yell, "Sheriff's office with a search warrant."

Q And that would be some five or six people yelling it to the top of their lungs?

A They would have probably announced pretty loudly and I'm sure that we, that he did. I don't—that was one of those times we went in a lot sooner. It happened so quick even in my interview, like, immediately after that, I was still not exactly—I mean, I was sure that it was announced that I remember. I think I remember even me saying it. But yes, everybody would have announced it as they were entering the threshold.

Q And the way they would have announced it is they would all be yelling it at the same time?

A Usually when they cross the threshold. That's in the training or how it's commonly practiced as you're going in so there is an offset. But yes, it is possible that it was yelled at the same time.

(OFF THE RECORD)

Q MR. SHOOK: Okay. In all the—I think we've already covered the fact that all the entry team members had on their dark colored tactical gear?

A They are green in color. Yes, sir.

Q And in fact the discussion was made between you and Stokes that the reason he wanted you in

that uniform is he just didn't want everybody there with this dark clothing on?

A Yes, sir.

[. . .]

. . . person inside the house responded to the effect, "Give me a minute. I've got to get dressed."?

A I have.

Q Did anything in how David Hooks was acting as he walked towards you suggest that he didn't see you?

A No. I've replayed that through my head as well and I looked straight at him, he looked at me. I mean, it wasn't like it was a quick glance and run into a room. It was, like, hey, you know, I'm there. I don't remember if I yelled or if I knocked at that point. I thought they were coming to the door and he runned (sic) off but no, he—

Q Was he close enough by your impression that if he had said something to you you would have heard him?

A Yeah. If he would have said something anywhere near—like, loud enough or—since we're on opposite sides of the room, if I spoke in a proper voice did I think he would hear me? Yes, he could have easily heard me. There was no other noise around me at the time. Everybody was quiet.

Q So what if anything would have prevented you from hearing him if he said hey, I've got to get some clothes on? I'll be right there.

A I don't think anything would have prevented it.

Q Was there anything in his conduct that suggested he was just stepping out to put on some pants or something?

[. . .]

DEPOSITION OF RODNEY GARRETT
RELEVANT EXCERPTS
(DECEMBER 1, 2016)

IN THE MATTER OF:

HOOKS,

v.

BREWER

Case No. 3: 16CV00023-DHB-BKE

[December 1, 2016 Transcript, P. 39]

A. Em-hmm.

Q. And tell me how—what you did when you went in the Chevrolet truck.

A. Opened the door, got up in the seat and popped the center console and found a neoprene bag. There was probably 15, $20 cash just kind of wadded up. I folded it up, grabbed it—

Q. Okay.

A. —and I went to get out and that's when I noticed the scales, there was a set of scales there.

Q. Okay. Where were the scales sitting?

A. They were in the bottom of the console.

Q. Okay.

A. They had some papers and stuff like that laying on top of them. They wasn't visible when you first opened the—the hatch of the console—

Q. Right.

A. But upon digging I found them—I seen them, picked it up.

Q. Okay. You—you picked up the set of scales and took them with you?

A. Set of scales, yes, sir, and a neoprene bag.

Q. Okay. And you didn't open the neoprene bag?

DEPOSITION OF BRANDON FAIRCLOTH
RELEVANT EXCERPTS
(OCTOBER 10, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[October 10, 2016 Transcript, p. 26]

. . . all this has come up. And like, you know, we're trying to get the documents for you and all. Beyond that, I don't have a clear recollection but Lord knows, thousands of cases that, you know, so.

Q. Did this other information regarding Jeff Frazier that Chris Brewer was telling you about, did he ever tell you when that information was received?

A. I don't think he ever told me any specific time. I got the impression, which again, this is my best recollection, but that it was sometime in the past. It was not something that was super recent. I'll put it this way. I didn't get the impression that he was traveling on this information—this Jeff Frazier information as a basis for, for lack of a better term, non-staleness in terms of search warrant issues.

You know, the stuff that you have with the other guy who's broken into the car, this Garrett guy, that was supposed to have happened within the last, you know, day or so or, you know, the last few hours. Whatever the timeline was—the last couple of days.

This other stuff, I don't recall him specifically saying, you know, when it happened. But I got the impression that it had happened at some time in the past. It wasn't something super recent. And I never got the impression that that was their primary basis for asking for a search warrant.

[. . .]

. . . phone, whether they were just identifying themselves at the start of the conversation or if they interjected stuff, regardless, I'd say it was a fairly informal conversation where there was back and forth. And so, no, it wasn't something where I was just listening to information and then said, "I think they will give you, you know, a warrant."

It's a interplay back and forth as what he was telling me developed.

Q. Okay. Now, you've pointed out the law enforcement is not required to run it by you before they make application—

A. Oh, no. I would say the vast majority of the times, given the amount of warrants that are taken, being arrest or search warrants, they don't. But still, you're going to have a number of agencies and a number of officers and a number of cases where they do. It's a frequent thing but certainly, you know, it's probably in the grand scheme of things, a small percentage of what they're doing overall.

Q. And your sense, in terms of the reason for the inquiry with you, would you—was your sense that it was a good faith effort to make sure they had adequate information?

A. Oh, yeah. And I think they definitely, they were trying to make sure that when they went to the Magistrate Court, that they were going to have enough to get a sufficient warrant. And, you know, it's not that they are . . .

[. . .]

DEPOSITION OF ROBERT TONEY
RELEVANT EXCERPTS
(SEPTEMBER 12, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[September 12, 2016 Transcript, p. 23]

Q. Okay. After you tried to obtain prints if you could, talk to Mr. Hooks, you then returned to your office?

A. No, sir. It was 5:00 o'clock at that point. There was really nothing else that I could do. I had already entered the stolen vehicle in the GCIC. So I told him I would get back with him the next morning to do some follow up because he had

mentioned quite possibly it might be a disgruntled employee.

Q. Uh-huh, (affirmative).

A. —I told him I would follow up with him the next morning. So when I left I went home at that point.

Q. Did you end up compiling a list of what Mr. Hooks reported as having been taken?

A. What he reported to us that day was listed on the incident report.

Q. Okay. On the 24th, just noting from your report, September 24th, you spoke to Mr. Hooks again by way of cell phone? You called him on his cell?

A. I called him and I left a voicemail because he did not answer.

Q. Okay. And did—what were you trying to learn from him by calling him back?

A. I was wanting to see if I could generate a suspect list from him.

Q. Uh-huh, (affirmative).

A. If he had any ideas or anybody I could talk to that may have been involved with this. I even left on his voicemail that I was wanting to try to find out about any employees that he may have let go or if any that worked with him that wasn't (sic) happy with him.

Q. Did you check with any of the pawn shops?

A. I did.

Q. And what's the—what is it that you can find out by checking with pawn shops?

A. Well, the list of property that I have, we just go around to all the pawn shops and say has anybody brought in anything like this.

Q. Uh-huh, (affirmative).

A. And if they do, then we get a copy of the pawn ticket to see who it is. If it's a firearm, then we'll get the serial number off of it and do a ATF trace on it to see who it come (sic) back to. And basically there's a lot we can do from checking pawn shop PTs.

Q. Are the pawn shop owners required to report the weapons that are turned in to them or that they purchase?

A. Yes, sir. If they do a pawn or if they buy a firearm from an individual, they have to do a pawn sheet. They have to list the person that carries it to sell or to pawn. They have to get a copy of a driver's license or some kind of photo I.D. showing their date of birth, their Social . . .

[. . .]

DEPOSITION OF RYAN BROOKS
RELEVANT EXCERPTS
(SEPTEMBER 12, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[September 12, 2016 Transcript, p. 30]

Q Okay. Between the 21st and the 24th, do you recall any other steps that you might have taken to investigate—did you have anything else to do that dealt with Garrett?

A No, sir. I was off until the next incident happened.

Q So on the 24th tell us what happens on that day.

A On the 24th I was working night shifts and I was still at home in the bed. I received a phone

call from Ms. Beverly Garrett, which is Rodney's mother. She told me that Mr. Monty was having issues with his blood pressure and was hurting in his chest and asked me if I would come over and help her. I asked her if she had called 911 and she said, no, that she didn't know anybody else to call, that he wouldn't listen to nobody (sic) and wouldn't go to the doctor and asked me if I would just get over there.

I get up and put on my uniform shirt and pants because I didn't know if I would have time to come back home to fully get ready. So I just threw my shirt and pants on and my boots and I run out and leave and go to their house.

When I get there she's standing in the backyard and I said, "Where's Mr. Monty?"

She said, "He's on the back porch."

So we walked up to the porch. It's a screened in porch and I asked him if he was okay and he said that he would be in just a few minutes. I said, "Well, whatcha mean by that?" . . .

[. . .]

A. Yes, sir. He said there was another gun, possibly like a SKS rifle. He said he didn't need anything like that, but he just needed to shoot deer with and that he was going to take the deer that he killed and sell them in Dublin.

Q. Right. As of the—as of your first talking with Garrett about where he had gotten the car and the theft, were you yet aware of the report from David Hooks that his house had been robbed

and, you know, things had been taken from his property?

A. No, sir.

Q. The vehicle that you were shown by Garrett, that's the Aviator?

A. Yes, sir.

Q. And you located the VIN number on it?

A. Yes, sir.

Q. And called it in?

A. Yes, sir.

Q. And what happened when you called it in?

A. I don't remember if it came back stolen over the 911 or not.

Q. Okay. Let's see. Let me direct your attention to this second bracketed paragraph there. In your report I believe that you wrote that "He told me stole the vehicle from the Wrightsville Highway, a random vehicle, identification number with 911 came back stolen"?

A. Yes, sir.

Q. And that's indeed what happened?

A. Yes, sir.

Q. Then after that point in time you had contact with Mr. Frazier again?

A. Yes, sir.

Q. And eventually y'all set up contact with Sergeant Brewer and Corporal Burris?

A. Yes, sir.

MR. BUCKLEY: Can we make clear, you said Mr. Frazier? There's a Mr. Frazier in this case. This was Sergeant Frazier, I believe.

MR. SPEARS: Absolutely. There's a Sergeant Frazier. There's Jeff Fraser.

MR. BUCKLEY: Who is not a police officer.

MR. SPEARS: Who is not a police officer, right.

Q. MR. SPEARS: There is a sentence, let me direct your attention to it. See where it says, "Rodney said he went to his mother," etcetera, "and then decided to turn himself in. Sergeant Frazier called me back and I told him about the drugs, scales, and guns." Do you see that?

A. Yes, sir.

Q. As of this point, that is to say when you were having this initial contact with Sergeant Frazier, you've seen the Aviator, and you've checked the VIN number. My . . .

[. . .]

Q. In the third line from the top it's indicated by the officer who's speaking with you that the key was subsequently located and the box opened. Do you recall having told the GBI officer that?

A. No, sir.

Q. At some point as you're there, still there at the property, the Garrett property, am I correct in understanding that you asked Rodney Garrett about a four wheeler that he had been riding?

A. Yes, sir.

Q. And tell me, when you asked him that, did you have some suspicion that maybe it wasn't his?

A. I don't know. He was in a stolen truck so I didn't know. No.

Q. Understanding that you didn't know one way or another, did you wondered possibly if it was stolen?

A. Yes, sir.

Q. And what did you learn from Rodney Garrett about the four wheeler?

A. I can't remember what he told me about it. He told me where it was at and we went to the location.

Q. I'm looking at some—I think it's this long paragraph that starts with "We left the location." Do you see that?

A. Yes, sir. That's where he told me it was located or where it was at the time.

Q. And you're—at this point you're accompanied by Sergeant Brewer and Corporal Burris, correct?

A. Yes, sir. They're in the vehicle behind me.

Q. And I take it Rodney Garrett is in the vehicle that you're operating?

A. Yes, sir.

Q. And you drove out to Greg Couey—is it Couey?

A. Yes, sir. Greg Couey.

Q. C-O-U-E-Y. And what happened there?

A. We got him out of the car, Rod, and he walked us down in the woods and showed us where the four

wheeler was at. The four wheeler wouldn't crank and it was really thick in there with briars. I mean, it wasn't any way—it was down in, like, a creek bottom and there wasn't any way we could push it out.

Sergeant Brewer called Captain Wright and told him about it and Captain Wright said to leave it there and that he would deal with it.

Q. What position did Captain Wright have? Why would—what's your understanding of why that contact or that—

A. He's the Captain over investigations.

Q. Okay. For that shift or in general?

A. In general.

Q. And the—I take it that given that you had . . .

[. . .]

DEPOSITION OF STEVE VERTIN
RELEVANT EXCERPTS
(SEPTEMBER 12, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[September 12, 2016 Transcript, p. 18]

A. I'm proud of it.

Q. Who was doing—in your mind, who was putting together this plan?

A. All I can tell you is who I got briefed by. I got briefed by Stokes and then the drug unit did their part of the brief, which was not about tactics.

Q. Okay. Did anyone bring up the fact that Mr. Hooks' home had been burglarized a couple of nights earlier?

MR. BUCKLEY: Object to form.

A. THE WITNESS: To my understanding his home had not been burglarized. It was a building on the property or something.

Q. Okay. But there had been a burglary on his property?

A. Yeah.

Q. Was anything mentioned about the fact that this was going to take place approximately at 11:00 o'clock at night?

A. Yeah. Yeah. We discussed that and that's why we put a uniformed deputy at the front door and a uniformed deputy at the carport door. There was a marked patrol car leading the SRT van in, and several of us—I know me in particular and Jeremy Reese both said, you know, we're going to knock and announce until somebody answers the door. We're not in a hurry, we're going to give them plenty of time to get to the door.

[. . .]

. . . their schedule was.

Q. And it's 11:00 o'clock at night?

A. It's a little bit before, but sure.

Q. So after two minutes of knocking and announcing, Jeremy gives the—a minute and a half to two minutes, gives the announcement to breach, correct?

MR. BUCKLEY: Object to the form.

A. THE WITNESS: No. That's not correct. It wasn't because of the two minutes. It was because somebody was coming to the door and then ducked off

in another room. Because we would have stayed there until somebody came to the door.

Q. What about ducking off into the other room made it a requirement that the breach be done?

A. Well, that creates a circumstance to where we could breach the door. I mean, that's a (unintelligible) circumstance for safety. You come to the door and you see somebody at your door and you duck off in another room after these people are yelling, "Sheriff's office with a search warrant." There's blue lights in your yard.

Q. And you said it yourself, there was a lot of people yelling, "Search warrant, Sheriff's office"?

A. When the entry was made, yes. When they were knocking and announcing it was Kasey.

Q. No one said they saw anybody with a weapon before . . .

[. . .]

DEPOSITION OF LANCE PADGETT
RELEVANT EXCERPTS
(AUGUST 17, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[August 17, 2016 Transcript, p. 33]

A. Yes.

Q. In asking him that then you were basically asking where the rest of the things that were taken from the Hooks' home were?

A. Again, I was just trying to press him to admit to taking those guns, also.

Q. Right. Because it was your understanding that the theft had included more than just what Garrett was admitting to?

A. That was my understanding.

Q. At the time you asked him that, did you believe his statement or his—put it this way, did you believe his denials? "No, I didn't take any—didn't have anything to do with it." Anything along those lines? Did you believe him?

A. The issue on this is that he's already admitted to stealing the truck and, I believe, two guns. So I was sitting there wondering, well, if he's admitting to those, why is he not admitting to all of them? So I tend to believe him that he was telling me the truth.

Q. Even though you also understood that he could have sold them for drugs?

A. No. Like I said, that was just a tactic to try to get him to flip and say, yeah, I sold the rest of them for drugs.

Q. Right.

A. Or he might have sold them to his cousin and just didn't want to get his cousin in trouble.

Q. Right.

A. I mean, I'm just throwing that out there. But that was the reason. I had no evidence to prove that he sold these guns to anybody.

Q. Right. And no evidence—no evidence to the contrary, except his word?

A. That's it, and that he was in possession of the vehicle.

Q. Do you recall that you asked during the interview, as you and Mr. Brewer are there, that you asked Garrett about a saw that was missing from an Andy Cullens? Do you remember that?

A. Yes.

Q. And Garrett claimed to have purchased this saw from a John Shinholster?

A. Yes, I remember that.

Q. And claimed that when he purchased it, he knew it was hot?

A. Uh-huh, (affirmative).

Q. The chainsaw?

A. Yeah, I remember that conversation.

Q. Okay. Did you ever check out whether Garrett was . . .

[. . .]

. . . conversation?

A. Other than the interview we did with Rodney, I don't remember seeing anything, whether he had it or not.

Q. In talking about—when Brewer was talking about the information he'd gotten from this Frazier person about drugs, and again we're talking about Frazier, the suspect, okay? Because I know there's more than one Frazier in Laurens County. As to that, what, if anything, did Rodney—what, if any-

thing, did Stewart say about how recent he had gotten that information?

A. Stewart?

MR. BUCKLEY: Yeah.

MR. SPEARS: I'm sorry. What did I say?

MR. BUCKLEY: Stewart. Brewer?

Q. MR. SPEARS: Brewer. Yeah. I apologize.

A. What's the question again?

Q. Did he vouch for when he got that information from Frazier? Did Brewer vouch for it?

A. I can't remember.

Q. Do you recall if you asked him about that?

A. I—

Q. How long ago was this?

A. I don't—I don't remember asking. Like I said, I don't have nothin' to do with that side of it. If I asked him, it was just off the cuff and he told me and I—I don't remember his answer if I even asked him.

Q. During the course of the telephone—tell me what you recall about the telephone communication with Faircloth.

A. Basically, we just—Brewer called Brandon Faircloth, told him that we had Rodney. Well, I don't even remember if he used his name. Told him about the interview that we had with the suspect. Basically, told him what he said as far as the drugs being found in the house—or in the vehicle. Told him about a chainsaw that was stolen, that

we knew nothin' about. And just basically talking to him about the past information that he had with Frazier, and him—but that was basically the conversation.

Q. What—you mentioned the chainsaw that I think you said, "We didn't know anything about." Help me out here because as I listened to the interview with Garrett, I didn't catch the chainsaw. I heard the words saw and chainsaw being talked about—

A. Uh-huh, (affirmative).

Q. —but I don't—was there a point in that interview where he said, "Oh, I stole this chainsaw," and either you understood that to have been something no one knew anything about or Brewer said it wasn't anything that you knew anything about? Because I don't—I didn't hear that in the interview and I was just asking.

A. And I think Ryan is the one that brought that up, Sergeant Brooks. And he's the one that said something—I believe a saw that was stolen from Cullens, Andy Cullens.

Q. Right.

A. And that it hadn't been reported stolen yet, that they didn't even know it.

Q. So you think it's a reference to that?

A. Yeah. That's exactly what he was talking about.

Q. Ryan might have talked about that. I don't recall him saying that in this—during the course of the interview. So Ryan might have brought it up separate from the interview?

A. No. I think it's in the interview. I can't remember, but—

Q. All right. Okay. By the best of your recollection was the call to Faircloth about five minutes or so after the Garrett interview?

A. Oh, yeah. It was fairly quick after the interview.

Q. Round about 9:00 o'clock is when it happened?

A. Now that I don't know.

Q. At some point in the conversation with Faircloth, do you recall that Faircloth made the comment, something along the lines, "It sounded pretty thin"?

A. I don't remember that.

Q. Do you recall Brewer ever explaining to Faircloth that Frazier's report to Brewer linking drugs and Hooks was a . . .

[. . .]

DEPOSITION OF BILL HARRELL
RELEVANT EXCERPTS
(AUGUST 17, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[August 17, 2016 Transcript, p. 73]

Q. So in—on this particular date, who made the decision to use the SRT team or the SRT in this —the service of this particular warrant, search warrant?

A. Like I say, we always use them.

Q. It's a standing policy?

A. If we—if we—no, it's not a standing policy but if we feel like it's something that we use all the time, yes, it would be.

Q. Okay. Well, Sheriff, here's the thing, if it's not a standing policy who has to make the decision? So what I'm asking you is who is the person that said in this case we're going to use the sheriff's response team in the service of this warrant on David Hooks' home?

A. Like I was telling you, I got a page. It said they were going to execute the warrant and the SR team was going to be there. I can't remember if it was Steven Howard or if it was Brian Stokes or whoever at the head at the time and that's when I got there and I followed up on what they said.

Q. So—

A. But as you were saying, it was a standard policy? No, I don't have a standard policy of who, but we try to use them as much as we can on any warrant.

Q. And have you given those instructions to your captains in that regard?

A. No. Uh-uh, (negative). But thing about it is if we—if we're going to serve a search warrant, we go ahead and make sure we try to do it.

Q. So you haven't, at some point in time in the past, in a meeting with your captains or your SRT people said, look, if we're going to serve a search warrant, we need to use them if they're available.

A. We try to, 'cause here's the thing about it is—

Q. But have you said that?

A. If I have, I don't recall. But here's the thing about it is, I can remember years ago when we served search warrants, they (sic) might not be but one or two of us go serve a search warrant. Our biggest concern is about the overall safety of everybody, and that's the reason we use them.

Q. Do you know who made the decision in this case then for the sheriff's response—

A. For—

Q. —team to be deployed to David Hooks' home?

A. No, sir, I do not.

Q. You were in the briefing and had knowledge that that was going to happen, the SRT was going to be used?

A. Yes. The SR team was there already when I got there.

Q. Again, at the point in time when you arrive at the briefing, you are the highest ranking law enforcement officer . . .

[. . .]

MR. SHOOK: He didn't answer with a yes or a no.

MR. BUCKLEY: Yeah, he did. Yes, he did.

MR. SHOOK: No, he didn't.

A. THE WITNESS: I said I try to go to every one I can. Now as for how many search warrants been done since then, I cannot tell you.

Q. MR. SHOOK: Whatever the number of search warrants that's been done since September the

25th of 2014, which is almost two years—it's a year and eleven—almost eleven months—you've been to one since then?

A. I may have been to another one but I cannot recall.

Q. But on this particular night, a search warrant that was going to be served on a rainy night you wanted to be there, didn't you?

A. I went because I got the page.

Q. Now going back to the uniforms that—that the SRT wears, if a person is looking down on them and it's dark, can they see the word "sheriff" on their chest or on their back?

MR. BUCKLEY: Object to the form.

Q. MR. SHOOK: Looking straight down on them?

A. I'm sure—unless they were—unless they were out to the side, they probably couldn't see it.

MR. SHOOK: All right. All right. Let's—we're inside five, I think? All right. Let's take a break.

(BREAK)

[. . .]

. . . earlier, that this was intended to be a "knock and announce."

A. That's correct.

Q. What was the discussion in the briefing about how the "knock and announce" was to take place?

A. They would knock and announce on the door and say, "Sheriff's office." We'd have a deputy at the back door, patrol car, be wearing a Class A

uniform, and from what I understand, I think they were familiar with Casey.

Q. And a Class A uniform is what you're wearing?

A. Yes. Uh-huh, (affirmative).

Q. So it's a—what color would you call that?

A. It's blue.

Q. Navy, dark navy blue?

A. I don't know what you going to call it but it's a blue to me.

Q. But it's a dark navy blue?

A. Uh-huh, (affirmative). Uh-huh, (affirmative).

MR. BUCKLEY: Say yes or no.

A. THE WITNESS: Yes. I'm sorry. Apologize.

MR. BUCKLEY: It's all right.

Q. MR. SHOOK: Okay. And a pair of khaki pants?

A. Yes, it's something similar to khaki. Uh-huh, (affirmative).

Q. Okay.

A. And they have a black or dark color stripe on them.

[. . .]

DEPOSITION OF CHRISTOPHER BREWER
RELEVANT EXCERPTS
(AUGUST 16, 2016)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[August 16, 2016 Transcript, p. 21]

. . . had was that his possession of the meth was possession that he had come into without a plan. Is that accurate? Without a plan to have meth?

A. Yes, that was my initial belief.

Q. And in connection with what he reported to you, he came upon the meth in a console of a white pickup truck?

A. Yes. I believe that was his statement.

Q. And in that console he found a bag and he found scales. Correct?

A. And some currency.

Q. And he took the currency, the bag, and the scales?

A. That's correct.

Q. And the currency—his story was that he was unaware of the content of the bag that he had taken until after he had left the scene stolen the car that he stole?

A. Yes.

Q. So if his possession, as it turned out, of meth—the bag was inadvertent, what possible purpose did he have, that you concluded he had, in taking scales from the home?

A. I have no idea.

Q. The scales as you understood them to be were scales that could be used for weighing. Correct?

A. Correct.

Q. And in your opinion as a narcotics investigator, when you were informed, and I take it you saw the scales.

[. . .]

. . . said. Forgive me. If you would—

A. That's okay. Garrett said that he had been staying with the Olivers prior to going to the Hooks' residence. I had some information that the Olivers were allegedly involved with the Hooks in distribution of narcotics. The fact that the Hooks' residence sits quite a distance off the road and Garrett

was saying that he just saw the columns and decided to walk through, down this road to see where it led and it just happened to be the Hooks' residence, Garrett's admission that he was—had used narcotics, I just felt like anybody basically anybody that was involved in methamphetamine that was—and I hate to generalize this, but from the east side of—what we commonly refer to as the river, being the east side of Laurens County—would not have known that that was the Hooks' residence, especially somebody involved in narcotics. I just thought that that was almost to the point of being unbelievable but there was—and we, during our interview, we attempted to trip him up and to get him to, you know, admit, hey, he did know where he was going and he just was adamant that he had no idea that that was the Hooks' residence.

Q. I believe you came to the conclusion that he, being Garrett, where he had stayed and having said that he had probably used some meth before he talked to you, that he was in one way or another involved in narcotics, generally?

[. . .]

A. No, sir.

Q. And you've looked over your application in preparation for your deposition, have you not?

A. Yes.

Q. And along those lines, did you look over the supplemental report that we were discussing earlier?

A. I've looked over it recently but it was not in preparation for this.

Q. Within the last couple of months maybe?

A. Yes.

Q. In addition then let me ask whether you listened to the interviews that the GBI conducted of you following David Hooks' death?

A. I have not.

Q. Have you read their narrative of those interviews?

A. Yes.

Q. Have you read them within the last year?

A. Yes.

Q. Within the last month?

A. Within the last week.

Q. Okay. As a general matter let me ask you this then, referring now to the GBI narratives, not the audio obviously, but just their narratives, can you think of anything that—any statement that's attributed to you in their narrative of their interview of you that you believe is . . .

[. . .]

. . . Brooks.

Q. And during—while you were out there at the Garrett properties—did you go with the officers as they went to where Garrett had his shed and there was equipment there?

A. I did.

Q. He was pointing out, "No, that's mine. That might be somebody else's," that process?

A. Yes.

Q. So, through that you learned that there were other things that he had taken, that he had stolen, in addition to the allegation of the earlier vehicle theft and the, now, most current allegation involving the Hooks' vehicle, etcetera? Right?

A. I think I understand what you're asking me but I'll answer it and if it doesn't answer what you're asking me, you'll have to rephrase the question. While we were on the scene, Sergeant Brooks, apparently has known the Garretts for an extended period of time and he started talking with Rodney and asking him about other thefts. And Rodney was trying, in my opinion, was trying to be as forthcoming as possible. Took us to the shed. Took us into his house and, you know, Sergeant Brooks was asking him about property that was there and Rodney was trying to explain if it had or had not been involved in a theft. Now some of the crimes that Garrett admitted to during the course of that evening—and I'm talking about from our initial encounter with Garrett through the interviews that Sergeant Padgett conducted—were crimes that were not documented, to my understanding, by the sheriff's department. He admitted to crimes we had no knowledge of. That was, once again, used as a basis of whether or not he was being truthful that night.

Q. Can you name one item of property that Garrett said that he had taken that was one that was not previously known to the sheriff's department?

A. Me, personally? No, sir. Because I don't work property crimes and I don't generally work thefts and burglaries, those were unimportant to me. I know that as a law enforcement officer that's a bad

statement to say but was not something that I was going to focus on. That would have been Sergeant Padgett and the other general crime investigators—that would have been their responsibility to follow-up on that or to have knowledge of those thefts.

Q. So at the time that you were there in Garrett's presence as he's making reference to what you concluded were crimes that had not yet been documented, based on what you've just told me, I take it that you didn't note what those crimes were? At the time?

MR. BUCKLEY: Object to the form of the question.

Q. You didn't jot down what the crimes were that he . . .

[. . .]

. . . for him. Now he's in trouble because he's saying, "Hey, I got this car back there and it's got meth in it." So he's being arrested?

MR. BUCKLEY: I'll object to that narrative.

Q. MR. SPEARS: We know that he—

MR. BUCKLEY: Misstates facts. That's the for objection.

Q. MR. SPEARS: Okay. So there's an arrest warrant for him and it has to do with thefts. So he's being arrested for theft regardless. Right?

A. Yes.

Q. And you're there at the scene and he's admitting other crimes—other offenses while you're there?

A. At the scene? Yes. He's admitting the theft of Hooks' property.

Q. Right.

A. At the scene.

Q. And at the scene. What I'm trying to do is understand, again going back to the statement that you made that Garrett was admitting to crimes that were ones that had not yet been documented?

A. Yes.

Q. That's what I'm trying to get back to. Okay?

A. Yes.

Q. So with that as a predicate, what crime did he admit to for which you concluded there was no documentation of it?

A. It's generally—I would have to say it was a theft. It was quite possible it was a burglary but at the very least, it was a theft. This did not occur on the initial scene at the Garretts. This occurred during the interviews.

Q. Okay. Were there any admissions by Garrett, in addition to this one, that you concluded were his reporting to you of crimes that had not yet been documented?

A. I'm going to have to answer this in a general term because I don't deal with property crimes. I hope this will clear up. While we're in the interview, he starts talking about other thefts, possible burglaries. I honestly do not know because I did not follow-up with them.

For example, I took that candy. What candy? Oh, it was some candy that was at this house over here on this—we don't have no report of that. And I took this pen. Oh, you talking about the pen from so and so's house? Yeah, I took that pen.

So he was reporting crimes that he had committed in the past, some of which the investigators, the general crime investigators, were familiar with and some that they had no knowledge of.

So I think I actually have, maybe, misspoke in saying . . .

[. . .]

. . . Were you present for his interview or am I—

A. No.

Q. So as of—as of the time that you met with the magistrate on the Hooks' warrant application, you were—I'm trying to see if I understand the logistic of this thing. You were aware there was a Jeffrey Frazier person who had made allegations about David Hooks. Correct?

A. Yes.

Q. And the allegations were made in 2009, right?

A. Are you asking me did I know it then or do I know it now?

Q. Well, did you know it then?

A. I did not know the date.

Q. Well, when you told the magistrate that Jeffrey Frazier had made allegations about David Hooks, before telling her that what steps, if any, had you

taken to determine when Jeffrey Frazier had in real time made those allegations?

A. None. That night? You're asking me that night.

Q. That night. That's what I'm asking.

A. No, I did not take any steps. I just had an independent recollection of Frazier having made these statements in the past.

Q. And that independent recollection was based on what source of information?

[. . .]

. . . recall—it goes—my initial hearings about Hooks goes as far back as 2002.

But Frazier was the one that gave us, what I'd say is gave us the most information about Hooks. You know, where he lived and how much methamphetamine he was alleged to be distributing and what I say are specifics that I can attribute directly to Hooks.

Then after Frazier there were other people that started coming forward and they were talking—you know, when they talked about Hooks then I knew who they were talking about and it just went into my basis of knowledge of Hooks at that point.

Q. When did Sergeant Frazier first say anything to you about Hooks?

A. I cannot recall. I can tell you that it was shortly after he interviewed the May subject. I'm saying May because that's the name that's in my mind. I believe that was who that person was. So if I'm wrong about a last name, I'm just wrong about it.

Q. Okay.

A. But it was shortly after he conducted an interview he came down and was like, "Hey, do you know this guy?" just interviewed this subject on an unrelated case and he volunteered this information about David Hooks. It was, like, that's accurate information. We're familiar with . . .

[. . .]

. . . reference to when the information was received by you or anyone in the Narcotics Unit from Frazier. Do you agree?

A. That's correct.

Q. You were aware when you met with the magistrate judge that the contact with Frazier, as you now have described it, was an interview with Burris in 2009. Correct?

A. I think you asked me a multi-part question again. I knew prior to meeting with the magistrate or upon meeting with the magistrate that Burris had relayed to me the information from his interview with Frazier. I did not have an independent recollection of it being 2009.

Q. Do you agree that the recency of information with respect to drug transactions is an important piece of information in criminal investigations?

A. It can be.

Q. And it is an important piece of information with respect to assessing whether or not a particular subject of an investigation currently possesses illegal drugs?

MR. BUCKLEY: Object to the form.

THE WITNESS: It can be.

Q. Knowing that it can be, can you explain to me why you did not tell the magistrate when the information had been received from Frazier or why you didn't yourself go back and look?

A. The short answer would be trying to expedite the process. I didn't go back and pull Frazier's file. I also—I knew when I was meeting with the magistrate that Sergeant Frazier had this recorded interview with this subject, May, where May had alleged that Hooks was distributing methamphetamine. But because I couldn't recall May's name at the time I was writing the search warrant, I didn't include May's information in that affidavit. I just couldn't recall the subject's name and chose to just leave that information out completely rather than possibly taint the magistrate with information that I wasn't 100 percent sure about. In my mind the Frazier interview/incident had—was much more recent than 2009 when I was preparing the search warrant.

Q. What had you thinking it was much more recent?

A. I guess because I'm getting old and time goes by a lot faster than I thought. Even if you review my interview with the GBI, I reference the fact that we had interviewed Frazier two or three years ago. In my mind it had only been a couple of years since we had interviewed Frazier when this information had come up about Hooks. I was slightly shocked that it was 2009 once I went back and started pulling files for the GBI and everything.

Q. Before you went to talk to the magistrate with the Hooks' application, did you communicate with Tim Burris about Frazier? Let me narrow it because I'm talking about that day. Did you talk to Burris about his contact with Frazier?

A. I believe I did—

Q. Okay.

A. —but I don't—I don't—I hesitate to swear to that under oath, but yes, I did speak with Burris.

Q. Did you make any inquiry as to how long ago that was?

A. Once again, I don't recall specific questions that we talked about or information that we referenced back and forth, but I believe that while I was typing the search warrant, we discussed Frazier's—the information that Frazier had gave us. Basically, just more of a hey, this is what I'm typing; isn't that what he said, type of situation.

Q. Okay.

A. Not, hey, when was the time, what was the setting, where were y'all at, you know, all that kind of stuff. I don't recall interviewing him all that.

Q. So Deputy Burris was in your presence at some period of time during the course of your preparation of the warrant?

A. At different periods of time. He was doing other things and then I would—his office was adjacent to mine. You know, I'd be, like, "Hey, Tim," what about so and so, or have you notified these people, and all the other things that go into preparing for a search warrant as well as preparing a . . .

[. . .]

. . . like, every charge he had. I do recall he was a convicted felon.

Honestly, I can't sit here today do I recall him have a gun in the house. I think there was a gun in the house, but I don't think—maybe this helps if I explain it this way. Frazier was Corporal Burris' case and that was his case file. He was the one that was responsible for knowing the minutia of everything there. Basically my responsibilities at that time, the time of the Frazier case and in the future cases, were hey, do you, you as in Corporal Burris, does Burris need anything from me, you know, and assisting Burris in making sure that everything that needs to happen in that case happens.

Q. With respect to the subject May, who had contact with Sergeant Frazier, can you tell me anything that you knew about him before you—that you knew about him and were aware of on the day that you applied for the search warrant involving Burris?

A. By name?

Q. May. Mr. May.

A. Yes, sir. I'm asking you, are you—I was aware. I remembered that Sergeant Frazier had told me he had interviewed a subject and that during that interview Hooks had stated that he was selling a large amount of methamphetamine. But at the time that I was applying—authoring the search warrant and applying for a search warrant, I couldn't recall the guy's name. I couldn't recall

how recent it had been. I really couldn't recall anything other than I remembered Gerald telling me about this guy.

"Hey, Tim, do you remember that guy's name or anything?" But neither one of us could come up with enough information while I was writing to include that in the affidavit.

Q. Okay. And I take it you didn't reach out to Sergeant Frazier on that day of taking out that search warrant?

A. No, sir. And to further clarify, I didn't go back through my notebooks and see, hey, in 2002 Robbie Miller was telling—told you about David Hooks.

I mean, I didn't go—it would have took me a substantial amount of time to go through every piece of Intel I've ever gathered to determine that there were nothing—there was nothing else relating to Hooks in any of my notebooks or anything. Those are the ones that I can remember.

I could remember Frazier basically because Frazier was the one that first gave us enough information that I thought, hey, if we can collaborate some of this, this might be actionable. This may be something we can use. Then we just were never able to gather enough to make it actionable, in my mind.

[. . .]

. . . The only time some record would have been made is if a case file was generated by driving by this particular place.

Q. Are you aware of any other case files that linked Hooks to narcotics other than the May one and the Frazier one?

A. Robbie Miller. For me to sit right here and call names, it's kind of hard to do. I think Tony Fulford spoke to—it's not a case file, but he spoke with Captain Chris Bracewell after the fact or after the search warrant, about Hooks. Gosh. I'm not trying to be flippant, but there were so many people that came forward after the fact it was, like, you know, I knew this or I knew that, and I didn't make a record of almost any of it because at that point it was, like, hey, it's no use to me for purposes of this search warrant now. This is after the fact. Why didn't you tell me this, you know, before? Those are the names that I independently recall. Fulford's was even after the incident.

Q. What's the time frame of the allegations of Robbie Miller?

A. 2002.

Q. What were the allegations?

A. That David Hooks was distributing methamphetamine.

Q. What, if any, step did you take to set up a controlled buy from David Hooks or a controlled sale to David Hooks of illegal drugs?

[. . .]

. . . it, the information you had about Mark May came from Sergeant Frazier?

A. That's correct.

Q. And you haven't had occasion to be in person with Mark May and get information directly from him?

A. Not to my recollection.

Q. So with respect to whatever Sergeant Frazier told you about Mark May, to the best of your recollection it is the case, is it not, that Mark May never claimed to have been inside of the Hooks' home?

A. Not to my knowledge.

Q. Is that also the case with respect to Jeff Frazier, or do you recall?

A. I don't have any knowledge that he said that one way or the other.

Q. So as of the day of the search warrant was there any source of information, law enforcement or informant or citizen, any source of information that you had that provided you with information about any drug activity taking place inside the Hooks' home?

A. If you specifically narrow it down to inside the home then I'd have to answer no.

Q. And the—as of the time of the application for the search warrant there was only—in your understanding at least, there was only one site at which anyone claimed that . . .

[. . .]

. . . a used car lot or something, or if the tag was from a used car lot or came back to a used car lot. I don't remember if it came back to an individual person or if it came back to a, quote/unquote, "dealership" or used car lot.

Q. Referring to the truck from which Garrett claimed to have taken the bag and the scale, what step,

if any, was taken to determine the ownership of that truck prior to the search?

A. I believe it was investigator Toney who told us that there was, in fact, a vehicle which Garrett was describing parked where Garrett was describing it as being.

Q. Was the VIN run?

A. By me.

Q. Was it run by anybody to the best of your knowledge?

A. I do not know.

Q. So the ownership of that vehicle insofar as you could tell one way or another prior to—on the day of the search warrant application, was unknown?

MR. BUCKLEY: Object to the form of the question.

A. THE WITNESS: I think you're asking me a legal question and I don't think we—I am unaware if anybody ran the VIN or established that David Hooks was, in fact, the legal owner of the vehicle which was alleged to have been parked under his carport and from which Hook—I mean, Garrett took the items that he stated. Now I don't—Garrett said it was under Hooks' carport. The investigator said, hey, there is a vehicle just like that under Hooks' carport. I assumed it was Hooks' vehicle. Now, it might have been in Ms. Teresa Hooks' name or it could have been in his son's name or it could have been in his daughter's name or great granddaughter or somebody else's name. I don't know who the legal owner of it is. But it was my belief that the vehicles parked under

the carport belonged to Hooks, per se Hooks as in the Hooks family.

Q. It could have been one of his employees?

A. It's possible.

Q. But no investigation was done then as to the actual ownership prior to and on the day of the search warrant application?

A. By me? No, sir.

Q. By anyone, to the best of your knowledge?

MR. BUCKLEY: Object to the form.

A. THE WITNESS: I don't know.

Q. In the affidavit that is included in Exhibit 1 you said that Garrett claimed that he placed the bag and scale that he stole from the pickup truck console in the carport into a lockbox. Do you recall that?

MR. BUCKLEY: Where are you?

MR. SEARS: My notes.

[. . .]

. . . basis of whether he was being truthful at all.

Q. It didn't occur to you that he might have gotten the drugs somewhere else other than Hooks after he sold stolen property from Hooks?

MR. BUCKLEY: Object to the form of the question.

A. THE WITNESS: No, sir. That never crossed my mind.

Q. So you didn't eliminate it. You just didn't even think about it?

MR. BUCKLEY: Object to the form of the question.

A. THE WITNESS: There was no reason to think that.

Q. Do you recall during the interview with Garrett at the sheriff's department that Lance Padgett told Garrett that he was having a hard time believing that all he took from. Hooks' home was two guns, the bag, and the money, and the car?

A. Do I independently recall that? No, sir. But I'm not disputing that that happened. Once again, that was quite possibly one of the incidences where we were trying to trip Garrett up and make him admit stuff that he had not already admitted. You know, hey, change—trying to get him to change his story. His story did not change.

Q. Are you familiar with how long cocaine can remain in someone's system after they've ingested it as a general matter?

A. I used to know it right off the top of my head and . . .

[. . .]

. . . I mean, I'm sure if I sat here for a little bit I could probably come up with other reasons but that's the initial one that just jumps out in my head.

Q. Can you recall that that was the reason that night for getting the warrant in the time period that you—

A. Yes, we—

Q. —went to get?

A. Yes. We were concerned. When we were discussing whether or not we should even apply for a search warrant that was one of the things that came up was, you know, hey, once he finds out, he as being Hooks, finds out that Garrett's in custody and we've got this meth off of Garrett, anything that's there is gone, as in Hooks is going to get rid of it.

Q. Okay. So the premise for your concern is that Hooks knows Garrett?

A. THE WITNESS: If—

MR. BUCKLEY: Object to the form of the question.

THE WITNESS: If Hooks knows Garrett.

Q. Well, understanding that. But your—the need to move quickly, within one night, after—within the same night that you get the information from Garrett comes from the surmise that if Hooks learns that Garrett is in custody that if there is any legal drugs present at the home that it will be eliminated?

MR. BUCKLEY: Object to form.

[. . .]

Q. MR. SPEARS: Something along those lines, right?

MR. BUCKLEY: Object to form. Asked and answered.

A. THE WITNESS: And the fact that—there are several factors in that statement. If Hooks does, in fact, know Garrett and learns that Garrett is cooperating then that's a reason why Garrett—I mean, Hooks, would get rid of any evidence there. If Hooks learns, even if he doesn't know Garrett, and he learns, hey, they've got a bunch

of dope from a bag with a scale that may have my fingerprints or DNA or, you know, some other evidence associating me with these narcotics, hey, they might come looking here. I need to get rid of all that stuff. So that, you know, that's a basis for why I thought, hey, we need to do the search warrant tonight. We need to move on this.

Q. So if the premise of your concern was—well, let's isolate it out like this. Okay.

MR. SHOOK: Less than one minute.

MR. BUCKLEY: Why don't we go off.

(OFF THE RECORD)

Q. MR. SPEARS: Before you entered the metal box that you got from Garrett, were any photographs taken of it?

A. I do not recall.

Q. Once it was opened and—once it was opened, were any photographs taken of any of the contents of the box before any of the contents were removed?

[. . .]

DEPOSITION OF TERESA POPE HOOKS
RELEVANT EXCERPTS
(AUGUST 8, 2016)

IN THE MATTER OF:

TERESA POPE HOOKS, Individually, *ET AL.*

v.

CHRISTOPHER BREWER, ET AL.

Julie Ann Jones Reporting
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[August 8, 2016 Transcript, p. 66]

Q. Okay.

A. Yes.

Q. If it comes to you, just shout it out and we'll move on. Bear with me a sec.

Is Eastside still in business?

A. No.

Q. Has it been liquidated? I mean, you sold—

A. Somewhat.

Q. —you sold the trucks and such?

A. (Witness nods head affirmatively.) Yes.

Q. Yes?

A. (Witness nods head affirmatively.)

Q. Okay. And to your knowledge, up to the time of the incident, other than doing some, as you've put it, trading at the pawn shop, his sole source of income was running Eastside Construction Company?

A. Correct.

Q. What kind of things would he trade at the pawn shop to your knowledge?

A. Guns.

Q. Did he travel to gun shows regularly?

A. No.

Q. So—and he—he had a number of guns, correct?

A. Correct.

Q. To your knowledge, most of those were acquired over the years either at the pawn shop that you referenced or maybe with other hunters?

A. Correct.

Q. What was the name of that pawn shop again? I'm sorry.

A. Eastside Surplus—Army Surplus.

Q. Do you know who does own it?

A. Kelly Thigpen.

Q. Do you know of Kelly to be in business other than in a pawn shop?

A. Yes.

Q. What does he do?

A. He is—not construction, but it's acoustical.

Q. Tile?

A. Yes.

Q. Okay. And it was with that business that he would sometimes work with your husband?

A. Right. Right.

Q. Okay. There's some reference in the discovery or in your statement to the GBI perhaps about a hearing loss that you have?

A. Yes.

Q. You are unable to hear out of one of your ears?

A. Right ear.

Q. The right ear? How did that happen?

A. Virus.

Q. When you were?

A. It was about five years ago.

Q. Have you had hearing tested about that?

A. Yes.

Q. And it's a hundred-percent loss in that ear?

A. Close to it.

Q. Okay. What about your other ear?

A. It's fine.

Q. Okay. What kind of things do you have trouble hearing?

A. High frequency.

Q. Like when you're listening to the radio or something like that?

A. Right.

Q. After the incident when your son—your son, excuse me. I'll start over.

After the incident when your husband was hospitalized, are you aware that a sampling was taken that indicated a positive test for amphetamine?

A. Yes.

Q. Has anyone given you an explanation of what that was?

A. No.

[. . .]

[August 8, 2016 Transcript, p. 114]

Q. Okay. When you—But you did have an understanding that your husband was going to be coming back at night because of the theft?

A. Yes.

Q. Okay. And that was unusual; he normally would stay away for days—

A. Yes.

Q. —when working? And—But that was the extent of the conversation about he—he was coming back?

A. Right.

Q. Words to the effect, well, with what happened Monday, I'm going to come home every night?

A. Yeah.

Q. All right. Expectation that it might just be for this week and then things get back to—

A. Yes.

Q. —normal? Okay.

A. Yes.

Q. So as you watched T.V. with your husband and as you worked in the craft room, as you went to bed, you were not anxious that something else was going to happen—

A. Right.

Q. —you thought that was an isolated incident?

A. I did.

Q. But when this car comes up and these people are—these figures are out there, you thought back to the theft?

A. I did.

Q. All right. Tell me what happened next.

A. I saw the figures when I looked out the window. I got out of bed and started yelling for David.

Q. You started yelling for David?

A. (Witness nods head affirmatively.)

Q. Okay. Let me ask you a question. Had—With your hearing loss, had you ever had trouble hearing people talk to you from downstairs?

A. Some.

Q. Okay. So in terms of anything the police may have said while standing either at the back door or the front door based on your experience with

your hearing loss, they may have said something and you didn't hear it, correct?

A. I heard them yelling.

Q. You heard the police yelling?

A. I heard them yelling.

Q. All right. From outside?

A. Yes.

Q. And they were yelling what?

A. I don't know.

Q. Okay. Was it a whole bunch of them yelling or one voice yelling? I mean, could you tell?

A. No.

Q. Okay. So it could've been one person yelling?

A. Could've been.

Q. Okay. Did you hear them knock on the door?

A. I heard them beat on the door.

Q. Okay. And by the door, you think it was the back door?

A. It was.

Q. Okay. Do you know one way or the other whether an officer was at the front door?

A. No.

Q. Was it typical for you to receive guests and visitors through the back door?

A. Yes.

Q. Okay. The back door had a glass window pane in it—

A. At the time.

Q. —that you could see out?

A. Yes.

Q. Okay. Had you had occasion at that time of day in the past to have a visitor come to the back door and knock in your life living at that property?

A. I mean, I'm sure I have in my life.

Q. Okay. So you have at that time of day under those conditions seen someone at the back door from the kitchen?

A. Yeah—

Q. And—

A. —I would say so.

Q. And been able to see them, correct?

A. (No response.)

Q. Generally?

A. Yeah.

Q. Okay. All right, so you are still in the upstairs bedroom when you hear the banging on the door and someone yelling?

A. No.

Q. No. Where are you by this time?

A. I've come down the stairs.

Q. Okay. The stairs—When you come down the stairs, at the bottom of those steps, where are you

relative to the square that is the house? Are you closer to the kitchen or closer to the front?

A. Closer to the front.

Q. Okay. Why don't you put DS for downstairs for where the bottom of the stairs is relative to the house?

A. (Witness complies with the request of counsel.)

Q. Okay. When you come to the bottom of the stairs, as the crow flies there is a DS straight in line with the back door.

A. Uh-huh (affirmative).

Q. Is there anything obstructing your view—

A. There's a wall right here (indicating) that juts out a little bit right here where the bathroom is.

Q. All right. When you got to the bottom of the stairs, had—You've talked in your statement before about how they broke the door in.

A. Uh-huh (affirmative).

Q. Had that already happened by the time you got to the bottom of the steps?

A. No.

Q. Okay. When you got to the bottom of the steps, did you look to the back of the house?

A. I'm sure I turned and looked.

Q. Did you see anyone?

A. Forms.

Q. Forms?

A. Uh-huh (affirmative).

Q. Okay. You did not see a uniformed officer?

A. No.

Q. You did not see Officer Loyd?

A. No.

[. . .]

. . . the door down. The door had been knocked down. He stepped back like he was going to get—grab his pants, and then he heard the door, so he come around me from here (indicating). He come around me and went into the den, and this is the dining room that goes into the kitchen. It kind of goes in a circle.

Q. Okay. Now, let me stop you right there.

A. Okay.

Q. So he comes out. I want you to just make a little line that is the door to the master bedroom.

A. (Witness complies with the request of counsel.)

Q. All right, so he comes out the—and you would agree with me that where it says master, the line that's about two inches to the right of that on this diagram is the door to the master bedroom, correct?

A. That's the door right there (indicating), uh-huh (affirmative).

Q. So I'm right?

A. Uh-huh (affirmative).

Q. Yes or no?

A. Yes.

Q. Thank you. You had just come down these steps and were standing where it says DS, downstairs, correct?

A. Right.

Q. And you were facing your husband who came out this door (indicating)?

A. Right.

Q. He had a shotgun with him?

A. Right.

Q. Okay. He was naked?

A. Right.

Q. He asked you who it was, you said, I don't know, and your impression was he turned around like to put on pants or something?

A. Right.

Q. And at that point the door got crashed in?

A. Correct.

Q. All right. So it's your testimony that you and your husband were situated right at the threshold of the master bedroom when the police broke through the back door?

A. I was here at the end of the stairs.

Q. Okay.

A. I wasn't that close to him.

Q. You were within eight feet of him?

A. Right.

Q. And he was standing in the doorway of the master bedroom when they penetrated the back door?

A. Correct.

Q. Okay. All right. When they penetrated, where . . .

. . . you were standing, did you turn around and see that the door had been busted open?

A. Yes.

Q. Straight down the hall, right?

A. I heard it more than saw—I think I heard it and then I saw it.

Q. Right. But from this point where you have DS, you've told me about this partial wall—

A. Right.

Q. —one can look and see the back door straight down a hallway there, correct?

A. If you're situated right you can.

Q. Right. One can also walk from that spot to the back door without going through any other rooms, correct?

A. Right.

Q. The shortest path between where you were and plus eight feet where your husband was to the back door is straight down that hallway, correct?

A. Yes.

Q. Okay. All right. So—But you're saying your husband took the gun with him—He still had the gun with him—

A. Yes.

Q. —the shotgun? He was still naked?

A. Right.

[. . .]

[August 8, 2016 Transcript, p. 126]

Q. And he went past you and into a side room?

A. No. There's a big door here (indicating) that goes into our den.

Q. Okay. So he went through that door into the den?

A. Uh-huh (affirmative).

Q. Yes or no?

A. Yes.

Q. Which then is connected to the dining room?

A. Right here (indicating).

Q. Which then is connected to the kitchen?

A. Right.

Q. Which the kitchen is where that door is, correct?

A. Right.

Q. All right. So rather than going straight down the hallway to the door, he went through the den, and your sense was—You didn't follow him into the dining room, did you?

A. I followed him to the den.

Q. Okay. And you saw him go in the dining room?

A. Yes.

Q. And then he went in the direction of the kitchen, or—

A. Right.

Q. —did you see that?

A. I saw him go in the direction of—

Q. All right.

A. —the kitchen.

Q. But you didn't see him—

A. No.

Q. —actually go in? All right. What did you—During this—But by the—by the time he—your husband starts into the den—

A. Yes.

Q. —the back door has already been penetrated?

A. Yeah.

Q. Okay. All right. So in the time it takes him to go through the den, into the dining room and then into the kitchen, the police had already been in the house all that time, correct?

A. Yes.

Q. Okay. Tell me what happened next.

A. When he went into the living room, I followed behind him, but the shots were already being fired, so before I could get to the dining room, I ran back into the bedroom.

Q. And shut the door?

A. And shut the door.

Q. And it's your testimony, as with your

[. . .]

[August 8, 2016 Transcript, p. 164]

Q. Less than 10 seconds?

A. Yes. Well, yeah.

Q. Okay. And your recollection is, as far as any substantive or factual conversation about what had happened, from the time you came out with your hands up till you gave your statement to the GBI, no conversations about what had happened or what was going on—

A. No.

Q. —of any substance, right?

A. No.

Q. Okay. When you left the scene, you were aware that your husband had been transported to a hospital?

A. Yes.

Q. And you knew which hospital?

A. I found out before we left.

Q. From whom?

A. We called them. Fairview.

Q. Okay. Is that the first hospital you called?

A. Yes.

Q. Okay. And so when you left, you and Brandon went to the hospital?

A. We met my daughter.

Q. Okay. At her house?

A. No, in town.

Q. Okay. Where had she been?

A. She was at her boyfriend's.

Q. Okay. Where does he live?

A. Mount Vernon.

Q. And what's his name?

A. Matt Waller.

Q. Does he have any business affiliation with your husband?

A. No.

Q. Okay. He lives in Dublin?

A. No, he lives in Mount Vernon.

Q. I'm sorry, you said that. All right. What does he do?

A. Towing. Vehicle repo, towing.

Q. Oh, okay.

A. Wrecker.

Q. Got it. Tow truck?

A. Yeah.

Q. All right. When you were coming down the steps and banging on the wall, what were you yelling?

A. David.

Q. Just that?

A. Just that.

Q. When your husband went through the den into the dining room, you lost sight of him?

A. I did.

Q. And it's fair to say that where he was standing when the first shot was fired is something you don't know, correct?

A. No.

Q. He could've been in the doorway of the kitchen, gotten into the kitchen. You don't know, correct?

A. I don't.

Q. All right. You do know that when you last saw him, he had a shotgun with him?

A. Yes.

Q. And he was moving at a fairly fast rate of speed into the dining room?

A. Yes.

Q. Okay. At least from your perspective, at the time you heard the first shot fired, you still didn't know it was law enforcement, correct?

A. No.

Q. The last thing your husband said to you was, who is it?

A. Correct.

Q. Okay. You didn't talk to him again after that?

A. No.

Q. When you talked to—to Connie—I'm sorry, your daughter?

A. Carla.

[. . .]

DEPOSITION OF WILLIAM MEEKS
RELEVANT EXCERPTS
(APRIL 4, 2017)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

TERESA POPE HOOKS, Individually and
ESTATE OF DAVID HOOKS,
by Teresa Pope Hooks, Administratrix,

Plaintiffs,

v.

CHRISTOPHER BREWER, ET AL.,

Defendants.

Case No. 3:16CV00023-DHB-BKE

[April 4, 2017 Transcript, p. 45]

. . . and Sergeant Forte was telling him to drop the gun. I heard him say it once or twice. "Drop the gun. Drop the gun."

Instead of dropping the gun, he raised the gun to a shooting position and started to turn towards Sergeant Forte. At that time, I fired my weapon.

Q. Am I correct in saying that when each person entered the house, they were yelling, "sheriff's department"?

A. Yes, sir. Sheriff's department with a search warrant.

Q. And that pretty much had everybody yelling at the same time?

A. Yeah. As each member goes through the door, "sheriff's department, search warrant."

Q. And when David Hooks became present, everybody was yelling at the same time to put the gun down?

A. Mr. Hooks was present when I made entry.

Q. Do you know how many times you fired?

A. I do not.

Q. Do you know where the projectiles from your gun went?

A. No, sir. I was aimed at center mass. And I heard Sergeant Forte holler, "gun here." In answer to your last question, I heard Sergeant Forte say, "Drop the gun. Drop the gun." I don't know who else said drop the gun.

Q. Did you say it?

[. . .]