No. 21A807

IN THE

Supreme Court of the United States

LORENZO SHELTON,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

On Petition For A Writ of Certiorari
To The United States Court of Appeals For The Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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October 10, 2022 *Counsel for Petitioner*

QUESTIONS PRESENTED

The first question presented, on which the circuits are now divided, is whether the Fourth Amendment's privacy protections prevent law enforcement from searching places where a parolee has standing but at the same time are not unambiguously the parolee's "place of residence."

The second question presented, on which the circuits disagree with this Court, is whether Fourth Amendment cell phone protections, articulated by this Court in cases like *Riley v. California*, 575 U.S. 373 (2014), apply to parolee searches?

PARTIES TO THE PROCEEDING

Petitioner, defendant-appellant below, is Lorenzo Shelton.

Respondent is the United States of America, appellee below.

RELATED PROCEEDING

United States v. Lorenzo Shelton, No. 20-6348, United States Court of Appeals for the Sixth Circuit. Judgment entered Mar. 8, 2022.

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The opinion of the United States Court of Appeals for the Sixth Circuit is not reported. See App. A, *infra*, 14.

JURISDICTION

The Court of Appeals entered a judgment in this case on March 8, 2022. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTORY AND REGULATORY PROVISIONS INVOLVED

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. amend IV.

STATEMENT OF THE CASE

When Petitioner Lorenzo Shelton signed a *Parole Certificate* in October 2015, he "agree[d] to a search, without a warrant, of **my** person, vehicle, **property**, or **place of residence** by any Probation/Parole officer or law enforcement officer, at any time without reasonable suspicion." RE 47-1 (emphasis added). Both at the time Shelton signed his agreement and in August of 2016, Shelton personally resided at 317 Tillman Lane in Nashville, Tennessee. *See* RE 47-2, PageID #71. Shelton's law enforcement file reflected also reflected that 317 Tillman Lane was the address of his personal residence. *See* RE 47-2, PageID #71–72.

An anonymous woman called law enforcement in late July of 2016 to tell police that "Shelton was selling drugs in a rental car **behind his house**, and that **his house** might contain firearms." *United States v. Shelton*, 2022 U.S. App. LEXIS 6159, 2022 WL 684395, at *2 (6th Cir. Mar. 8, 2022) (emphasis added). Officers descended upon 317 Tillman Lane several days later. *See id.* When police realized Shelton was absent, they summoned Shelton[1] to his residence. *See id*; RE 47-2, PageID# 79, 85, 101.

Officers searched Shelton's residence at Tillman Lane, consistent with the terms of his *Parole*

[1] Tennessee State Parole Officer Pasqualetto acknowledged at the evidentiary hearing that he lied to Shelton, telling him that he was instead only engaging in a house visit, while encouraging him to return home. *See* RE 80, PageID# 317–19. Had Shelton not returned to 317 Tillman Lane, Tennessee Department of Correction rules would have prevented Pasqualetto from searing Shelton's residence. *See id.* at PageID# 431–42.

Certificate, and found firearms, heroin, and Suboxone Film strips.[2] *See* RE 47-2, PageID# 73–74, 87, 89, 112. Officers also searched Shelton's vehicle, within which they found four cell phones and approximately $11,000 in cash. *See id.* at PageID# 97, 113.

During these parolee searches, Shelton sat on the front porch with a fifth cell phone. *See Shelton*, 2022 U.S. App LEXIS 6159 at *2. An officer took Shelton's phone mid-text and "looked through other text messages and pictures on the cellphone." *Id.* As police examined the cell phone, Shelton received a phone call and text from the same number, which police traced to a physical address of "3565 Chesapeake Bay [sic] Drive." *See id.* at *3.[3] Despite having found evidence at Tillman Lane consistent with that of a residential home, Police took Shelton to 3565 Chesapeake Drive. *See* RE 47-2, PageID# 73, 114.

A young boy and his twenty-year-old sister came to the door of the Chesapeake Drive home when police knocked. *See Shelton*, 2022 U.S. App LEXIS 6159 at *3. The children told police that Shelton had been spending some time at the Chesapeake Drive house "for about two weeks." Docket Entry 19,

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[2] Suboxone Film is a prescription medicine that contains the active ingredients buprenorphine and naloxone. It is used to treat adults who are dependent on (addicted to) opioids (either prescription or illegal).

[3] Police also asked Shelton questions while detained on the front porch, and in response to one question Shelton told the officers that he had moved to Chesapeake Drive two weeks prior. *See* RE 80, PageID# 344. This questioning came without a *Miranda* warning, and at no point during this questioning did Shelton provide police with a new residential address on Chesapeake Drive.

PageID# 22. Shelton visited Chesapeake primarily because he "was dating [the kids'] mother." *Shelton*, 2022 U.S. App LEXIS 6159 at *3. Police asked the kids to show them Shelton's room—which was deadbolt locked—and the children complied. *See id.* After using Shelton's keys to unlock the room, police found "more heroin, money, a money counter, a Ruger 9mm pistol, and a photograph of Shelton." *Id.*

Relying heavily upon the evidence police found at the Chesapeake Drive address, the Government charged Shelton with one count of possession with intent to distribute 100 grams or more of heroin, in violation of 21 U.S.C. § 841(a)(1); one count of possession with intent to distribute a substance containing heroin, in violation of 21 U.S.C. § 841(a)(1); one count of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924; and one count of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A). *See id.* Shelton sought suppression of the evidence obtained at 317 Tillman Lane and 3565 Chesapeake Drive, but the district court denied his motions. *See id.* The jury found Shelton guilty on all counts and delivered a thirty-year prison sentence. *Id.*

Shelton appealed to the United States Court of Appeals for the Sixth Circuit, arguing: (1) police's search of 317 Tillman Lane violated the Fourth Amendment, since police conducted the search arbitrarily and unreasonably; (2) police's search of 3565 Chesapeake Drive violated the Fourth Amendment, since police did not have probable cause nor did Shelton's *Parole Certificate* unambiguously allow for a search of an unconfirmed alternative

residence; (3) police's search of Shelton's cell phone violated this Court's holding in *Riley v. California*, 575 U.S. 373 (2014), and its progeny; and (4) the Trial Court improperly permitted an incompetent witness to provide testimony against Shelton at trial. *See generally* Docket Entry 19. The Sixth Circuit affirmed the Trial Court, denying each of Petitioner's arguments. *See Shelton*, 2022 U.S. App LEXIS 6159 at *4–5.

Shelton filed a *pro se* petition for writ of certiorari on May 29, 2022. Upon obtaining representation, Shelton withdrew his *pro se* petition and filed an "Application for an Extension of Time Within Which to File a Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit." This Court granted Shelton two extensions, setting his petition deadline ultimately for October 10, 2022.

REASONS FOR GRANTING THE PETITION

As this Court has repeatedly explained, "[t]he Fourth Amendment protects people, not places." *Katz v. United States*, 389 U.S. 347, 351 (1967). But not all persons in the United States are protected equally by the Fourth Amendment. *See generally Samson v. California*, 547 U.S. 843 (2006). This Court has held that Parolees' privacy interests are "severely diminished . . . by virtue of their status" since parole is "an established variation on imprisonment." *Id.* at 852 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 477 (1972)).

But the law has continued to evolve since this Court issued its opinion in *Morrissey v. Brewer*. Parole search conditions are found throughout American criminal law, *see Samson*, 547 U.S. at 852, often couched within broad language requiring a parolee "submit his . . . person, property, . . . [or] place or residence . . . to search at anytime . . . by any [parole] officer or law enforcement officer."[4] *United States v. Knights*, 534 U.S. 112, 114 (2001). While this Court found that the acceptance of "clear and unambiguous search condition[s] significantly diminish[ ] . . . expectation[s] of privacy," *Samson*, 547 U.S. at 852 (quoting *Knights*, 534 U.S. at 119), many modern situations give rise to ambiguity and constitutional questions regarding the scope of their terms.

For one, the circuits continue to deepen a split on the question of whether a location where a typical criminal defendant may have Fourth Amendment standing, *see generally Minnesota v. Olson,* 495 U.S. 1 (1990), but at the same time would not qualify as their primary residence, is searchable under the parolee search exception. *Compare United States v. Grandberry*, 730 F.3d 968, 976 (9th Cir. 2013) *with United States v. Graham*, 553 F.3d 6 (1st Cir. 2009) (probationers) *and Shelton*, 2022 U.S. App LEXIS 6159 at *4 (parolees). Additionally, despite most every circuit to consider the question finding that the

[4] Although the quoted language comes directly from this Court's premier case regarding probationers, similar broad waivers are also reflected in *Parole Certificates* like Shelton's. *See* RE 47-1. Shelton's *Parole Certificate* required that he "agree to a search, without a warrant, of my person, vehicle, property, or place of residence by any Probation/Parole officer or law enforcement officer, at any time without reasonable suspicion." *Id.*

parolee search exception applies to cell phones and their internal digital data, that principle of law seems to directly conflict with this Court's holding in *Riley v. California*. *See generally* 575 U.S. 373 (2014). Presumably, the Government cannot force parolees to waive their constitutional rights without an unambiguous waiver; and yet, cell phones have not unambiguously been considered property of a parolee given their unique status under the Fourth Amendment. *Compare United States v. Fletcher*, 978 F.3d 1009, 1018–19 (6th Cir. 2020) *with United States v. Pacheco*, 884 F.3d 1031, 1040–41 (10th Cir. 2018) *and Shelton*, 2022 U.S. App LEXIS 6159 at *5. Both questions presented implicate this Court's precedent, and thus the Court is best positioned to resolve the lower court tension on these important criminal constitutional issues.

I. THE FIRST QUESTION PROVIDES THE COURT AN OPPORTUNITY TO RESOLVE A DEEPENING CIRCUIT SPLIT

This Court has not determined the scope of Fourth Amendment protections afforded to parolees in situations where their *Parole Certificate* or similar waiver contains ambiguous provisions. At issue in Shelton's case is the phrase "place of residence" found in his *Parole Certificate*. RE 47-1. What Fourth Amendment protection should be given, if any, to spaces where a criminal defendant can plausibly claim standing but at the same time cannot unambiguously qualify as their place of residence?

The Ninth Circuit only considers the phrase to apply to one particular location, and uses a "relatively

stringent," "fact-intensive" analysis to answer the question of which location is a particular parolee's place of residence. *United States v. Grandberry*, 730 F.3d 968, 976, 980 (9th Cir. 2013) (quoting *Ornelas v. United States*, 517 U.S. 690, 703 (1996)). In *United States v. Grandberry*¸ the court acknowledged that Ninth Circuit precedent created a constellation of "patterns that . . . in most cases . . . [can give] officers [ ] probable cause to conclude that a parolee lived in a residence not reported by [the] parolee as his address."[5] *Id.* at 976 (quoting *United States v. Howard*, 447 F.3d 1257, 1265 (9th Cir. 2006)) (internal quotation marks omitted). These "clearly emerge[nt]" criteria for consideration[6] include: (1) not appearing to reside at another address; (2) direct observations by law enforcement;[7] (3) whether the defendant had a key to the other location;[8] and (4) whether a co-resident implicated the defendant's

[5] Parole certificates in the Ninth Circuit typically provide law enforcement *carte blanche* to search "any property under [the parolee's] control." *Grandberry*, 730 F.3d at 980.

[6] These considerations should be "viewed cumulatively rather than independently for purposes of assessing probable cause as to residence." *Grandberry*, 730 F.3d at 976.

[7] Some law enforcement observations are entitled to more "weight" than others. *Grandberry*, 730 F.3d at 978. For example, observing someone's continued presence may be significant, but "even if frequent, does not, standing alone, establish probable cause that the parolee lives there." *Id.*

[8] This fact, much like Government surveillance, "standing alone, does not establish probable cause." *Grandberry*, 730 F.3d at 979. As the Ninth Circuit observed, "key access to . . . [an] apartment would not, without more, lead a reasonably prudent person to believe that [the keyholder] lived there." *Id.* at 980.

residential status.[9] *Id.* (citing *Howard*, 447 F.3d at 1265–66. If judged using this standard, perhaps the Sixth Circuit would have found that 3565 Chesapeake Drive did not qualify as a place of residence and, as a result, would have concluded that police violated Shelton's Fourth Amendment rights.

The Sixth Circuit took a different approach below, concluding that "as a practical matter[,] a person can have more than one place of residence." *Shelton*, 2022 U.S. App. LEXIS 6159, 2022 WL 684395, at *4. While not identical, this approach seems similar in kind to the analysis used by the First Circuit in the context of probationer residences. *See See generally United States v. Graham*, 553 F.3d 6 (1st Cir. 2009). There, a criminal defendant claimed "that he did not reside at [an] apartment," and thus the police searching that apartment without a warrant violated his Fourth Amendment rights. *Id.* at 14. While the First Circuit does not articulate criterion like the Ninth does, in *Graham* it noted that police relied upon "five pieces of information[:]" (1) a police report situating the defendant at the apartment; (2) statements from another probation officer; (3) statements from another apartment owner; (4) law enforcement observations of known associates near the apartment; and (5) no evidence that Graham resided at another main location. *Id.* at 13 (citing *United States v. Risse*, 83 F.3d 212, 217 (8th Cir. 1996) (applying similar analysis to execution of arrest warrant)). The First Circuit held that this

[9] Not all supposed co-resident statements deserve equal weight. Someone calling a defendant's location "your place" was too ambiguous for a clear finding of probable cause. 730 F.3d at 977.

information, taken together, could plausibly give officers "a reasonable belief that Graham resided in the apartment." *Id.* at 14.

Although the Sixth Circuit's opinion is unpublished and non-binding, its logic contributes to the deepening of a growing circuit split and could invite law enforcement abuse. Shelton's case exemplifies this concern: instead of relying upon the magnitude of different facts and criteria identified by the First or Ninth Circuits, the court below relied mainly on statements obtained pre-*Miranda* warning and statements from an alleged co-resident minor. *Compare Shelton*, 2022 U.S. App. LEXIS 6159, 2022 WL 684395, at *4 *with Grandberry*, 730 F.3d at 977 (calling reliance upon co-resident statements a "weakness").

None of these circuits seem to strictly adhere to the "Fourth Amendment reasonableness inquiry" identified in cases like *Knights* and *Samson*, which is instead the method of analysis employed for probationers in the Fifth Circuit. *United States v. Taylor*, 482 F.3d 315, 319 (5th Cir. 2007) (quoting 534 U.S. at 121); *but see Taylor*, 482 F.3d at 319 n.2 (questioning whether the reasonableness requirement "has been eliminated"). Instead, different circuits have created a patchwork of standing rules for parolees. *See, e.g., Grandberry*, 730 F.3d at 985 (acknowledging "doctrinal inconsistencies"); *Cf. United States v. Hopkins*, 830 Fed. Appx. 220, 222 (9th Cir. Nov. 24, 2020) (declining to use *Grandberry* analysis as "not particularly apt" for the circumstances of the case). Shelton's case provides the Court with an opportunity, and an appropriate

vehicle, to bring a developing circuit split to a close before it snowballs out of control.

II. THE SECOND QUESTION PROVIDES THE COURT AN OPPORTUNITY TO RECONCILE ITS PAROLEE SEARCH AND CELL PHONE PRIVACY JURISPRUDENCE

This Court should also grant Shelton's certiorari petition because his case provides an opportunity to explain to lower courts how to reconcile its cell phone privacy jurisprudence and parolee search exception holdings. "Modern cell phones, as a category, implicate privacy concerns far beyond those implicated by the search of [other property,]" and that realization motivated this Court to treat cell phones with unique sensitivity. *Riley*, 573 U.S. at 393. Despite the Government arguing otherwise, this Court rejected the notion that "officers should always be able to search a phone's call log[.]" *Id.* at 400.

And yet, that's exactly what police did in Shelton's case. *See Shelton*, 2022 U.S. App LEXIS 6159 at *2. Incident to Shelton's arrest, police seized and searched his cell phone's "text messages and pictures" until Shelton received a phone call that police were able to trace back to 3565 Chesapeake Drive. *Id.* Curiously, the Sixth Circuit said that this information "did not come from a search of the phone's internal data," *Id.* at *5, but even if the court was incorrect, the court justified its dismissal of Shelton's objection by invoking his "lesser expectation of privacy" as a parolee. *Id.* (citing *Samson*, 547 U.S. at 850). Based on modern trends in the circuits though,

this result is not unsurprising. *See generally United States v. Wood*, 16 F.4th 529 (7th Cir. 2021); *United States v. Pacheco*, 884 F.3d 1031 (10th Cir. 2018); *United States v. Johnson*, 875 F.3d 1265 (9th Cir. 2017).

Not only is the opinion below not in lockstep with this Court's opinion in *Riley*, but it also conflicts with the Sixth Circuit's past opinion in *United States v. Fletcher*. *Compare Shelton*, 2022 U.S. App LEXIS 6159 at *5 *with* 978 F.3d 1009 (6th Cir. 2020). Ohio's parole conditions permit law enforcement to search any "item of tangible or intangible personal property," yet the Sixth Circuit found in *Fletcher* that such language "did not clearly or unambiguously allow for the search of his phones." 978 F.3d at 1020; *see also United States v. Lara*, 815 F.3d 605, 611 (9th Cir. 2016) (explaining in probationer case that "nor does the word "property" unambiguously include cell phone data").

Fletcher's condition language was more specific than Shelton's, and even though Fletcher was a probationer, the Sixth Circuit protected Fletcher's cell phone data. *See* 978 F.3d at 1018. That panel's logic should apply to parolees just as probationers, even though they hold "diminished" privacy interests. *Samson*, 547 U.S. at 850. Probationers and parolees should not be considered to have waived their constitutional rights via ambiguous conditions that guarantee alternatives to imprisonment.

CONCLUSION

Petitioner respectfully requests this Court grant his petition for writ of certiorari.

Respectfully submitted,

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APPENDIX A

NOT RECOMMENDED FOR PUBLICATION
File Name: 22a0109n.06

No. 20-6348

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[**FILED**
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UNITED STATES OF AMERICA,	)
	)
Plaintiff-Appellee,	) ON APPEAL
	) FROM THE
v.	) UNITED
	) STATES
LORENZO SHELTON,	) DISTRICT
	) COURT
Defendant-Appellant.	) FOR THE
	) MIDDLE
	) DISTRICT
	) OF
	) TENNESSEE

Before: COLE, KETHLEDGE, and WHITE, Circuit Judges.

KETHLEDGE, Circuit Judge. A jury found Lorenzo Shelton guilty of possessing drugs and firearms while on parole. He argues that the officers here violated the Fourth Amendment when they searched his rooms and cellphone for evidence later used to convict him. We affirm.

I.

In January 2002, Shelton pled guilty in state court to possessing and selling cocaine, and to possessing a firearm with intent to use the weapon in a felony. He was sentenced to 20 years in prison. In October 2015 Shelton was released on parole. He signed a parole certificate in which he agreed to provide his address to his parole officer and to inform the officer if his address changed. Shelton further agreed to let officers search his "person, vehicle, property, or place of residence . . . at any time without reasonable suspicion" and without a warrant.

In July 2016, Shelton told his parole officer that he lived at 317 Tillman Lane in Nashville. That officer, Michael Pasqualetto, soon received anonymous phone calls from a woman who said that Shelton was selling drugs in a rental car behind his house, and that his house might contain firearms.

Days later, at 7 a.m., Pasqualetto and four other parole officers visited 317 Tillman Lane for the purpose of searching it. Shelton was not there, so Pasqualetto called him and told him to return to Tillman Lane. Shelton showed up about 20 minutes later in a rental car. The officers said they were going to search the house; Shelton replied that he had moved to a different address two weeks before. That address included the word "Chesapeake" and had a "three" in the house number. Shelton verbally

consented to a search of the Tillman home, and said his room had been in the basement. At some point, five Metro-Nashville Police Department officers also arrived on the scene.

The parole officers first unlocked Shelton's rental car, in which they found four cellphones and $11,300 in cash. They told Shelton to sit on the front porch while they searched the house itself. Some officers stayed with Shelton on the porch; others went to the basement, which showed no signs of habitation. The officers then searched a bedroom on the first floor, where they found Shelton's driver's license, men's clothing, Pasqualetto's business card, and mail addressed to Shelton. In that same room, they also found three small bags of heroin, digital scales, sandwich bags, and 905 strips of suboxone, a controlled substance. In an adjacent bedroom, they found a sawed-off shotgun.

Meanwhile, on the porch, one of the parole officers noticed that Shelton was texting on his remaining cellphone. An officer took it out of his hands and saw in plain view the message that Shelton had been typing, which read: "Get everything out m". The parole officers then looked through other text messages and pictures on the cellphone; as they did so, another number repeatedly appeared on the screen as it called and texted Shelton's phone. A police officer ran that number through a database, which provided a physical address associated with the phone number: 3565 Chesapeake Bay Drive. The police officers arrested Shelton and found a set of keys in his pocket. They put him in a police car and began driving to 3565 Chesapeake. Shelton began to hyperventilate, looked sick, and threw up upon arrival. The officers called an ambulance for him.

Meanwhile, two parole officers knocked on the door of the Chesapeake house and spoke with a 20-year-old woman inside. They asked whether Shelton had been staying there; she said he had been there about two weeks and was dating her mother. She pointed to the room in which Shelton had been staying, which was locked with a deadbolt. The officers unlocked the room with the keys that Shelton had been carrying; inside, they found more heroin, money, a money counter, a Ruger 9mm pistol, and a photograph of Shelton.

A grand jury later indicted Shelton on one count of possession with intent to distribute 100 grams or more of heroin, in violation of 21 U.S.C. § 841(a)(1); one count of possession with intent to distribute a substance containing heroin, in violation of 21 U.S.C. § 841(a)(1); one count of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924; and one count of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A). Shelton later moved to suppress the evidence from the Tillman and Chesapeake searches. The district court denied the motion. Shelton proceeded to trial, where a jury found Shelton guilty on all four counts. The district court sentenced Shelton to 30 years' imprisonment. This appeal followed.

II.

Shelton challenges the district court's denial of his motion to suppress. We review the district court's legal conclusions de novo and its factual findings for clear error. *United States v. Fletcher*, 978 F.3d 1009, 1014 (6th Cir. 2020).

Shelton first challenges the search of the Tillman address. The officers searched that address pursuant to Shelton's parole certificate, which granted officers permission to search his residence without probable cause. The only question here, therefore, is whether the search complied with Tennessee law regarding parolee searches. *See United States v. Loney*, 331 F.3d 516, 520 (6th Cir. 2003). Tennessee law bars searches of a parolee's residence only if "the search was conducted for reasons other than valid law enforcement concerns"—such as searches that are "intended to cause . . . harm" or "conducted out of personal animosity." *State v. Stanfield*, 554 S.W.3d 1, 12 (Tenn. 2018). Shelton has not made any such showing here. The search of the Tillman home was therefore lawful.

The same is true as to the Chesapeake address, for substantially the same reasons. (We pass over the question whether Shelton has "standing"—in a non-Article III sense—to challenge the search of that residence.) Shelton himself told officers that he had moved to an address that included the word "Chesapeake"; the young woman who answered the door at 3565 Chesapeake said that Shelton had been staying there for two weeks; and that timing matched up with when Shelton himself had said he moved from the Tillman address. The officers therefore had probable cause to think that 3565 Chesapeake was his

"place of residence" (the term used in the parole certificate), or at least one of them. Shelton doubts that officers can have probable cause to think that one suspect resides at two addresses. But he offers no authority for that proposition, and as a practical matter a person can have more than one place of residence.

Shelton does argue—as part as his challenge to the Chesapeake search—that the officers unlawfully searched his cellphone. But the officers were undisputedly entitled to take the phone from him while he was attempting to text with it, and in doing so they saw in plain view an incoming number that they later traced to the 3565 Chesapeake address. Nothing in that sequence effected an unlawful search of Shelton's cellphone. *See United States v. Herndon*, 501 F.3d 683, 693 (6th Cir. 2007). Nor is this case like *United States v. Fletcher*: the information that led officers to the Chesapeake address did not come from a search of the phone's internal data; and as a parolee rather than a probationer, Shelton had a lesser expectation of privacy than Fletcher did. *See* 978 F.3d 1009, 1018–19 (6th Cir. 2020); *Samson v. California*, 547 U.S. 843, 850 (2006). The search of the Chesapeake residence was lawful. Shelton's final argument concerns the trial testimony of his cousin, Latez Murphy, who Shelton says was under the influence of drugs when he testified. But "[e]very person is competent to be a witness unless [the Federal Rules of Evidence] provide otherwise." Fed. R. Evid. 601. On this record, the district did not abuse its discretion when it found that Murphy's alleged intoxication affected his credibility, not his competence. *United States v. Callahan*, 801 F.3d 606, 622 (6th Cir. 2015). And Shelton's counsel cross-

examined Murphy accordingly. The district court's judgment is affirmed.