

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN DAVID MARTIN,

Defendant.

Case No. 1:18-cr-140-9

HON. JANET T. NEFF

ORDER

Pending before the Court is Defendant's Motion to Suppress (ECF No. 201), in which Defendant requests a *Franks* hearing pursuant to *Franks v. Delaware*, 438 U.S. 154, 155-56 (1978), as he contends that the search warrant affidavit at issue contains false statements regarding the sale of heroin to an informant near the intersection of Union Ave. SE/Thomas St. SE (ECF No. 202 at PageID.801). The Government responds that Defendant's conclusory, self-serving affidavit statements that he did not sell heroin where the officers saw him are insufficient to overcome his burden in requesting a *Franks* hearing (ECF No. 234 at PageID.881).

Under *Franks*, a hearing must be held at the defendant's request "where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause." *Franks*, 438 U.S. at 155-56. Upon review of the parties' submissions, the Court concludes that Defendant has failed to make the necessary showing to warrant a *Franks* hearing.

Therefore,

IT IS HEREBY ORDERED that Defendant's request for a *Franks* hearing is DENIED.

IT IS FURTHER ORDERED that the Court will otherwise proceed with the hearing on the Motion to Suppress as scheduled on April 24, 2019, 9:00 a.m.

Dated: March 27, 2019

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge