No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

JACOB W. BARRON — PETITIONER

VS.

UNITED STATES — RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES FIFTH CIRCUIT COURT OF APPEALS

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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APPENDIX A

THE COURT: We're back on the record now in *United States v. Jacob Barron*, 21-CR-292.

The Court has carefully listened to the testimony and argument here today in court, as well as read the briefs of the parties and reviewed the two exhibits that were submitted to the Court, Defendant's Exhibit Number 1 which is the affidavit of Stephen Cloessner, former deputy sheriff in Rapides Parish, as well as the government's exhibit which is the probation agreement of the defendant, Jacob Barron, from his November 3rd, 2020 state court conviction.

The Court has also reviewed the case law, both here in the state of Louisiana, as well as the federal case law pertaining to the extent of the Fourth Amendment to probationers.

Having reviewed these documents and listened to the evidence, the Court finds as follows:

Louisiana law permits Louisiana Probation and Parole officers to search the persons and residences of parolees based upon a reasonable suspicion.

In this case, the defendant, Jacob Barron, was on supervised release -- supervised probation for a November 3rd, 2020 state court conviction in Calcasieu Parish for possession with intent to distribute methamphetamine. As a condition of his supervised release, the defendant, Jacob Barron, agreed to searches by Probation and Parole of his person, property, and

place of residence as described in Government Exhibit Number 1. Therefore, as a preliminary matter, Probation and Parole was authorized to conduct searches of the defendant's home upon reasonable suspicion.

Here, under the totality of the circumstances, the Court finds that the search of the defendant and his residence was supported by reasonable suspicion and not merely a subterfuge for police investigation because the probation officer had received information from the Rapides Parish Sheriff's Office that Jacob Barron was again engaged in drug activity. Specifically, the Probation Office was informed by the Rapides Parish Sheriff's Office that Baron was believed to have a pound of methamphetamine at his residence in Boyce, Louisiana. Probation was also aware independently that Baron was not employed.

Important here, the Rapides Parish sheriff's deputy that provided this information, Deputy Stephen Cloessner, had been a reliable source of information to Probation previously, as testified by Probation Officer Bustard. Officer Bustard, having received this information which she deemed to be reliable, the Court finds that that information, in addition to Baron's lack of employment, constitute a reasonable suspicion for the Probation Office to conduct the search and, indeed, was consistent with that agency's duty to supervise Mr. Barron.

Further, given that the probation officer assigned to Mr. Barron initiated the search and was present at the search; the Probation Office conducted the initial search independent of the Rapides Parish Sheriff's Office; the Probation Office was not asked or directed by the Rapides Parish Sheriff's Office or any other agency to conduct the search; the information the Probation Office received was for the same criminal conduct for which Baron was under supervision with their office; and that the scope of the search was consistent with information provided by and with the terms of his probation agreement, the Court accordingly finds that the search was authorized by Louisiana law and does not violate the Fourth Amendment under the precedent set forth by the United States Supreme Court in *United States v. Nights*, 122 S.Ct. 587. Accordingly, the defendant's motion to suppress, Document 38, is denied.

Court's adjourned.

MR. CONDAY: Your Honor, just note my objection for the record.

THE COURT: Oh, yes, of course. The defendant's objection is noted for the record.

MR. CONDAY: Thank you.

(End of proceedings at 12:20 p.m.)

APPENDIX B

United States Court of Appeals for the Fifth Circuit

No. 23-30163
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
March 15, 2024
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JACOB W. BARRON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:21-CR-292-1

Before ELROD, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:[*]

Jacob Barron appeals his convictions for possession of methamphetamine with the intent to distribute, in violation of 21 U.S.C. § 841(a), and for possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g). He challenges the district court's denial of his motion to suppress

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

the evidence found as a result of the warrantless search of his home and vehicle.

On appeal from the denial of a motion to suppress, this court reviews the district court's factual findings for clear error and the ultimate constitutionality of the actions by law enforcement *de novo*. *United States v. Robinson*, 741 F.3d 588, 594 (5th Cir. 2014). "A factual finding is not clearly erroneous if it is plausible in light of the record as a whole." *United States v. Zavala*, 541 F.3d 562, 574 (5th Cir. 2008) (internal quotation marks and citation omitted). The evidence is viewed in the light most favorable to the prevailing party—here, the Government. *United States v. Thomas*, 997 F.3d 603, 609 (5th Cir. 2021). The district court's ruling will be upheld "if there is any reasonable view of the evidence to support it." *United States v. Michelletti*, 13 F.3d 838, 841 (5th Cir. 1994) (en banc) (internal quotation marks and citation omitted).

The record shows that, as a term of his probation resulting from a 2020 Louisiana state conviction for possession with the intent to distribute methamphetamine, Barron agreed to submit to warrantless searches of his home and vehicles if probation officers reasonably suspected him of criminal activity. Viewing the evidence in the light most favorable to the Government, the district court did not clearly err in finding that the probation officers had a reasonable suspicion of criminal activity justifying the search at issue here. *See United States v. Knights*, 534 U.S. 112, 118-21 (2001); *Ornelas v. United States*, 517 U.S. 690, 696 (1996). Probation Officer Datha Bustard testified that she received credible information from Sargent Stephen Cloessner of the Rapides Parish Sheriff's Office (RPSO), who had regularly supplied her with reliable information about probationers and parolees, that Barron was selling methamphetamine from his residence and was believed to be in possession of a pound of methamphetamine. As the district court found, Bustard was independently aware that Barron was on probation for the same offense

conduct and was unemployed. Under a totality of the circumstances, the probation officers reasonably believed a search to be necessary to the performance of their duties. *See Griffin v. Wisconsin*, 483 U.S. 868, 879 (1987); *United States v. Williams*, 880 F.3d 713, 719–20 (5th Cir. 2018).

Significantly, Barron does not assert that the probation officers in his case lacked reasonable suspicion for a probation-compliance search. *See Yohey v. Collins*, 985 F.2d 222, 224–25 (5th Cir. 1993) (explaining that arguments must be briefed to be preserved). To the extent that Barron implicitly argues that the probation officers were prohibited from basing their suspicion on a tip from another law enforcement agency that he was engaged in drug trafficking, such argument is without merit. *See Griffin*, 483 U.S. at 879-80; *Williams*, 880 F.3d at 720.

Barron's primary argument is that, under Louisiana law, the compliance search by the probation officers was a prohibited subterfuge for an ongoing narcotics investigation by the RPSO, which had initiated the probation search after failing to secure probable cause for a search warrant. However, as the Government correctly points out, in determining the admissibility of evidence in federal court, a violation of state law in obtaining such evidence is irrelevant. *See United States v. Walker*, 960 F.2d 409, 415 (5th Cir. 1992); *see also California v. Greenwood*, 486 U.S. 35, 43 (1988). Furthermore, an individual officer's subjective motive is irrelevant under the Fourth Amendment. *See Brigham City v. Stuart*, 547 U.S. 398, 404 (2006). In any event, even if we were to consider whether the probation officers' search violated Louisiana law, Barron has not shown that the district court's finding of no subterfuge was clearly erroneous. *See State v. Wesley*, 685 So. 2d 1169, 1175 (La. Ct. App. 1996) (holding parole officers' search was not a subterfuge when it was based on a tip from an officer that the defendant had been seen at his residence with known felons and drug users); *State v. Shrader*, 593 So. 2d 457, 460 (La. Ct. App. 1992) (holding parole officer's

search was not a subterfuge when the defendant had a previous drug-related conviction, the defendant was not observed working, and there were reports from local law enforcement that the defendant was involved in illegal activities).

Finally, Barron did not raise in the district court his additional argument that the probation officers exceeded the purpose of their compliance search by contacting RPSO after finding evidence of probation violations in the district court. Inasmuch as Barron now seeks to raise a new theory of relief on appeal, i.e., that the probation officers had reasonable suspicion and were authorized to conduct a compliance check at the outset but then exceeded their authority by seeking outside assistance for a more thorough search, this argument is not properly before us. *See, e.g.*, *Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 341–42 (5th Cir. 1999) (holding that a party may not present a new theory for relief on appeal); *Yohey*, 985 F.2d at 225 (stating that, as a general rule, the court will not consider issues not raised in the district court and declining to consider new claims for relief).

In sum, the district court did not err in denying the motion to suppress. *See Knights*, 534 U.S. at 118–21; *see also Michelletti*, 13 F.3d at 841. The judgment of conviction is therefore AFFIRMED.