No.

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER COLMAN CHAMBERS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

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May 21, 2018

QUESTION PRESENTED FOR REVIEW

On review of a search warrant affidavit, the Tenth Circuit Court of Appeals assumed a deficiency of probable cause without deciding the issue and applied the good-faith analysis of *United States v. Leon*, 468 U.S. 897 (1984), to conclude that the affidavit provided a minimally sufficient nexus between the place to be searched and the suspected criminal activity.

Issue presented: Where the body of a search warrant affidavit failed to connect the suspected illegal activity to the specific address to be searched, were the additional facts within the body of the affidavit sufficient to provide a minimally sufficient nexus that warranted application of the good-faith exception.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES. ii

PREVIOUS OPINIONS AND ORDERS. 1

JURISDICTION. 1

APPLICABLE LEGAL PROVISION. 2

STATEMENT OF THE CASE. 2

1. DISTRICT COURT PROCEEDINGS. 2

A. Motion to Suppress. 2

B. Statement of Facts. 4

2. DIRECT APPEAL. 5

REASON FOR GRANTING A WRIT. 6

CONCLUSION. 7

ATTACHED EXHIBITS:

EXHIBIT 1: *United States v. Chambers*, 882 F.3d 1305 (10th Cir. 2018)

EXHIBIT 2: Judgment in United States v. Chambers (Tenth Circuit)

EXHIBIT 3: Opinion and Order (Northern District of Oklahoma)

EXHIBIT 4: Judgment in a Criminal Case (Northern District of Oklahoma)

TABLE OF AUTHORITIES

Cases Page

United States v. Biglow, 562 F.3d 1272 (10th Cir. 2009) 4

United States v. Chambers, 882 F.3d 1305 (10th Cir. 2018) 1

United States v. Gonzales, 399 F.3d 1225 (10th Cir. 2005) 4, 6

United States v. Leon, 468 U.S. 897 (1984) 3

United States v. Roach, 582 F.3d 1192 (10th Cir. 2009) 5-6

Warden, Md. Penitentiary v. Hayden, 387 U.S. 294 (1967) 3

Zurcher v. Standford Daily, 436 U.S. 547 (1978) 3

Statutes and Federal Rules Page

18 U.S.C. § 922(g)(1) 2

18 U.S.C. § 924(a)(2) 2

28 U.S.C. § 1254(1) 1

28 U.S.C. § 1291 1

Supreme Court Rules Page

S. Ct. R. 10 6

U.S. Constitution Page

U.S. Const., Amend IV. 2

PREVIOUS OPINIONS AND ORDERS

In *United States v. Chambers*, 882 F.3d 1305 (10th Cir. 2018), the United States Court of Appeals for the Tenth Circuit issued an Opinion denying a direct appeal in which the Petitioner was the Appellant/Defendant. *See* Exhibit 1 (attached hereto). This Petition seeks issuance of a writ of certiorari to the Tenth Circuit Court of Appeals in regard to its decision.

Chambers affirmed a Judgment in a Criminal Case filed in the United States District Court for the Northern District of Oklahoma, in United States v. Christopher Colman Chambers, Case No. 16-CR-118-JHP. *See* Exhibits 3 and 4 (attached hereto).

JURISDICTION

The Tenth Circuit reviewed the district court's order denying Petitioner's Motion to Suppress under the authority of 28 U.S.C. § 1291. On February 27, 2018, the Tenth Circuit filed the Opinion now presented for review. Exhibit 1 (attached hereto). The Petitioner did not file for rehearing. A final judgment was entered. Exhibit 2 (attached hereto).

Jurisdiction for a writ of certiorari lies in this Court pursuant to 28 U.S.C. §1254(1), applicable to cases in the courts of appeals, which permits a writ of certiorari to be "granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree." Petitioner was the Appellant in the Opinion now submitted for review.

APPLICABLE LEGAL PROVISION

U.S. Constitution, Amendment IV:

> 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 person or things to be seized.

STATEMENT OF THE CASE

1. DISTRICT COURT PROCEEDINGS

Mr. Chambers was convicted of violating 18 U.S.C. §§ 922(g)(1) and 924(a)(2) (felon in possession of firearms and ammunition) after pleading guilty to the single count indictment in the Northern District of Oklahoma, Case No. 16-CR-118-JHP. The plea was conditional, reserving the right to appeal an adverse ruling on a motion to suppress. The motion asserted that Mr. Chambers' Fourth Amendment rights were violated, requiring suppression of firearms and ammunition illegally seized during a search of his home. The district court issued an order denying the motion. Exhibit 3 (attached hereto).

The district court sentenced Mr. Chambers to 30 months in custody and committed him to the U.S. Bureau of Prisons.

A. Motion to Suppress

In his motion to suppress, Mr. Chambers argued that the affidavit in support of search warrant lacked probable cause because it failed to tie the residence to be searched with the facts proffered in support of probable cause to search. Mr.

Chambers further argued that the good-faith exception of *United States v. Leon*, 468 U.S. 897 (1984), was inapplicable because the affidavit was so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.

The affidavit sought a warrant to search 11470 S. 4210 Road (hereinafter referred to as "the Foyil residence"). The Foyil residence was particularly described and its location was set out with specificity. However, the remainder of the affidavit failed to explain why or how the Foyil residence was connected to any of the criminal activity described within the body of the affidavit. In other words, there was no nexus. After describing the illegal drug activities of two other individuals sufficient to establish probable cause to search, the affidavit stated that a confidential informant was able to give directions to the residence where those individuals resided. The affidavit stated that "[t]he address is known as ." The affidavit was simply blank. There was no address. There was nothing that connected the confidential informant's statement concerning his knowledge of the residency of the individuals to the specific home (the Foyil residence) for which the search warrant was being sought.

To be constitutional, a warrant must set forth a "nexus ... between the item to be seized and criminal behavior." *Warden, Md. Penitentiary v. Hayden*, 387 U.S. 294, 307 (1967). In other words, there must be a relationship between the items sought and the place law enforcement requests to search for them. *See Zurcher v. Standford Daily*, 436 U.S. 547, 556 (1978)("The critical element in a reasonable search is not that the owner of property is suspected of crime but that there is reasonable cause to believe that the specific 'things' to be searched for and seized are located on the property to which entry is sought."); *United States v. Biglow*, 562 F.3d 1272, 1279 (10th Cir. 2009)("[W]e have indicated that a sufficient nexus is established once an affidavit describes circumstances which would warrant a person of reasonable caution in the belief that the articles sought are at a particular place." (internal quotation marks omitted)).

Mr. Chambers argued that *Leon*'s good-faith exception was inapplicable and that the case should be directly controlled by *United States v. Gonzales*, 399 F.3d 1225 (10th Cir. 2005), a case in which the Tenth Circuit declined to apply the good-faith exception because the affidavit provided no facts linking the address of the place to be searched with the suspect or the suspected criminal activity and failed to explain why the affiant thought evidence would be found there.

The district court denied the motion to suppress, finding that the affidavit provided probable cause and that, even if it did not, the officers' reliance on the affidavit was justified by *Leon*'s good-faith exception.

B. Statement of Facts

The facts are not in dispute, as noted in the appellate briefs of both parties.

Relying on the August 6, 2016, affidavit of Rogers County, Oklahoma, Deputy Sheriff Quint Tucker, a state district judge issued a search warrant authorizing a search of the Foyil residence. That same day, law enforcement officers also obtained arrest warrants for Kevin Chambers (Mr. Chambers' brother) and Charity Drozd (the girlfriend of Kevin Chambers) (hereinafter referred to as “the pair”). The arrest warrants resulted from an investigation of the pair and others who were believed to be involved in the distribution of methamphetamine. Mr. Chambers was not a suspect in that investigation, and no warrant had been issued for his arrest.

On the morning of August 8, 2016, law enforcement officers arrived at the Foyil residence, informed Mr. Chambers that they had a search warrant for his residence, and – after conducting a protective sweep and detaining the occupants of the home – executed the search warrant. During their search of the Foyil residence, law enforcement officers recovered seven firearms and 1,386 rounds of ammunition. Mr. Chambers, a convicted felon, was arrested at the scene.

2. DIRECT APPEAL

On direct appeal, Mr. Chambers presented the Fourth Amendment claim that he preserved in district court.

In its Opinion, the court of appeals declined to review the district court’s determination of probable cause and proceeded to an analysis of the good-faith exception. The court of appeals found that even though the body of the affidavit omitted the address of the place to be searched, its remaining content nonetheless established a minimally sufficient nexus between evidence of the illegal activity and the place to be searched.

> Despite its failure to specify the Address in the Residence Identified paragraph, the affidavit adequately connected the Pair’s criminal activity to the Address because it established that (1) in Deputy Tucker’s

> experience, methamphetamine dealers–like the Pair–keep items at their residences related to distributing the drug; (2) the Pair resided in Mr. Chambers's home; and (3) Mr. Chambers's home was located at 11470 S. 4210 Road.
>
> . . .
>
> Deputy Tucker's affidavit ... provided a sufficient factual basis for concluding that the Pair resided with Mr. Chambers and that Mr. Chambers's home was located at the Address, even though it did not explicitly say so in the Residence Identified paragraph. ... The CI, who had been a reliable source for officers in previous cases, "was able to give directions to the residence he knew Kevin and Charity to live." ... Officers then verified that this "address ... belong[ed] to Kevin's brother Christopher Chambers from previous encounters with law enforcement."

The court of appeals concluded that the facts in Mr. Chambers' case were more comparable to those in *United States v. Roach*, 582 F.3d 1192 (10th Cir. 2009), rather than to those in *United States v. Gonzales*, 399 F.3d 1225 (10th Cir. 2005).

Ultimately the Tenth Circuit affirmed the district court judgment.

REASON FOR GRANTING A WRIT

This Petition concerns the Tenth Circuit misapplication of a properly stated rule of law. Though the affidavit contained the additional matters cited in the Tenth Circuit opinion (the pair resided in Mr. Chambers' home, the CI was able to give directions to Mr. Chambers' home, and officers verified the address belonged to Mr. Chambers), the affidavit failed to establish that that home was the same home for which the warrant was being sought.

Review on a writ of certiorari is a matter of judicial discretion, and Mr. Chambers acknowledges that "[a] petition for a writ of certiorari is rarely granted when the asserted error consists of ... the misapplication of a properly stated rule of law." S. Ct. R. 10. Nonetheless, Mr. Chambers argues that a writ should be granted in this case to clarify the amount of supporting facts necessary for establishing a nexus that is sufficient to invoke *Leon*'s good-faith exception.

CONCLUSION

Certiorari review is discretionary, but appropriate. The Petitioner seeks reversal of the Opinion and remand to the Tenth Circuit with instructions to apply the Fourth Amendment standards and to recognize that the exclusionary rule is applicable

Respectfully submitted,

s/Stephen J. Greubel

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EXHIBIT 1:

United States v. Chambers, 882 F.3d 1305 (10th Cir. 2018)

FILED
United States Court of Appeals
Tenth Circuit

February 27, 2018

Elisabeth A. Shumaker
Clerk of Court

PUBLISH

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER COLMAN CHAMBERS,

Defendant - Appellant.

No. 17-5046

Appeal from the United States District Court
for the Northern District of Oklahoma
(No. 16-CR-118-JHP-2)

Stephen J. Greubel, Senior Litigator (Julia L. O'Connell, Federal Public Defender, Office of the Federal Public Defender, with him on the briefs), Tulsa, Oklahoma, for Defendant - Appellant.

Leena Alam, Assistant United States Attorney (Loretta F. Radford, Acting United States Attorney, and Janet S. Reincke, Assistant United States Attorney, with her on the brief), Office of the United States Attorney for the Northern District of Oklahoma, Tulsa, Oklahoma, for Plaintiff - Appellee.

Before **MATHESON**, **BALDOCK**, and **EID,** Circuit Judges.

MATHESON, Circuit Judge.

Christopher Chambers was indicted on one count of being a felon in possession of firearms and ammunition under 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Law enforcement officers from Rogers County, Oklahoma discovered the firearms after searching his home pursuant to a search warrant. They had been investigating Kevin Chambers (Christopher's brother) and Charity Drozd (collectively, "the Pair"), who were suspected of selling methamphetamine and were residing at Christopher Chambers's home.[1]

After he was indicted, Mr. Chambers moved to suppress the firearms evidence. He argued the affidavit submitted in support of the search warrant application failed to establish probable cause and that the good-faith exception to the exclusionary rule did not apply. The district court rejected these arguments and denied the motion. Mr. Chambers pled guilty, reserving the right to appeal the denial of his suppression motion, which he has done here.

Exercising jurisdiction under 28 U.S.C. § 1291, we affirm. The affidavit established a minimally sufficient nexus between the place to be searched and the suspected criminal activity to make the officers' reliance on the warrant reasonable.

I. BACKGROUND

A. *The Investigation and Search*

1. Officers' Investigation of the Pair

On August 1, 2016, Rogers County officers monitored communication between the Pair and a confidential police informant (the "CI"). The Pair told the CI they were

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[1] We refer to Defendant - Appellant Christopher Chambers as Mr. Chambers.

returning to Rogers County from Tulsa with methamphetamine. Ms. Drozd said they could not deliver drugs to him that night because they needed to make other customer deliveries. Officers arranged with the CI to make a controlled buy from the Pair on the next day.

The next morning, the Pair texted and called the CI, stating they had awakened and would meet him soon. The three met and the CI bought one gram of methamphetamine from the Pair for $100. Law enforcement officers also monitored their communication before and during the transaction. At the meeting, the Pair bragged to the CI about how much methamphetamine they had. After the transaction, officers met the CI to debrief him and to secure the drugs, which tested positive as methamphetamine.

The CI gave directions to where the Pair lived. The officers in turn confirmed that the location belonged to Kevin Chambers's brother, Mr. Chambers, based on their previous encounters with him.

2. **The Search of Mr. Chambers's Home**

On August 6, 2016, Rogers County Deputy Sheriff Quaint Tucker prepared an affidavit to search 11470 S. 4210 Road ("the Address"), Mr. Chambers's residence. A Rogers County District Judge signed the search warrant, which authorized officers to seize methamphetamine and other items related to drug dealing. On August 8, 2016, officers searched Mr. Chambers's home. They encountered the Pair and Mr. Chambers and detained them outside. In the home, they discovered seven firearms loaded with ammunition. They also recovered marijuana, methamphetamine, and drug paraphernalia.

Mr. Chambers was indicted for being a felon in possession of firearms and ammunition under 18 U.S.C. §§ 922(g)(1) and 924(a)(2). He had nine prior felonies.

B. ***The Affidavit***

Deputy Tucker's nine-page affidavit listed the Address on the first page and contained aerial photos of the property on the first two pages, including a label stating "Residence to be searched" and an arrow pointing to the location. The affidavit addressed four subjects: (1) a description of the property and items to be seized, (2) Deputy Tucker's training and experience, (3) drug traffickers' common practices, and (4) facts to establish probable cause.[2] The fourth part was based mostly on information from two sources: Deputy Tucker and the CI.

First, based on "his training and experience both formal and informal," ROA, Vol. I at 85, and information from the investigation, Deputy Tucker said the Pair likely:

- are"career criminal [sic] involved in the possession of narcotics." *Id.*
- "will keep and store items, like those sought in this affidavit, at their residence." *Id.*

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[2] The affidavit is reproduced in the Appendix. Each part is briefly described below:

(1) Description of the property and items to be seized - The address, description, photos, directions, and items to be seized—such as methamphetamine and drug paraphernalia.
(2) Deputy Tucker's training and experience - Length of employment, hours of training, and number of narcotics investigations.
(3) Drug traffickers' common practices - Officer Tucker stated that "[d]rug distributors/traffickers commonly maintain books, records, receipts, notes, ledgers, and other documents." ROA, Vol. I at 82.
(4) Facts to establish probable cause - Information about the investigation, reliability of the CI, and the Pair's residence.

- "will store evidence, such as that sought in this affidavit, throughout their property." *Id.*

- "will have in their residence and surrounding property items used to ingest methamphetamine" and items for methamphetamine distribution. *Id.* at 85-86.

Second, the affidavit included facts about the CI's interactions with the Pair on August 1 and 2, 2016. It also included:

- Kevin Chambers's statement to the CI about encountering the police in July 2016 at a bank drive-thru when he was carrying methamphetamine.

- The following paragraph on the eighth page titled "Residence Identified":

> [The CI] was able to give directions to the residence he knew Kevin and Charity to live. Investigators were able to confirm the address to belong to Kevin's brother Christopher Chambers from previous encounters with law enforcement. The address is known as.

Id. at 85. The paragraph ended without stating the address of the residence.[3]

Finally, the affidavit included a statement from officers verifying the reliability of the CI, describing his help in previous cases that led to the seizure of eight pounds of methamphetamine and other illicit items.[4]

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[3] We refer to this paragraph as the "Residence Identified paragraph."

[4] The affidavit stated that officers had verified information that the CI provided about the Pair. For example, officers had corroborated from the police log the CI's statement that "Kevin had bragged to him about being awoken by a deputy in the month of July 2016 asleep in a bank drive through." ROA, Vol. I at 84.

C. *The Motion to Suppress*

Mr. Chambers moved to suppress the firearms and ammunition evidence. He argued the affidavit did not establish probable cause and the good-faith exception did not apply because the affidavit failed to tie evidence of the Pair's criminal activity to the Address. The magistrate judge concluded in a Report and Recommendation ("R&R") that the motion should be granted. The Government objected, stating there was enough factual support linking the evidence of criminal activity to the Address.

The district court rejected the magistrate judge's R&R and denied Mr. Chambers's motion. It concluded the affidavit sufficiently connected information about the criminal activity to the location to be searched both (1) to provide probable cause and (2) to justify the application of the good-faith exception. *United States v. Chambers*, No. 16-CR-118-JHP, 2016 WL 7429441, at *5 (N.D. Okla. Dec. 23, 2016)

Mr. Chambers next entered into a plea agreement. He pled guilty to the sole count of the indictment, but reserved the right to appeal the district court's denial of his motion to suppress.

II. **DISCUSSION**

Mr. Chambers challenges the district court's rulings regarding probable cause and the good-faith exception. We review only the latter. "We have previously taken this approach of assuming a deficiency [of probable cause] without deciding the issue and applying *Leon* [good-faith analysis.]" *United States v. Potts*, 586 F.3d 823, 832 (10th Cir. 2009); *see also United States v. Quezada-Enriquez*, 567 F.3d 1228, 1230 (10th Cir. 2009).

As explained below, we affirm the district court's ruling on the good-faith exception because officers conducting the search could have relied in objective good faith on the search warrant.

A. *Standard of Review*

"Determinations relating to the . . . the applicability of the good-faith exception are conclusions of law . . . which this court reviews de novo." *United States v. Danhauer*, 229 F.3d 1002, 1005 (10th Cir. 2000). "In reviewing the denial of a motion to suppress, this court views the evidence in the light most favorable to the government and upholds the district court's factual findings unless clearly erroneous." *Id*.[5]

B. *Legal Background*

1. The Exclusionary Rule and the *Leon* Good-Faith Exception

The Fourth Amendment protects individuals from "unreasonable searches and seizures." U.S. Const. amend. IV. To authorize a valid search under the Fourth Amendment, "[a] search warrant must be supported by probable cause, requiring more than mere suspicion but less evidence than is necessary to convict." *Danhauer*, 229 F.3d at 1005 (quotations omitted).

"Ordinarily, courts will remedy a Fourth Amendment violation by invoking the exclusionary rule to exclude the Government's introduction of the unlawfully seized evidence as direct evidence against the defendant in a criminal prosecution." *United States v. Herrera*, 444 F.3d 1238, 1248 (10th Cir. 2006). But if a search warrant is later

[5] Both parties agree that there are no facts in dispute. *See* Aplt. Br. at 5 ("The underlying facts are not in issue."); Aplee. Br. at 1 (same).

found to lack probable cause, evidence seized "does not necessarily have to be suppressed." *United States v. Riccardi*, 405 F.3d 852, 863 (10th Cir. 2005). In *United States v. Leon*, 468 U.S. 897 (1984), the Supreme Court recognized the "good-faith exception" to the exclusionary rule.

"Under the good-faith exception to the exclusionary rule, if a warrant is not supported by probable cause, the evidence seized pursuant to the warrant need not be suppressed if the executing officer acted with an objective good-faith belief . . . ." *United States v. Edwards*, 813 F.3d 953, 970 (10th Cir. 2015) (quotations omitted); *see also Leon*, 468 U.S. at 922. Reliance upon a warrant issued by a neutral magistrate creates a "presumption . . . [that] the officer is acting in good faith." *United States v. Cardall*, 773 F.2d 1128, 1133 (10th Cir. 1985) (citing *Leon*, 468 U.S. at 925-26).

2. **No Good-Faith Exception when the Affidavit Lacks Indicia of Probable Cause**

The good-faith presumption is not absolute. *See Danhauer*, 229 F.3d at 1007 (noting exceptions to the presumption). An "officer's reliance on the defective warrant still must be objectively reasonable." *United States v. Russian*, 848 F.3d 1239, 1246 (10th Cir. 2017). An officer's reliance is objectively unreasonable when the warrant is based on an affidavit "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." *Leon*, 468 U.S. at 923 (quotations omitted).[6]

[6] The *Leon* Court also specified three other situations when an officer's reliance would be objectively unreasonable: (1) the affiant knowingly or recklessly misled the issuing magistrate regarding information material to the probable cause determination; (2) the magistrate judge "wholly abandoned his judicial role;" and (3) the warrant was "so facially deficient—i.e., in failing to particularize the place to be searched or the

An affidavit lacks indicia of probable cause when it does not contain factual support. "When we consider whether the officer relied in good faith upon a warrant, we must look to the underlying documents to see whether they are *devoid* of factual support, not merely whether the facts they contain are legally sufficient." *Cardall*, 773 F.2d at 1133; *see United States v. Augustine*, 742 F.3d 1258, 1263 (10th Cir. 2014). An affidavit devoid of factual support is "one that merely states suspicions, beliefs, or conclusions, without providing some underlying factual circumstances regarding veracity, reliability, and basis of knowledge." *United States v. Roach*, 582 F.3d 1192, 1204-05 (10th Cir. 2009).

The affidavit does not have to be a model of specificity. *See United States v. Henderson*, 595 F.3d 1198, 1202 (10th Cir. 2010). "An affidavit has enough factual support to justify reliance if it establishes a *minimally sufficient nexus* between the illegal activity and the place to be searched." *Id.* (emphasis added) (quotations omitted).

C. ***Analysis***

We review only the district court's application of the *Leon* good-faith exception. The court concluded the exception applied because the affidavit established a minimally sufficient nexus between evidence of the illegal activity and the place to be searched. On appeal, Mr. Chambers argues the affidavit's omission of the Address in the Residence Identified paragraph rendered the affidavit devoid of factual support and precluded good-faith reliance on the warrant.

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things to be seized—that the executing officers [could not] reasonably presume it to be valid." *Leon*, 468 U.S. at 923.

To justify a search of the Address, the affidavit needed to present evidence connecting the Pair's criminal activity and the Address, which in this case involved three steps. The affidavit was supposed to show probable cause that (1) the Pair's home would likely contain evidence of their criminal activity, (2) the Pair lived at Mr. Chambers's home, and (3) Mr. Chambers's home was located at the Address. Mr. Chambers contests the second and third steps. Although the affidavit listed 11470 S. 4210 Road on its first page, he argues the Address's omission from the Residence Identified paragraph severed any connection between the Pair and his home or between his home and the Address. Without such a connection, he contends the affidavit lacked a minimally sufficient nexus between evidence of the Pair's criminal activity and the place to be searched.

We disagree with this argument. Deputy Tucker's affidavit was not devoid of factual support. Contrary to Mr. Chambers's assertions, the affidavit linked the Pair to Mr. Chambers's home and linked his home to the Address. It was objectively reasonable for the officers who searched Mr. Chambers's home to rely on the warrant.

1. **Deputy Tucker's Affidavit Was Not Devoid of Factual Support**

Deputy Tucker's affidavit established a minimally sufficient nexus between the criminal activity and the place to be searched. Despite its failure to specify the Address in the Residence Identified paragraph, the affidavit adequately connected the Pair's criminal activity to the Address because it established that (1) in Deputy Tucker's experience, methamphetamine dealers—like the Pair—keep items at their residences related to distributing the drug; (2) the Pair resided in Mr. Chambers's home; and (3) Mr. Chambers's home was located at 11470 S. 4210 Road. *See* ROA, Vol. I at 78-86.

Mr. Chambers argues the omission of the Address in the Residence Identified paragraph "rendered the warrant so lacking in any indicia of probable cause that the officers' belief in its existence was entirely unreasonable." Aplt. Br. at 10. He contends that the "affidavit . . . lacked any factual basis whatsoever to support the belief that [the Pair] resided at [Mr. Chambers's home]." Aplt. Br. at 32. He further argues "[the Address] is not identified as that of Christopher Chambers." Aplt. Br. 11-12.

Deputy Tucker's affidavit, however, provided a sufficient factual basis for concluding that the Pair resided with Mr. Chambers and that Mr. Chambers's home was located at the Address, even though it did not explicitly say so in the Residence Identified paragraph. An affidavit is not generally devoid of factual support if it provides "underlying factual circumstances regarding veracity, reliability, and basis of knowledge" to support its assertions. *Roach*, 582 F.3d at 1204-05. Here, the affidavit did so. The CI, who had been a reliable source for officers in previous cases, "was able to give directions to the residence he knew Kevin and Charity to live." ROA, Vol. I at 85. Officers then verified that this "address . . . belong[ed] to Kevin's brother Christopher Chambers from previous encounters with law enforcement." *Id.*

The warrant was not based on an affidavit that "merely states suspicions, beliefs, or conclusions." *Roach*, 582 F.3d at 1204-05. It adequately linked the Pair's criminal activity to the place to be searched.

2. Deputy Tucker's Affidavit Had More Factual Support than the Affidavit in *Gonzales*

Mr. Chambers argues that this "appeal should be directly controlled by *United States v. Gonzales*," a case in which we declined to apply the good-faith exception. Aplt. Br. at 32 (citing *United States v. Gonzales*, 399 F.3d 1225 (10th Cir. 2005)). We disagree because the affidavit in this case contains more factual support than the one in *Gonzales*.

a. *United States v. Gonzales*

In *Gonzales*, after law enforcement officers found live ammunition in the defendant's car, they decided to obtain a search warrant for defendant's home. *Id.* at 1228. The affidavit (1) stated the defendant was a convicted felon; (2) reported the discovery of ammunition in the defendant's car; (3) stated that based on the affiant's experience and training, the defendant would likely keep firearms at his residence; and (4) identified the place to be searched as 321 E. Church. *Id.* at 1227-28, 1230. We held that the good-faith exception did not apply because the affidavit failed to connect the place to be searched with the defendant. *Id.* at 1231.

The panel said the affidavit lacked a "minimal nexus between the place to be searched and the suspected criminal activity." *Id.* The affidavit "listed the address of the place to be searched . . . . [but] there were no facts explaining how the address was linked to [the defendant] . . . or the suspected criminal activity." *Id.* at 1230. Rather, the "only attempt at a connection was the detective's assertion that in his experience" firearms are often kept at residences. *Id.*

b. *Deputy Tucker's affidavit compared to the one in* Gonzales

Unlike the affidavit in *Gonzales*, Deputy Tucker's affidavit contained "facts explaining how the address was linked to [the defendant] . . . or the suspected criminal activity." *Id*.

In *Gonzales*, the affidavit included the officer's opinion that individuals often keep firearms at their residences, and it listed an address. Without more "facts explaining how the address was linked to [the defendant]," we rejected an inference that the listed address was the defendant's residence. *Id.* Although Deputy Tucker's affidavit also included his opinion that drug dealers often keep drugs and drug paraphernalia at their residences, this statement was not the affidavit's "only attempt at . . . connect[ing]" the Pair to the home or the home to Mr. Chambers. *Id*. Rather, Deputy Tucker's affidavit stated that the CI provided directions to the Pair's residence and that the authorities verified the address as Mr. Chambers's from their previous encounters.

Deputy Tucker's affidavit more closely resembles the affidavit in *United States v. Roach*, 582 F.3d 1192 (10th Cir. 2009), in which we determined that the search warrant affidavit contained indicia of probable cause justifying the application of the good-faith exception. *Id.* at 1204-05. The affidavit (1) identified 1441 N. Minneapolis Street as the place to be searched and (2) stated that officers verified the defendant lived at the address "through investigations, which included checking for utilities information, driver's license records, real estate records, Wichita Police Department records, tax records, social security records, U.S. Postal Service records, interviews and/or surveillance." *Id*. at 1198. Although we determined the affidavit lacked probable cause because it did not specify *which* one of these methods law enforcement used to verify Mr. Roach lived at the address, *id.* at 1203,[7] "the language of the affidavit indicates that officers did so using at least one of a list of investigatory methods, any one of which would—assuming they were successful—provide a 'minimal nexus' connecting [the defendant] to the address," *id.* at 1204.

Like the affidavit in *Roach*, Deputy Tucker's affidavit described the investigatory methods used—a reliable CI's information and independent corroboration through officers' previous encounters with Mr. Chambers—in determining the Pair's residential address. "[I]t would not be entirely unreasonable, therefore, for officers executing the warrant to rely on the magistrate's authorization of it." *Id.* at 1204.

* * * *

Deputy Tucker's affidavit possessed a minimally sufficient nexus between the place to be searched and the Pair's criminal activity. Because the affidavit contained a factual basis connecting the Pair to Mr. Chambers's home and the home to the Address, the district court properly applied the good-faith exception in this case.

III. **CONCLUSION**

For the foregoing reasons, we affirm the district court's denial of Mr. Chambers's motion to suppress the evidence.

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[7] In addition to specifying the investigatory method, the affidavit faced other problems that precluded our finding of probable cause, such as stale information. *Roach*, 582 F.3d at 1202.

United States v. Chambers

17-5046

APPENDIX

AFFIDAVIT FOR SEARCH WARRANT - ORIGINAL

STATE OF OKLAHOMA	)		IN THE DISTRICT COURT
	)	ss.	
COUNTY OF ROGERS	)		

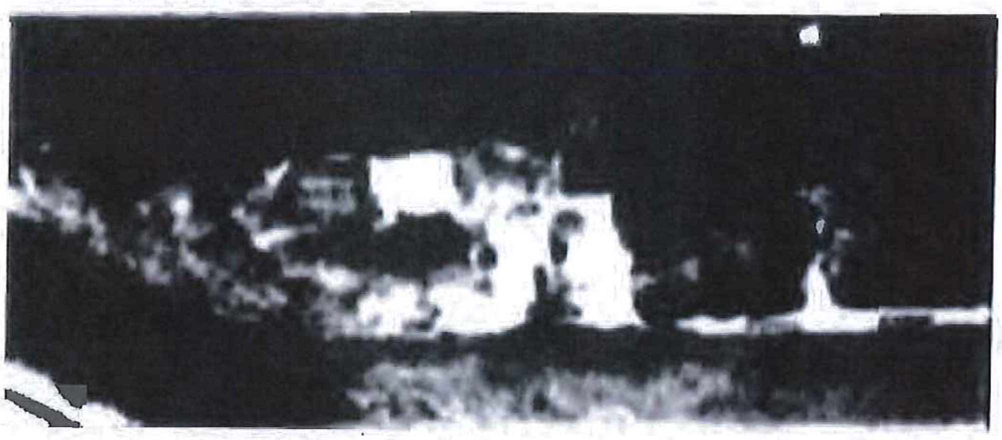
No. ______________

AFFIDAVIT FOR SEARCH WARRANT

The undersigned affiant, being duly sworn, upon oath says: that in Rogers County, Oklahoma, at or upon or within a certain vehicle and/or house, building or premises, the curtilage thereof and the appurtenances thereunto belonging, in Rogers County, Oklahoma, known as follows:

11470 S. 4210 Rd in the Foyil area of Rogers County

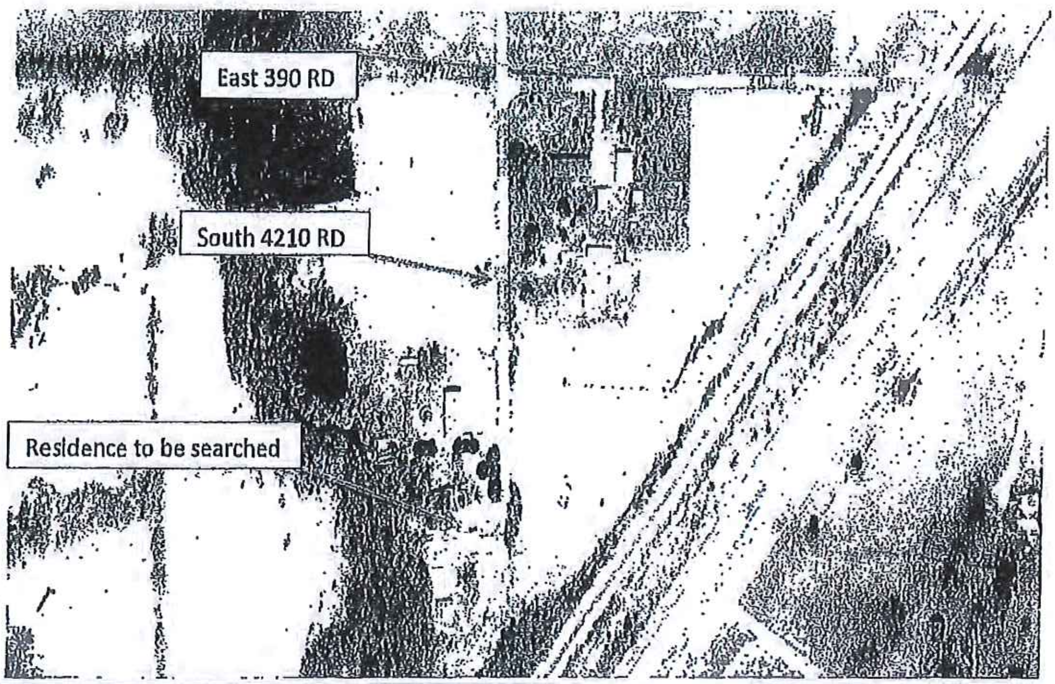
Appearing in the following:

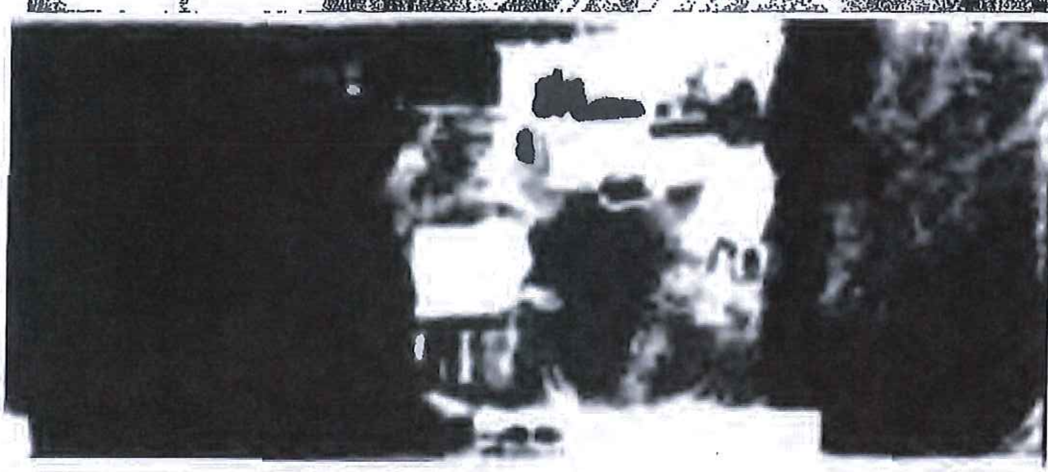


GOVERNMENT EXHIBIT
A
PENGAD 800-631-6989

Description of property to be searched: The property to be searched has two residences on it that all occupants on the property frequent. The main residence on the property is a single family residence. The door to this residence faces to the east towards S. 4210 Rd. The second residence is a metal structured shop with living quarters. The door to this residence faces south and is located directly south east of the main residence. The residences are both located on the same property at the dead end of S. 4210 Rd.

Directions to property to be searched: From the intersection of E. 390 Rd and S. 4210 Rd in the Foyil area of Rogers County travel south on S. 4210 Rd. The road will dead end into the driveway identified as 11470 S. 4210 Rd on the Google mapping system.





There are certain items of property, and evidence of violations of the laws of the State of Oklahoma, to-wit:

- Methamphetamine
- Items commonly used to ingest methamphetamine such as syringes
- Items commonly used to consume methamphetamine by inhalation like, pipes, bongs, and aluminum foil
- Items commonly used to distribute methamphetamine such as clear plastic baggies and measuring devices such as scale
- Electronic devices such as cell phones used to record any and all drug transactions
- Ledgers and electronic devices used to record and store any and all drug transactions
- Mail and other personal letters, or documents to prove residency
- US. Currency used in purchasing narcotics from individual reference RCSO Case# R1600353

Affiant's Training and Experience

1: Your affiant states that he is a Deputy for the Rogers County Sheriff Department and has been so employed for more than five years, presently assigned as a narcotics officer in the Investigation division.

2: Your affiant was trained in narcotics investigations and the recognition of controlled substances by the state of Oklahoma CLEET Basic Academy.

3: Your affiant has attended over six hundred and forty-eight hours of additional training including one hundred twenty hours in the criminal investigation academy provided by CLEET.

4: Your affiant has also received informal training from veteran officers assisting on multiple narcotics cases involving controlled buys leading to search warrants.

5: Your affiant has attended over twenty four hours training specifically in search warrant writing.

6: Your affiant has participated in the writing of over thirty five search warrants and assisted in the service of over fifty.

7: Your affiant has seized and aided in the seizure of over two hundred meth labs.

8: Your affiant has interviewed over five thousand individuals who use, distribute, and and/or manufacture controlled substances, including methamphetamine and the manufacturing of methamphetamine.

9: Your affiant has aided in the seizure of over one hundred items used to consume/ingest methamphetamine.

10: Your affiant has been involved in multiple controlled deliveries of pseudoephedrine for individuals manufacturing methamphetamine.

11: Your affiant has made over thirty felony arrests on individuals purchasing pseudoephedrine for the sole purpose of manufacturing methamphetamine.

12: Your affiant consistently reads and reviews new tactics and laws pertaining to the manufacturing of methamphetamine and the distribution of narcotics.

COMMON PRACTICES OF UNLAWFUL DRUG USERS/DISTRIBUTORS/TRAFFICKERS OF CONTROLLED DANGEROUS SUBSTANCES

Your Affiant has participated in numerous illicit drug distribution Investigations and based upon my training and experience, and consultation with other officers, your Affiant, knows that:

1. Drug distributors/traffickers commonly maintain books, records, receipts, notes, ledgers, and other documents/papers both electronically and in paper form, which relate to the transportation, ordering, sale, and distribution of controlled substances, even though such documents may be in code and/or identify customers/sources/co-conspirators through monikers/nicknames. Documentation such as this oftentimes results due to the fact that drug distributors/traffickers commonly "front" drugs (provide controlled substances on consignment) to their clients and must account for these transactions in order to collect outstanding drug debts.

2. Persons involved in drug distribution/trafficking frequently conceal caches of drugs, large amounts of currency generated from/intended for the distribution thereof, financial instruments and other items of value and/or proceeds of drug transactions, and evidence of financial transactions relating to obtaining, transferring, secreting, or spending large sums of money.

3. Drug distributors/traffickers commonly maintain addresses or telephone numbers in

notebooks, papers, cellular communication devices, computers and electronic storage media which reflect names, addresses, and/or telephone numbers for their associates in the drug distribution/trafficking organization, even if said items may limited or otherwise be in code. Contacts maintained within a cellular communication device will oftentimes specify names and/or nicknames/monikers, concerning co-conspirators with they are involved in their illicit activity. Moreover, said contact information will include some acquaintances associated with the user of the device which contributes to establishing the identity or otherwise evidence of dominion and control for the user of the device.

4. Your Affiant has consulted with other agents who have participated in numerous searches of

cellular telephones found to be in the possession of drug users/dealers/traffickers where text messages and other communications were discovered discussing topics such as quantities, prices and the quality of controlled dangerous substances, as well as dates, times and locations for drug transactions being discussed. Frequently, these communications are in coded drug talk/jargon and require review by peace officers experienced in deciphering such communications. In all phases of drug distribution, the utilization of cellular communication devices is essential. As drug

8. Through my experience in cases in which a forensic search/download of a cell phone was conducted, that the examining officer(s) was/were able to recover data that had previously been deleted by the device's user. Although this initial effort to delete the data *(i.e., text messages, photos, etc.)* is oftentimes thought by the user to have been permanently removed from the device, in many cases, downloading/imaging software utilized for the purpose of examining cell phones was still able to recover the data from the device. That the effort at deletion of information from the device is commonly undertaken to prevent evidence from being recovered by law enforcement.

9. On an increasing basis, smartphones are equipped with and various providers offer services that collect location information for the phone when it is lost or stolen *(i.e., find my phone)*. Additionally, various smartphones are equipped with technology that collects information in the form of metadata that maintains the time and geographic location of the device at the time images are captured with the device. This technology, when operational, oftentimes results in the telephone collecting/maintaining historical information for the physical movement of the device. Stored data for the location of the phone during various time periods, particularly those periods in which probable cause exists that the phone/user was engaged in criminal activity such as those offenses specified herein frequently provides relevant evidence, including information relevant to identifying the user of the device during a particular time period, as well as locations of criminal associates and evidence of the crimes in which they are engaged.

Facts Establishing Probable Cause

Investigators monitored communication between (Kevin G. Chambers DOB: 10/10/1973 Charity Faith Drozd DOB: 04/19/1982) and confidential informant TTF-11 on 08/01/2016 in reference to the purchase of methamphetamine. Investigators obtained information from Charity that her along with Kevin were on their way back from Tulsa and had just re-upped. Charity stated that she along with Kevin had several stops to make to individuals who had already purchased product. Charity stated it would be late until they could deliver any to the informant. Investigators made the decision to wait until the following day to attempt a purchase.

Investigators were able to conduct a controlled buy from Kevin and Charity on 08/02/2016. Investigators made the controlled buy in the Foyil area of Rogers County. Investigators arranged to by one gram worth of methamphetamine in exchange for one hundred dollars. Investigators

[redacted]

had an informant known as TTF-11 conduct the controlled buy. Investigators monitored the arrangements made by both text messages along with phone calls made using cell phones. Kevin and Charity stated they had just woke up and would head straight to the informant from their residence.

Investigators monitored Kevin and Charity make arrangements to bring methamphetamine to the informant's location. Investigators monitored the transaction using an open line of communication. Kevin and Charity arrived at the informant's location and began conducting the transaction. Kevin and Charity began to brag about how much product they had and were moving. Kevin also stated he had a large amount in his possession the night before and had ran from the police in the Verdigris area of Rogers County. Kevin and Charity left shortly after this transaction. Investigators met the informant at a separate location. Investigators then retrieved the product from the informant at the separate location at which time it field tested positive for methamphetamine.

Statements made by Kevin to TTF-11

TTF-11 stated that Kevin had bragged to him about being awoken by a deputy in the month of July 2016 asleep in a bank drive through. TTF-11 stated that Kevin boasted about having seven eight balls of methamphetamine on his person at the time of contact. Kevin stated the deputy woke him up and advised him to move on. Kevin thought this was funny that the deputy had no idea. Investigators were able to confirm that this encounter did occur between a Rogers County deputy and Kevin from an activity log kept by Rogers County dispatch.

Reliability of TTF-11

TTF-11 has proven his reliability in the past by providing information on narcotic distributors leading to multiple felony arrests.

TTF-11 has aided in the seizure of:

- Over eight pounds of methamphetamine
- Two stolen vehicle's
- Small amounts of marijuana, methamphetamine, cocaine, and heroin

[redacted]

TTF-11 has proven all knowledge shared with law enforcement to be true and correct based on firsthand knowledge.

Residence identified

TTF-11 was able to give directions to the residence he knew Kevin and Charity to live. Investigators were able to confirm the address to belong to Kevin's brother Christopher Chambers from previous encounters with law enforcement. The address is known as .

Additional Probable Cause Evidence will be at the Suspect's Residence

Your affiant states that through his training and experience both formal and informal that individuals involved in narcotics violations over an extended period of time tend to be habitual offenders. Your affiant states the information provided by TTF-11 along with the criminal history of Kevin Chambers and Charity Drozd indicates them to be a career criminal involved in the possession of narcotics.

I have learned that offenders such as Kevin Chambers and Charity Drozd will keep and store items, like those sought in this affidavit, at their residence. Furthermore, it is the opinion of your affiant, and other investigators with the Rogers County Sheriff's Office, that the items sought in this warrant will be located at the place to be searched. In fact, it is very unlikely that habitual offenders such as Kevin Chambers and Charity Drozd will discontinue their illegal activities without law enforcement intervention.

In addition, I have learned that offenders such as Kevin Chambers and Charity Drozd will store evidence, such as that sought in this affidavit, throughout their property. Based on the observations of vehicles and other items concealed from view, it is my opinion that the items sought in this affidavit will be throughout the property, which is why I am seeking authorization to conduct the search on the entire parcel described herein.

In my training and experience, methamphetamine offenders such as Kevin Chambers and Charity Drozd will have in their residence and surrounding property items used to ingest methamphetamine such as syringes and items used to smoke methamphetamine. Furthermore, Your affiant states that it is common, that people who manufacture and/or distribute narcotics, keep measuring devices such as scales, packaging equipment, and plastic baggies. Your affiant also states that it is common practice for

[redacted]

individuals that are distributing or manufacturing to keep records in ledgers, and or cellphones, or other electronic storage devices. Your affiant states that individuals that manufacture, or distribute methamphetamine commonly use syringes and glass smoking devices to consume or ingest

Your affiant states that this affidavit is being submitted for the limited purpose of determining whether probable cause exists to justify the issuance of a search warrant for the premises described. Each and every fact known to your affiant or others concerning this investigation has not been included in this affidavit. Your affiant has only set forth facts believed to be essential in determining probable cause for issuance of a search warrant for the described premises.

FURTHER YOUR AFFIANT SAYETH NOT.

WHEREFORE, Affiant asks that a search warrant issue according to law, directed to any Sheriff, Policeman or Law Enforcement Officer in Rogers County, Oklahoma, commanding that he search said persons, premises and/or vehicle, and take possession of all the controlled dangerous substances, equipment and paraphernalia hereinbefore described, and any vehicle in which said dangerous substance is unlawfully kept, deposited or concealed.

DEPUTY Quint Tucker, Affiant

SUBSCRIBED AND SWORN to before me this 6th day of Sept 2016. Time: 7:36 o'clock p.m.

JUDGE OF THE DISTRICT COURT

AFFIDAVIT FOR SEARCH WARRANT

STATE OF OKLAHOMA	**)**	**IN THE DISTRICT COURT**
	) ss.	
COUNTY OF ROGERS	**)**	

No. ______________________

AFFIDAVIT FOR SEARCH WARRANT

The undersigned affiant, being duly sworn, upon oath says: that in Rogers County, Oklahoma, at or upon or within a certain vehicle and/or house, building or premises, the curtilage thereof and the appurtenances thereunto belonging, in Rogers County, Oklahoma, known as follows:

11470 S. 4210 Rd in the Foyil area of Rogers County

Appearing in the following:

EXHIBIT A-1

Description of property to be searched: The property to be searched has two residences on it that all occupants on the property frequent. The main residence on the property is a single family residence. The door to this residence faces to the east towards S. 4210 Rd. The second residence is a metal structured shop with living quarters. The door to this residence faces south and is located directly south east of the main residence. The residences are both located on the same property at the dead end of S. 4210 Rd.

Directions to property to be searched: From the intersection of E. 390 Rd and S. 4210 Rd in the Foyil area of Rogers County travel south on S. 4210 Rd. The road will dead end into the driveway identified as 11470 S. 4210 Rd on the Google mapping system.

EXHIBIT A-2

EXHIBIT 2:

Judgment in United States v. Chambers (Tenth Circuit)

FILED
United States Court of Appeals
Tenth Circuit

February 27, 2018

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER COLMAN CHAMBERS,
a/k/a Christopher C. Chambers,

Defendant - Appellant.

No. 17-5046
(D.C. No. 4:16-CR-00118-JHP-2)
(N.D. Okla.)

JUDGMENT

Before **MATHESON**, **BALDOCK**, and **EID**, Circuit Judges.

This case originated in the Northern District of Oklahoma and was argued by counsel.

The judgment of that court is affirmed.

If defendant, Christopher Colman Chambers, was released pending appeal, the court orders that, within 30 days of this court's mandate being filed in District Court, the defendant shall surrender to the United States Marshal for the Northern District of

Oklahoma. The District Court may, however, in its discretion, permit the defendant to surrender directly to a designated Bureau of Prisons institution for service of sentence.

Entered for the Court

Elisabeth A. Shumaker

ELISABETH A. SHUMAKER, Clerk

17-5046 United States v. Chambers "Opinion judgment filed" (4:16-CR-00118-JHP-2)
ca10_cmecf_notify to: CM-ECFIntake_OKND 02/27/2018 09:44 AM

From: ca10_cmecf_notify@ca10.uscourts.gov
To: CM-ECFIntake_OKND@oknd.uscourts.gov

Tenth Circuit Court of Appeals

Notice of Docket Activity

The following transaction was entered on 02/27/2018 at 8:43:47 AM MST and filed on 02/27/2018

Case Name: United States v. Chambers
Case Number: 17-5046
Document(s): Document(s)

Docket Text:
[10538750] Judgment for opinion filed. [17-5046]

Notice will be electronically mailed to:

Ms. Leena Alam: leena.alam@usdoj.gov, bill.wright@usdoj.gov
Mr. Stephen James Greubel: stephen_greubel@fd.org, okn_ecf@fd.org
Ms. Janet Sue Reincke: jan.s.reincke@usdoj.gov, janreincke@att.net, theresa.craft@usdoj.gov

The following document(s) are associated with this transaction:
Document Description: Judgment
Original Filename: 17-5046.pdf
Electronic Document Stamp:
[STAMP acecfStamp_ID=1104938855 [Date=02/27/2018] [FileNumber=10538750-0]
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4a4fc36be8a8260b46057262eaf2477d5535c56706dc18d1]]

EXHIBIT 3:

Opinion and Order (Northern District of Oklahoma)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. 16-CR-118-JHP**
	)	
CHRISTOPHER COLMAN	)	
CHAMBERS,	)	
	)	
Defendant.	)	

OPINION AND ORDER

On November 22, 2016, United States Magistrate Judge Frank H. McCarthy entered a Report and Recommendation ("R&R") in regard to Defendant's Motion to Suppress Evidence (Doc. No. 15). (Doc. No. 22). The Magistrate Judge recommended that Defendant's Motion to Suppress Evidence be granted. Plaintiff the United States of America has filed an Objection to the Magistrate Judge's R&R pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Crim. P. 59(b)(2). (Doc. No. 23). On December 6, 2016, the Defendant filed a Response. (Doc. No. 24).

In its Objection to the Magistrate Judge's R&R, Plaintiff asserts the Magistrate Judge erred in concluding the affidavit in support of the subject warrant did not provide a sufficient nexus between Defendant's property and the criminal activity alleged to have been committed by Kevin Chambers and Charity Drozd. Upon *de novo* review, this Court finds the Report and Recommendation of the Magistrate Judge is not supported by the record. Accordingly, the Court **REJECTS** the Report and Recommendation and **DENIES** Defendant's Motion to Suppress.

BACKGROUND

On August 6, 2016, Rogers County Deputy Quint Tucker prepared an Affidavit seeking a search warrant for defendant's residence at 11470 S. 4210 Rd in the Foyil area of Rogers County, Oklahoma, in the Northern District of Oklahoma (the "Affidvait"). (*See* Doc. Nos. 23-1, 23-2, 23-3). The Affidavit contained a specific description of the property to be searched, 11470 S. 4210 Rd in the Foyil area of Rogers County (the "Residence"), specific directions to get to the Residence, and an aerial photo of the property to be searched. (*See* Doc. No. 23-1, at 1-2; Doc. Nos. 23-2, 23-3).

The following description of and directions to the property to be searched followed the aerial photo:

> **Description of property to be searched:** The property to be searched has two residences on it that all occupants on the property frequent. The main residence on the property is a single family residence. The door to this residence faces to the east towards S. 4210 Rd. The second residence is a metal structured shop with living quarters. The door to this residence faces south and is located directly south east of the main residence. The residences are both located on the same property at the dead end of S. 4210 Rd.
>
> **Directions to property to be searched:** From the intersection of E. 390 Rd and S. 4210 Rd in the Foyil area of Rogers County travel south on S. 4210 Rd. The road will dead end into the driveway identified as 11470 S. 4210 Rd on the Google mapping system.

(Doc. No. 23-1, at 2).

The Affidavit details Deputy Tucker's extensive training and experience in investigating drug cases, as well as the common practices of unlawful drug users/distributors/traffickers of controlled dangerous substances of which Deputy Tucker was aware. (*Id.* at 3-6).

The Affidavit then sets forth the following facts:

1. Investigators monitored conversations among Kevin Chambers, Charity Drozd, and a confidential informant on August 1, 2016, in which Drozd told the informant that she and Kevin Chambers "re-upped" in Tulsa and were on their way back; that they had several stops to make to individuals who had purchased product; and it would be late before they could deliver any methamphetamine to the informant. (*Id.* at 6).

2. On August 2, 2016, investigators monitored text messages and phone calls among Kevin Chambers, Drozd, and the informant, in which Kevin Chambers and Drozd stated they just woke up and would head straight to the informant from their residence. (*Id.* at 7).

3. On August 2, 2016, investigators monitored text messages and phone calls among Drozd, Kevin Chambers, and the informant to make arrangements to bring methamphetamine to the informant, after which Drozd and Kevin Chambers arrived at the informant's location and distributed methamphetamine to the informant. (*Id.*).

4. During the August 2, 2016, transaction, Drozd and Kevin Chambers bragged to the informant how much methamphetamine they had and were moving. Kevin Chambers told the informant he had a large amount the night before and had run from police in the Verdigris area of Rogers County. After Drozd and Kevin Chambers left, investigators retrieved the methamphetamine from the informant. (*Id.*).

5. Kevin Chambers bragged to the informant about being awoken by a deputy in July 2016 asleep in a bank drive-through. The informant stated that Kevin Chambers boasted about having seven eight-balls of methamphetamine on his person at the time of contact. Kevin Chambers stated the deputy woke him up and told him to move on, which Chambers found funny because the deputy had no idea about the methamphetamine. Investigators confirmed that this encounter did occur between a Rogers County deputy and Kevin Chambers from an activity log kept by Rogers County dispatch. (*Id.*).

The Affidavit further provides the basis for the informant's reliability and states that all knowledge shared by the informant proved to be true and correct and based on firsthand knowledge. (*Id.* at 7-8).

Regarding the residence to be searched, the Affidavit provides as follows:

<u>Residence Identified</u>

> [The informant] was able to give directions to the residence he knew Kevin and Charity to live. Investigators were able to confirm the address to belong to Kevin's brother Christopher Chambers from previous encounters with law enforcement.
> The address is known as .

(*Id.* at 8) (omission in original). Deputy Tucker further states that through his training and experience, he has learned that individuals involved in narcotics violations over an extended period of time tend to be habitual offenders. (*Id.*). Based on information provided by the informant, along with Drozd's and Kevin Chambers' criminal history, Drozd and Kevin Chambers were indicated to be career criminals involved in the possession of narcotics. (*Id.*). Deputy Tucker further states he has learned that offenders such as Drozd and Kevin Chambers will store items, such as those sought in the warrant, at their residence, and it is the opinion of Deputy Tucker and other Rogers County Sheriff's Office investigators that the items sought in the warrant would be located at the place to be searched. (*Id.*). Deputy Tucker also states he has learned that offenders such as Drozd and Kevin Chambers will store evidence, such as that sought in the Affidavit, throughout their property. (*Id.*). Deputy Tucker further states that, based on the observations of vehicles and other items concealed from view, it is Deputy Tucker's opinion that the items sought in the Affidavit would be throughout the property, which is why he is "seeking authorization to conduct the search on the entire parcel described herein." (*Id.*).

DISCUSSION

This Court's review of the Magistrate Judge's decision is *de novo* when, as here, a party makes timely objections to the R&R. Fed. R. Crim. P. 59(b)(3); *Bueno v. Pyle*, 24 F. App'x 917, 918 (10th Cir. 2001) (citing *Northington v. Marin*, 102 F.3d 1564, 1570 (10th Cir. 1996)). The Court's review is limited to the "four corners" of the Affidavit itself, and the Court must determine whether the facts stated in the Affidavit establish probable cause to believe the particular address to be searched was linked to Kevin Chambers and Charity Drozd. *See Hackney, Inc. v. McLaughlin*, 895 F.2d 1298, 1299-1300 (10th Cir. 1990).

The Magistrate Judge found that, because the Affidavit omits the address from the last line of the "Residence Identified" section of the Affidavit, it "does not tie the address contained in the search warrant or any particular address, to Kevin Chambers or Charity Drozd or to any suspected criminal activity. Nor does the affidavit specify where Kevin Chambers and Charity Drozd reside." (R&R at 2). The Magistrate Judge therefore concluded that "the warrant is not supported by probable cause to believe that evidence of a crime would be found at the particular address specified in the warrant." (*Id.*).

The Magistrate Judge also found that the good-faith exception did not apply, because the Affidavit was "so lacking in indicia of probable cause that official belief that probable cause exists [was] unreasonable." (*Id.* at 3). In so finding, the Magistrate Judge employed an objective standard that asks "whether a reasonably well trained officer would have known that the search was illegal despite the magistrate authorization." (*Id.* (quoting *United States v. Gonzales*, 399 F.3d 1225, 1230 (10th Cir. 2005)) (quotation marks omitted)); *see United States v. Leon*, 468 U.S. 897, 922 n.23 (1984). Under this standard, the Magistrate Judge noted, "when the underlying affidavit is devoid of factual support, the good faith exception is not available." (R&R at 3 (citing *Gonzales*, 399 F.3d at 1230)). Because "there is nothing in the affidavit that states where Kevin Chambers and Charity Drozd reside or that the particular address in the warrant is connected with suspected criminal activity," the Magistrate Judge concluded the good faith exception could not apply and suppression was required. (*Id.* at 3-4).

On *de novo* review, this Court must consider whether there was sufficient probable cause to establish a nexus between the property to be searched and the criminal activity described in the Affidavit. The Tenth Circuit's "test for determining the adequacy of the description of the location to be searched is whether the description is sufficient to enable the executing officer to locate and identify the premises with reasonable effort, and whether there is any reasonable probability that another premise might be mistakenly searched." *United States v. Lora-Solano*, 330 F.3d 1288, 1293 (10th Cir. 2003) (quotation omitted). The Fourth Amendment's particularity requirement for warrants is governed by the concept of "practical accuracy rather than technical precision," and a "technically wrong address does not invalidate a warrant if it otherwise describes the premises with sufficient particularity so that the police can ascertain and identify the place to be searched." *United States v. Brakeman*, 475 F.3d 1206, 1211 (10th Cir. 2007) (quoting *Lora-Solano*, 330 F.3d at 1293) (brackets and quotation marks omitted).

After a thorough review, the Court finds the Affidavit contains the following statements that, when taken together, provide a sufficient nexus between Defendant's property and the criminal activity alleged to have been committed by Kevin Chambers and Charity Drozd:

1. The Affidavit sets forth the address to be searched: 11470 S. 4210 Rd. near Foyil in Rogers County, a specific description of the property, directions to the property and includes an aerial photo showing the property and the residence to be searched. (Doc. No. 23-1, at 1-2).

2. On August 1, 2016, Drozd told an informant that she and Kevin Chambers re-upped in Tulsa and were on their way back; that they had several stops to make to individuals who had purchased product; and that it would be late before they could deliver any methamphetamine to the informant. (*Id.* at 6).

3. On August 2, 2016, the informant purchased methamphetamine from Kevin Chambers and Charity Drozd in a controlled buy monitored by law enforcement. (*Id.*).

4. On August 2, 2016, investigators monitored text messages and phone calls made among Kevin Chambers, Charity Drozd, and an informant, in which Kevin Chambers and Charity Drozd stated they just woke up and would head straight to the informant from their residence. (*Id.* at 6-7).

5. An informant gave directions to the residence he knew Kevin Chambers and Charity Drozd to live. Investigators confirmed the address to belong to Kevin Chambers' brother, Christopher Chambers, from previous encounters with law enforcement. (*Id.* at 8).

6. Deputy Tucker states, "offenders such as Kevin Chambers and Charity Drozd will store evidence, *such as that sought in this affidavit*, throughout their property," and "[b]ased on the observations of vehicles and other items concealed from view, it is my opinion that the items sought in this affidavit will be throughout the property, which is why I am seeking authorization to conduct the search *on the entire parcel described herein*." (*Id.* at 8) (emphasis added).

It is undisputed that Deputy Tucker inadvertently omitted the address of "the residence [the informant] knew Kevin and Charity to live" from the "Residence Identified" paragraph on page 8 of the Affidavit. Accordingly, the Court finds Deputy Tucker's omission of the address from that paragraph is merely a scrivener's error. The address to be searched, and its connection to Drozd and Kevin Chambers, are apparent from a full reading of the Affidavit. *See United States v. De La Torre*, 543 F. App'x 827, 829 (10th Cir. 2013) ("Even if a warrant is facially invalid, the reviewing court 'must also review the text of the warrant and the circumstances of the search to ascertain whether the agents might have reasonably presumed it to be valid.'") (quoting *United States v. Leary*, 846 F.2d 592, 607 (10th Cir. 1988)).

Here, a full reading of the Affidavit leaves no doubt as to the address where the informant "knew Kevin and Charity to live":

1. The Affidavit states the informant gave directions to that residence to investigators, who confirmed the address belonged to Kevin Chambers' brother, Christopher Chambers. (Doc. No. 23-1, at 8).

2. The Affidavit lists the address of the property to be searched, contains a specific description of the property, directions to the property, and an aerial photograph of the property and the residence to be searched. (*Id.* at 1-2).

3. The affiant, Deputy Tucker, states that he had learned that "offenders such as Kevin Chambers and Charity Drozd will store evidence, such as that sought in this affidavit, throughout their property." (*Id.* at 8).

4. Based on his observations, Deputy Tucker opines "that the items sought in this affidavit will be throughout the property, which is why I am seeking authorization to conduct the search *on the entire parcel described herein.*" (*Id.*) (emphasis added).

The only "parcel described herein" is the address set forth on the first page of the Affidavit: "11470 S. 4210 Rd. in the Foyil area of Rogers County." Accordingly, Deputy Tucker's inadvertent omission of the address from the "Residence Identified" paragraph on page 8 left no possibility that another property could have been searched.

Because a full reading of the Affidavit leaves no doubt that Kevin Chambers and Charity Drozd lived at the parcel identified and described with particularity on pages 1-2 of the Affidavit, the Court finds the Affidavit provides a sufficient nexus between the criminal activity described and the location to be searched.

Moreover, even if the inadvertent omission of the address on page 8 of the Affidavit did, in fact, render the warrant invalid, the good-faith exception under *Leon* would apply, because the Affidavit was not "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." *Leon*, 468 U.S. at 923. "When police officers act in good faith and reasonable reliance on a search warrant, the evidence obtained during the search should not be suppressed even if the warrant was lacking in probable cause." *Lora-Solano*, 330 F.3d at 1294-95 (quoting *United States v. Price*, 265 F.3d 1097, 1102 (10th Cir. 2001)) (brackets and quotation marks omitted). Here, a reasonably well trained officer would not have known the search based on the Affidavit was illegal despite the magistrate's authorization because, for the reasons explained above, the connection between the suspected criminal activity and Christopher Chambers' residence can be inferred from a full reading of the Affidavit. *See Leon*, 468 U.S. at 922 n.23 ("our good-faith inquiry is confined to the objectively ascertainable question whether a reasonably well trained officer would have known that the search was illegal despite the magistrate's authorization."). Here, Plaintiff has established the executing officer's reliance was objectively reasonable, because the Affidavit establishes at least "a minimally sufficient nexus between the illegal activity and the place to be searched." *United States v. Gonzales*, 399 F.3d 1225, 1231 (10th Cir. 2005) (quotation omitted).

Defendant attempts to analogize this case to the situation in *Gonzales*, in which the Tenth Circuit found the good-faith exception did not apply where a search warrant affidavit listed an address, but failed to specify that the address was the defendant's residence or that there was any other connection between that location, the defendant, or the suspected criminal activity. *Gonzales*, 399 F.3d at 1228, 1230. The analogy is inapt. In *Gonzales*, the only facts before the magistrate were the physical description of the address, that the defendant was a convicted felon, and that a Glock 10mm magazine was found in a vehicle in which he was the only occupant. *Id.* at 1230. The only attempt at a connection was the detective's assertion that in his experience, firearms are often kept at the residence. *Id.*

In this case, by contrast, a full and natural reading of the Affidavit indicates the home and property described in the "Residence Identified" and "Probable Cause" sections on page 8 are the same as the home described in significant detail and pictured on pages 1-2 of the Affidavit. This case is rather more analogous to *United States v. Beck*, 139 F. App'x 950, 957-58 (10th Cir. 2005). In *Beck*, the Tenth Circuit affirmed an application of the good-faith exception, finding the underlying documents were not "devoid of factual support" where the Affidavit described a vehicle in the "Property to be Searched" section and described criminal activity that took place in a vehicle in the "Probable Cause" section. *Id.* The Court concluded that, "[a]lthough it does not say so explicitly, the natural reading of the affidavit indicates that the vehicle identified in the probable cause section is the vehicle involved in the criminal offense." *Id.* at 957. Therefore, the panel found that, [a]lthough the affidavit is weak, it establishes a minimally sufficient nexus between the illegal activity and the place to be searched" and affirmed the district court's application of the good-faith exception. *Id.* (quoting *Gonzales*, 399 F.3d at 1230) (quotation marks omitted). *See also De La Torre*, 543 F. App'x at 830 (finding warrant incorporating language allowing seizure of evidence related to any conceivable drug crime, but authorizing in preamble section the seizure of evidence of only one crime—possession and consumption of methamphetamine—was not subject to suppression, because a "reasonable officer could conclude that the authorized search, though purporting to extend to an exhaustive array of items, was limited to the only offense described.").

Here, as explained above, the Affidavit contained more than a minimally sufficient nexus between the illegal activity and the place to be searched. In light of the details present in the Affidavit, and the investigators' knowledge of where Kevin Chambers and Charity Drozd lived, the inadvertent omission of the address from the last line of the "Residence Identified" section of the Affidavit did not render unreasonable the officers' good-faith reliance on the issuance of the search warrant by a neutral magistrate.

CONCLUSION

Upon full consideration of the entire record and the issues presented herein, the Court orders that the Report and Recommendation entered by the United States Magistrate Judge on November 22, 2016, be **REJECTED** and Defendant's Motion to Suppress Evidence (Doc. No. 15) be **DENIED**.

IT IS SO ORDERED this 23rd day of December, 2016.

James H. Payne
United States District Judge
Northern District of Oklahoma

EXHIBIT 4:

Judgment in a Criminal Case (Northern District of Oklahoma)

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

UNITED STATES OF AMERICA
v.

CHRISTOPHER COLMAN CHAMBERS
a/k/a "Christopher C. Chambers"

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:16CR00118–1

USM Number: 09725-062

Stephen James Greubel
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count One of the Indictment

☐ pleaded nolo contendere to count(s)
which was accepted by the Court.

☐ was found guilty on count(s)
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Felon in Possession of Firearms and Ammunition	8/8/16	1

The defendant is sentenced as provided in this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant must notify the Court and United States Attorney of material changes in economic circumstances.

April 26, 2017
Date of Imposition of Judgment

James H. Payne
Signature of Judge

James H. Payne, United States District Court Judge
Name and Title of Judge

May 3, 2017
Date

AO 245B (Rev. 11/16) Judgment in Criminal Case
Sheet 2 — Imprisonment

DEFENDANT: Christopher Colman Chambers
CASE NUMBER: 4:16CR00118-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: Thirty months.

☒ The Court makes the following recommendations to the Bureau of Prisons:
The Court recommends the defendant be placed in a facility that will allow him the opportunity to participate in the most comprehensive substance abuse treatment available.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

- ☐ at ______________ ☐ a.m. ☐ p.m. on ______________ .
- ☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ before 2 p.m. on ______________ .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this Judgment as follows:

Defendant delivered on ______________ to ______________

at ______________ , with a certified copy of this Judgment.

____
UNITED STATES MARSHAL

By ______________
DEPUTY UNITED STATES MARSHAL

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 3 — Supervised Release

DEFENDANT: Christopher Colman Chambers
CASE NUMBER: 4:16CR00118-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: Three years.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq*.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 3A — Supervised Release

DEFENDANT: Christopher Colman Chambers
CASE NUMBER: 4:16CR00118-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when to report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by the probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

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AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 3B — Supervised Release

DEFENDANT: Christopher Colman Chambers
CASE NUMBER: 4:16CR00118-1

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall submit his person, residence, office or vehicle to a search, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

2. The defendant shall successfully participate in a program of testing and treatment, to include inpatient treatment, for drug and alcohol abuse, at a treatment facility and on a schedule determined by the probation officer. The defendant shall abide by the policies and procedures of the testing and treatment program to include directions that the defendant undergo urinalysis or other types of drug testing consisting of no more than eight tests per month if contemplated as part of the testing and treatment program. The defendant shall waive any right of confidentiality in any records for drug and alcohol treatment to allow the probation officer to review the course of testing and treatment and progress with the treatment provider.

3. The defendant shall participate in a program of mental health treatment, to include inpatient, with a treatment provider and on a schedule approved by the probation officer. The defendant shall waive any right of confidentiality in any records for mental health treatment to allow the probation officer to review the course of treatment and progress with the treatment provider.

4. The defendant shall abstain from the use of any form of alcohol or intoxicating beverages.

U.S. Probation Officer Use Only

A U.S Probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this Judgement containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions,* available at: www.uscourts.gov.

Defendant's Signature ____________________________________ Date _________________

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 5 — Criminal Monetary Penalties

DEFENDANT: Christopher Colman Chambers
CASE NUMBER: 4:16CR00118-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

	Assessment	JVTA Assessment*	Fine	Restitution
TOTALS	$100	N/A	N/A	N/A

☐ The determination of restitution is deferred until
An *Amended Judgment in a Criminal Case* *(AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
TOTALS	$ ______	$ ______	

☐ Restitution amount ordered pursuant to Plea Agreement $ ______

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the Judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The Court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 6 — Schedule of Payments

DEFENDANT: Christopher Colman Chambers
CASE NUMBER: 4:16CR00118-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payment of $ 100 due immediately, balance due

☐ not later than ____________ , or

☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal ________ *(e.g., weekly, monthly, quarterly)* installments of $ ________ over a period of ________ *(e.g., months or years)*, to commence ________ *(e.g., 30 or 60 days)* after the date of this Judgment; or

D ☐ Payment in equal ________ *(e.g., weekly, monthly, quarterly)* installments of $ ________ over a period of ________ *(e.g., months or years)*, to commence ________ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within ________ *(e.g., 30 or 90 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the Court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessments, (8) penalties, and (9) costs, including cost of prosecution and court costs.