
No. _____

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,
RESPONDANT,

V.

MARIO JACKSON,
PETITIONER.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

United States v. Mario Jackson, ____ F. 3d ____ (6th Cir. 2024)
(opinion affirming district court judgment)

United States v. Mario Jackson, No. 2:19-cr-20425 (E.D. Michigan, August 28, 2023)

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QUESTIONS PRESENTED

- I. THE DISTRICT COURT ERRED IN DENYING MR. JACKSON'S MOTION TO SUPPRESS THE UNLAWFUL SEARCH OF CELLULAR PHONE DATA AND RECORDS

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I. OPINIONS BELOW

The reported opinion of the Court of Appeals for the Sixth Circuit and the judgment of conviction in the United States District Court for the Eastern District of Michigan are attached to this petition as the Appendix.

II. JURISDICTION

The judgment of the Court of Appeals for the Sixth Circuit was entered on February 3rd, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), the petitioner having asserted below and asserting in this petition the deprivation of rights secured by the United States Constitution.

III. STATUTORY PROVISIONS INVOLVED

This matter involves violations of the United States Code, specifically, 18 U.S.C. §§ 922(g), 924(c) and 951(a).

IV. STATEMENT OF THE CASE

A. Procedural Background

The matter was briefed for the Sixth Circuit Court of Appeals and, after considering the matter on the briefs, the Court issued an Opinion dated February 3rd, 2025, denying all relief, which has been appended to this Petition below. Mr. Jackson now makes this timely application.

B. Statement of Facts

Mr. Mario Jackson was indicted in case the Eastern District of Michigan on June 25th, 2019, when the grand jury returned a twelve count indictment against him alleging various offenses connected to the robberies of various Walgreens stores

within the Eastern District of Michigan. Count Six, a violation of 18 U.S. 924(c), was dismissed at the Government's request. Various law enforcement agencies, working in conjunction with one another and by analyzing cell phone data, developed Mr. Jackson as a suspect. For the purposes of this application, the cellular telephone evidence is most pertinent.

Detective Paul Kinal worked for the City of Southfield Police Department, the location of one of the robberies within the Eastern District of Michigan, and in relation to this investigation he reviewed video footage from all four Walgreens robberies in 2018 in the nearby area and concluded that the perpetrator was the same person. (R. 186 Trial Transcript Vol. V, PageID#1769)

After the robbery in Warren, Michigan, on March 28th, 2019, Detective Kinal obtained cell phone tower information for all the towers near the robberies which Mr. Jackson was alleged to have perpetrated in the indictment. (R. 186 Trial Transcript Vol. V, PageID#1774-1777) When the T-Mobile company responded to the search warrant issued with the cell phone tower data, the Detective Kinal was drawn to 313-742-1482 phone number because that number was one of the ones present near both the towers of Southfield and Royal Oak on the same date of December 29th, 2018, when the Walgreens robberies occurred at those locations. (R. 186 Trial Transcript Vol. V, PageID#1779-1780)

During the course of the investigation, Mario Jackson's name surfaced and the 313-742-1482 number was contacted by the Michigan Department of Corrections prompting Detective Kinal to obtain audio recorded calls between the number and

the Department of Corrections phone number providing further information that led them to video surveillance footage from a local mall confirming who Mr. Jackson was and what he looked like. (R. 186 Trial Transcript Vol. V, PageID#1782-1788) The detective also confirmed that Ms. Mylicka Cole¹'s number was 313-671-0548 and that she contacted Mr. Jackson on December 29th, 2018, using that number leading law enforcement to surveil her residence 18481 Sussex several times where they observed Mr. Jackson entering the residence and a blue Ford Explorer, similar to a vehicle near one of the robberies, in the driveway. (R. 186 Trial Transcript Vol. V, PageID#1789-1791) On the date the search warrant was executed at the Sussex residence, Detective Kinal observed that Mr. Jackson had a large bump on the left side of his neck and he stated that the suspect from the Royal Oak robbery video could be observed with a similar bump on his neck and a photograph from May 23rd, 2019, of Mr. Jackson was also entered as evidence. (R. 186, Trial Transcript Vol. V, PageID#1794-1797)

Agent Christopher McClain, in relation to this case, assisted in collecting cell phone tower data relating to towers near the Walgreens locations that had been robbed and, in looking at the Southfield and Royal Oak robberies from December 29th, 2018, only one number that was registered to an individual account holder, that being 313-742-1482, appeared connecting to both towers. (R. 186, Trial Transcript Vol. V, PageID#1881-1884) With this information, Agent McClain obtained a search warrant for the call history of 313-742-1482. (R. 186 Trial Transcript Vol. V, PageID#1888-1890)

¹ Ms. Cole was determined to have been in a relationship with Mr. Jackson and he was arrested at her residence at 18481 Sussex Road within the Eastern District of Michigan.

Agent George Rienenrth testified that he worked for the FBI as a cellular phone analyst and he was asked to prepare a report² relating to usage of a particular cell phone on November 25th, December 5th and December 29th of 2018 and March 28th of 2019. (R. 185 Trial Transcript Vol. IV, PageID#1634-1637) Agent Rienenrth described how cell phone towers are used to track call usage and location based on the tower the call uses to connect, including information as to relative distances from a particular tower when a call was made, and then explained the call data³ relating to the connectivity associated with phone number 313-742-1482. (R. 185 Trial Transcript Vol. IV, PageID#1637-1644) Agent Rienenrth explained that the report also contained information detailing the specific device which was used to make a particular call. (R. 185 Trial Transcript Vol. IV, PageID#1647)

The subscriber name “Bumps Bumps” was associated with 313-742-1482. (R. 185, Trial Transcript Vol. IV, PageID#1650) Agent Rienenrth was unable to add anything to the investigation relating to the Oak Park robbery in November of 2018 as the cellphone data did not have any connectivity to any tower around the time of the robbery. (R. 185 Trial Transcript Vol. IV, PageID#1651-1653) However, in relation to the Dearborn, Michigan robbery, Agent Rienenrth explained that his analysis of the cell phone data showed “between approximately 5:34 and 10:58 on December 5th, the phone number ending in 1482, the records are consistent with traveling from the geographic area of the residence⁴ to the geographic area of the

² Exhibit 65.

³ Exhibit 60.

⁴ The record is unclear, but this is presumably 18481 Sussex Road residence where Mr. Jackson was later apprehended.

Walgreens, and then back to the geographic area of and around the residence”. (R. 185, Trial Transcript Vol. IV, PageID#1656:18-22) On December 29th, 2018, in relation to the robberies of the Southfield and Royal Oak Walgreens stores, calls near the residence, both before and after the robberies, as well as both stores during the time frame of the robberies indicated that the cell phone connected to towers very close to both Walgreens locations. (R. 185, Trial Transcript Vol. IV, PageID#1657-1659)

Relating to the robbery on March 28th, 2019, when the Warren robbery occurred, Agent Rienenrth had more specific location data from the cell phone signaling various towers even when a call was not made and this information demonstrated that, on that evening, the phone was close to the Sussex residence, traveled to a tower close to the Walgreens in Warren at approximately 8:44 P.M, and then returned to the residence approximately an hour later. (R. 185 Trial Transcript Vol. IV, PageID#1659-1661) Agent Rienenrth explained from November of 2018 to March of 2019, 313-742-1482 was only associated with a single device the entire time and it was not possible for a number to attach to two different devices simultaneously. (R. 185 Trial Transcript Vol. IV, PageID#1663) Agent Rienenrth agreed that the Government selected the phones and dates for him to analyze, that he could not say what a person possessing a phone might be doing when it signaled a tower and that a signal could connect to a tower from miles away. (R. 185, Trial Transcript Vol. IV, PageID#1672-1675) Further, strength of signal, the height of the tower and maintenance of the tower’s equipment all could contribute to which tower a phone

connected to as well as weather and topography. (R. 185 Trial Transcript Vol. IV, PageID#1676-1684)

Though he could not say a person with that handset was inside the Walgreens store, Agent Rienarth believed the technology would support an assertion that the handset was very close to the store. (R. 185 Trial Transcript Vol. IV, PageID#1693) He also agreed that one could have multiple devices connected to the same number at once but only under unusual circumstances. (R. 185 Trial Transcript Vol. IV, PageID#1698) Agent Rienarth did not see multiple devices being used with the 313-742-1482 number during the time period he reviewed. (R. 185 Trial Transcript Vol. IV, PageID#1700-1701)

Mr. Jackson elected to testify and denied committing the robberies that he was charged with, though he admitted that some of the clothing recovered from the Sussex residence belonged to him. (R. 187, Trial Transcript Vol. VI, PageID#2005-2006) Mr. Jackson agreed that the phone number that had been researched was his, but the device being used was not his explaining that he lost his device gambling in October of 2018 and he then used the cloud backup system as a “ghost phone” as a method of utilizing the phone number without the same physical device. (R. 187, Trial Transcript Vol. VI, PageID#2007-2008) He also claimed that he had a scar, not a growth on his neck and that the pictures produced from the video surveillance had been altered by the Government. (R. 187, Trial Transcript Vol. VI, PageID#2017-2018)

Mr. Jackson agreed that the cell phone recovered in the case was his but said it was not the same one he lost while gambling and they had been switched explaining that he had two phones and was using an “old device”. (R. 187, Trial Transcript Vol. VI, PageID#2021-2023) He also said he misled Agent Kinal about his phone number and further did not tell the truth about his ownership of the phone when interviewed because the agent lied to him. (R. 187, Trial Transcript Vol. VI, PageID#2031-2035) He explained that he had a different phone that his girlfriend was unaware of because he was cheating on her and did not want her to know. (R. 187, Trial Transcript Vol. VI, PageID#2054)

V. STANDARD OF REVIEW

When the District Court denies a defendant’s motion to suppress, this Honorable Court “review[s] the district court’s findings of fact under the clear error standard and its conclusions of law *de novo*.” *United States v. Quinney*, 583 F.3d 891, 893 (6th Cir. 2009). “A factual finding is clearly erroneous when, although there may be evidence to support it, the reviewing court, utilizing the entire evidence, is left with the definite and firm conviction that a mistake has been committed.” *United States v. Sanford*, 476 F.3d 391, 394 (6th Cir. 2007) In relation to the *Franks* issue raised, this Court reviews the district court’s factual findings for clear error in the denial of a *Franks* hearing and its conclusions of law *de novo*. *Franks v. Delaware*, 438 U.S. 154, 171-172 57 L.Ed.2d 667, 98 S.Ct. 2674 (1978); see also *United States v. Bateman*, 945 F.3d 997, 1007 (6th Cir. 2019).

VI. SUMMARY OF ARGUMENT

Mr. Jackson asserts that the District Court erred when it denied his motion to suppress the information obtained from the illegal search of his cellular telephone records. The Government used information obtained from an analysis of the records from a number associated with Mr. Jackson to persuade the jury that he was present during the robberies of the various Walgreens locations but the records were obtained through an invalid warrant that asserted probable cause in violation of *Franks v. Delaware*.

VII. ARGUMENT

I. THE DISTRICT COURT ERRED IN DENYING MR. JACKSON'S MOTION TO SUPPRESS THE UNLAWFUL SEARCH OF CELLULAR PHONE DATA AND RECORDS

i. Fourth Amendment

The Fourth Amendment to the United States Constitution states:

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

The Fourth Amendment to the United States Constitution requires the issuance of a warrant to search a citizen's property based on probable cause and that the probable cause be supported by oath or affirmation from the party seeking the warrant. The Fourth Amendment mandates that the warrant "particularly describ[e] the place to be searched, and the persons or things to be seized." A plain reading of the language

of the Fourth Amendment makes clear, “the ultimate touchstone of the Fourth Amendment is ‘reasonableness.’” *Brigham City v. Stuart*, 547 U.S. 398, 403, 126 S.Ct. 1943, 164 L.Ed.2d 650 (2006).

In describing the probable cause standard, this Court has described probable cause as a “fair probability” that evidence of the crime being investigated will be uncovered at the location to be searched. *Illinois v. Gates*, 462 U.S. 213, 238 (1983), 103 S.Ct. 2317. The review by the independent magistrate “requires that the magistrate or judge review the totality of the circumstances ‘to make a practical, common-sense’ determination of whether probable cause is present.” *Id.*, at 238, 103 S.Ct. 2317. The district court will not have a basis for overturning the decision of the issuing judge or magistrate unless the warrant lacked a “substantial basis” upon which probable cause was established. *Id.*, 462 U.S. at 238, 103 S.Ct. 2317. “The critical element in a reasonable search is not that the owner of the 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.” *Zurcher v. Stanford Daily*, 436 U.S. 547, 556, 98 S.Ct. 1970, 56 L.Ed.2d 525 (1978). “The review of the sufficiency of the evidence supporting probable cause is limited to the information presented in the four corners of the affidavit.” *United States v. Berry*, 565 F.3d 332, 338 (6th Cir. 2009).

This Court has recognized the ubiquitous presence of cell phones in modern life and the fact that they “place vast quantities of personal information literally in the hands of individuals.” *Riley v. California*, 573 U.S. 373, 386 (2014). “Modern cell

phones, as a category, implicate privacy concerns far beyond those implicated by the search of a cigarette pack, a wallet, or a purse.” *Id.* at 393. *Riley* recognized that contemporary cell phones may contain data with the potential to reveal widely ranging and vastly personal information about an individual unrelated to any criminal activity. See *Id.*

ii. ***Franks* Violation**

If an officer seeking a search warrant presents false or misleading information to the magistrate issuing the warrant in order to support probable cause, the warrant is invalid:

There must be allegations of deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof. They should point out specifically the portion of the warrant affidavit that is claimed to be false; and they should be accompanied by a statement of supporting reasons. Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained. Allegations of negligence or innocent mistake are insufficient. The deliberate falsity or reckless disregard whose impeachment is permitted today is only that of the affiant, not of any nongovernmental informant. Finally, if these requirements are met, and if, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required.

Franks v. Delaware, 438 U.S. 154, 171-172 57 L.Ed.2d 667, 98 S.Ct. 2674 (1978)

In order for the a defendant to obtain an evidentiary hearing on a *Franks* issue, he/she must: “(1) make a substantial preliminary showing that the affiant knowingly and intentionally, or with reckless disregard for the truth, included a false statement or material omission in the affidavit” as well as “(2) prove that the false statement or material omission is necessary to the probable cause finding in the affidavit.” *United*

States v. Young, 847 F.3d 328, 348-49 (6th Cir. 2017); *Franks*, 438 U.S. at 155-56; *Bateman*, 945 F.3d at 1008. When a defendant asserts that there is an intentionally misleading omission in the warrant application, he/she must make “a strong preliminary showing that the affiant with an intention to mislead excluded critical information from the affidavit and the omission is critical to the finding of probable cause.” *Mays v. City of Dayton*, 134 F.3d 809, 816 (6th Cir. 1998). In order to make this determination, the District Court must conclude that the omission of the statement was critical for the finding of probable cause. *Id.*

iii. Fruit of the Poisonous Tree

The exclusionary rule further applies to evidence that was the indirect product or “fruit” of unlawful police conduct. *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963) Notwithstanding this rule, a reviewing court must evaluate “the temporal proximity of the [illegality] and the emergence of the incriminating evidence at issue, the presence of intervening circumstances, and, particularly, the purpose and flagrancy of the official misconduct.” *Brown v. Illinois*, 422 U.S. 590, 603-04, 95 S.Ct. 2254, 45 L.Ed.2d 416 (1975)). “Under the fruit of the poisonous tree doctrine, all evidence derived from the exploitation of an illegal search or seizure must be suppressed, unless the government shows that there was a break in the chain of events sufficient to refute the inference that the evidence was a product of the constitutional violation.” *United States v. Miller*, 146 F.3d 274, 280 (5th Cir. 1998) (citing *Brown*, 422 U.S. at 597-603)

Further, if “the government can show that evidence that might be excluded under the fruit of the poisonous tree doctrine should be admitted under another rationale” then it may be admitted. *United States v. Leake*, 95 F.3d 409, 412 (6th Cir. 1996); citing *Nix v. Williams*, 467 U.S. 431, 443, 104 S.Ct. 2501, 81 L.Ed.2d 377 (1984) (the taint of illegality can be removed if the evidence is obtained from an independent source unrelated to the illegality) One such method is the independent source doctrine, which permits evidence to be admitted, notwithstanding the illegality of a search warrant, if the Government can demonstrate that the proffered evidence was discovered through means “wholly independent of any constitutional violation.” *Nix*, 467 U.S. at 442-43, 104 S.Ct. at 2508-09 (1984). Similarly, if the Government can show that evidence would have been inevitably discovered “from lawful sources in the absence of the illegal discovery” then the evidence may be admissible. *Leake*, 95 F.3d at 412; citing *Nix*, 467 U.S. at 444, 104 S.Ct. at 2509.

iv. Seizure of Mr. Jackson’s Phone Records

Mr. Jackson filed a pretrial motion to suppress the fruits of a search warrant that was served on the various mobile phone providers in an effort to obtain historical, geographical information relating to the device connecting to 313-742-1482. As outlined in Mr. Jackson’s motion to suppress, the eventual unlawful seizure of information from Mr. Jackson’s account was a two-step process. Initially, Agent Paul Kinal provided information in the affidavit of probable cause that formed the basis for the issuance of the warrant to the mobile phone providers issued January 9th,

2019. (R. 73, Motion to Suppress Evidence, PageID#463-467&489-498⁵) After analyzing the data supplied by the mobile phone providers, law enforcement determined that the 313-742-1482 number was allegedly present and connecting with towers near two of the robberies of Walgreens stores⁶ near the time and date of the robberies. Based on this additional investigation, Officer Christopher McClain applied for a warrant to search specifically for information relating to Mr. Jackson's cell phone number which was issued April 24th, 2019 on the basis of Officer McClain's information.

The information supplied by Agent Kinal to the magistrate issuing the warrant on January 9th, 2019, has approximately six pages of information relating to the robberies themselves but this information does nothing to connect the 313-742-1482 number or Mr. Jackson to the conduct as a basis for the search but instead offered the conclusory statement that "individuals carry their cell phones on their person day and night". (R. 73, Motion to Suppress Evidence, PageID#489-495; Exhibit A) Agent Kinal provided four paragraphs as to how a cell phone's geographic location may be relevant to the investigation and listed towers that were located near the Walgreens stores that were robbed. However, the information provided in the search warrant affidavit intentionally failed to inform the magistrate that the geographic location information associated with a particular device attached to a specific phone number is imprecise at best and, given that the location and time of the robberies was later

⁵ The copies of the search warrants contained in the record were supplied by Mr. Jackson's counsel as exhibits to his motion to suppress and contained highlighted portions and notes that were not in the original search warrants.

⁶ The two robberies that took place within approximately ninety minutes of one another on December 29th, 2018.

in the evening, the likelihood was much greater than normal that a cellular signal would connect to a tower further away. (R. 73, Motion to Suppress Cell Phone Search, PageID# 463-466&468-469) Agent Kinal further failed to inform the magistrate that, given these factors, a cellular signal could connect to numerous towers, in addition to the ones near the robbery locations, skewing evidence presented to the magistrate of the proximity of the device to those specific towers. (R. 73, Motion to Suppress Cell Phone Search, PageID# 466) Agent Kinal also omitted how the “sectors” of the tower function to indicate what direction the cellular signal came from. (R. 73, Motion to Suppress Cell Phone Search, PageID# 467)

In this application for a subsequent warrant based on the information gleaned from the tower records supplied from Agent Kinal’s warrant, Officer McClain willfully neglected to inform the magistrate that the “Target Cellular Device” that law enforcement was seeking, which was allegedly on Mr. Jackson’s person during the Walgreens robberies, was no longer associated with the 313-742-1482 number when he sought the warrant. At the time Officer McClain applied for this warrant, he had been supplied with data related to the use of 313-742-1482 and he was aware that, on or about April 26th, 2019, the number associated with 313-742-1482 was changed to a different device on approximately March 30th, 2019. At trial, the Government’s expert witness as to the cell phone records, Agent Rienarth, testified that as of March 30th, 2019, based on his review of the cell phone records for 313-742-1482, a new device was associated with that number so any connection to the Walgreens robberies was tangential at best and Mr. Jackson.. (R. 185, Trial Transcript Vol. IV,

PageID#1664:11-15) This was materially false and Officer McClain knew it to be false at the time he made the assertion.

This is precisely the type of falsehood and/or material omission that *Franks* warns against and the search warrant should be invalidated for that reason. The facts of Mr. Jackson's case are similar to another recent case from the Eastern District of Michigan wherein local law enforcement sought a warrant for a suspect's cellphone data and asserted, in part, to the issuing magistrate that the device associated there was a nexus, without evidence, between the phone and the alleged criminal activity of defendant at the time of the issuance of the warrant as the partial basis to support probable cause. *United States v. Jeremy Griggs*, Pp. 3-4, Eastern District of Michigan, 2:20-cr-20403, (E.D.M.I. 2020) The district court found an insufficient basis to establish the nexus between the probable cause and the target phone. In Mr. Jackson's case, the law enforcement, due to the *Franks* issue, failed to show the nexus between the "Target Cell Phone" and any criminal activity because Office McClain omitted the change in the device associated with the account.

These warrants were obtained contrary to the admonition in *Franks*, *Young*, and *Bateman*, all of which prohibit a "material omission" from the search warrant affidavit and render them invalid if they were granted when the magistrate was unable to consider the critical, omitted information. Agent Kinal presented the magistrate with evidence that intentionally inaccurately portrayed the cell phone tower data sought as providing a nexus between the data that was being seized and the likelihood that it would contain evidence of criminal activity. A search warrant

may only be issued upon a showing that a “nexus” connects the place/item to be searched and the alleged criminal activity giving rise to the request and there must be a fair probability that the specific place that officers want to search will contain the specific things that they are looking for. See *United States v. Carpenter*, 360 F.3d 591, 594 (6th Cir. 2004) (en banc); see also *Zurcher*, 436 U.S. at 556. The material omission from the affidavit supplied the magistrate with a nexus between the robberies and the cell phone tower information that did not, if accurately described, exist.

After the service providers complied with the search warrant request, additional investigation revealed that 313-742-1482 allegedly connected to cell towers near the location of two of the five Walgreens robberies. Based on this, law enforcement developed Mr. Jackson as a suspect since his account was linked to that number and applied for a search warrant for his cellular phone data history which was issued on April 25th, 2019. In the affidavit for probable cause, like the first warrant application, the first twelve pages of Officer McClain’s affidavit supplied information about the robbery investigation and no information about linkage between Mr. Jackson’s cell phone and the robberies other than the fact that the suspect in the robberies can be seen with a cell phone in some of the robberies and the repeated assertion that “individuals carry their cell phones on their person day and night”. (R. 73, Motion to Suppress Evidence, PageID#504-515; Exhibit B) Critical to this analysis, the foundation of the probable cause to request a search of Mr. Jackson’s phone records rested on the information gleaned from the fruits of the

first, invalid warrant as the presence of the device connected with the two different towers on December 29th, 2018, made his phone into the “Target Cellular Device” based solely on its supposed presence on that date near those locations. (R. 73, Motion to Suppress Evidence, PageID#516; Exhibit B) The remainder of the affidavit for probable cause adds nothing linking the device to the robberies but instead merely outlines that Mr. Jackson has a long criminal record. (R. 73, Motion to Suppress Evidence, PageID#517-519; Exhibit B) However, as noted above, Officer McClain knew that the device associated with the phone number had been changed by the time he drafted the search warrant, but he intentionally omitted this critical fact.

Much of the evidence obtained from the April 25th, 2019, search warrant was introduced at trial and it appeared to link Mr. Jackson to the locations of the robberies during the dates and times clearly establishing the prejudicial nature of the unlawfully obtained information. The sole basis for probable cause in the April 25th, 2019, search warrant came directly from information obtained from the January 9th, 2019, search warrant constituting fruit of the poisonous tree. *Wong Sun*, 371 U.S. 471. Further, nothing in the record supports the contention that this information would have been inevitably discovered, or that any independent source of information would serve as an adequate, permissible basis to support a finding of probable cause. *Nix*, 467 U.S. at 443-444. Due to the initial taint of the January 9th, 2019, warrant, based on the critical material omissions from the affidavit of probable cause, and the reliance of the April 25th, 2019, warrant on the tainted information obtained through the January 9th, 2019, warrant, the District Court erred when it denied Mr. Jackson’s

motion to suppress the prejudicial evidence that flowed from this initial illegality. This constitutes non-harmless error and this Court should grant Mr. Jackson's application to address these issues relating to the use of cell phone location data and records when the magistrate issuing the warrant is not given the proper scope of information supporting the likelihood, or lack thereof, that the data has a nexus with the criminal activity being investigated.

CONCLUSION

For the aforementioned reasons, Mr. Jackson prays that this Honorable Court will grant his request for a writ of certiorari in order to review the question presented relating to the material omissions to the information surrounding the search warrant applications.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing petition motion to proceed *in forma pauperis* has been served via first-class mail upon counsel for the Respondent Mr. Mark Steven Bilkovic, United States Attorney's Office for the Eastern District of Michigan at Detroit, 211 W. Fort Street, Suite 2001, Detroit, MI 48226; and Ms. Sarah M. Harris, Acting Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001, this 30th day of April, 2025.

/s/ Manuel B. Russ
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