

No. \_\_\_\_\_

**IN THE  
SUPREME COURT OF THE UNITED STATES**

**RYAN MENDOZA,**  
*Petitioner,*

**v.**

**UNITED STATES OF AMERICA,**  
*Respondent.*

**APPENDIX**

---

**On Petition for a Writ of Certiorari to the United States Court of  
Appeals for the Third Circuit**

---

Ryan R. Smith, Esquire  
Counsel of Record  
Ryan R. Smith Law Offices  
310 Grant Street, Suite 820  
Pittsburgh, PA 15219  
rrs@ryanrsmithlaw.com  
(412) 235-7080  
Counsel for Petitioner

Appendix A

Opinion of the United States Court of Appeals for the Third Circuit

**PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 25-1154

---

UNITED STATES OF AMERICA

v.

RYAN MENDOZA,

Appellant

---

Appeal from the United States District Court  
for the Western District of Pennsylvania  
(District Court No. 2:21-cr-00503-001)  
District Judge: Honorable Arthur J. Schwab

---

Submitted Under Third Circuit L.A.R. 34.1(a)  
on November 13, 2025

Before: RESTREPO, McKEE, and AMBRO, *Circuit Judges*

(Opinion filed: January 8, 2026)

Ryan R. Smith  
Suite 820  
310 Grant Street  
Pittsburgh, PA 15219

*Counsel for Appellant*

Adam N. Hallowell  
Laura S. Irwin  
Office of United States Attorney  
700 Grant Street  
Suite 4000  
Pittsburgh, PA 15219

*Counsel for Appellee*

---

OPINION OF THE COURT

---

*AMBRO, Circuit Judge*

Ryan Mendoza moved to suppress evidence the Government obtained in its search of his hotel room after checkout time. The District Court denied his motion, holding that he failed to show he had a reasonable expectation of privacy in that hotel room. We agree. Five hours after checkout time, any expectation of privacy Mendoza had was not objectively reasonable.

## I. BACKGROUND

Around 1:00 a.m. on February 24, 2021, Ryan Mendoza checked into a Pittsburgh hotel for a two-night stay—the night spanning February 23 to 24 and the night spanning February 24 to 25. He obtained a receipt stating that his departure date was February 25. On the back of each guest room door, and usually on a plaque behind the front desk, the hotel posted signs stating that checkout time was noon. The hotel usually set guests' key cards to deactivate two hours after checkout time.

The hotel permitted guests to check out either by going to the front desk or simply by walking out of the hotel without notifying anyone. By noon on February 25, Mendoza had not gone to the front desk to check out. So the hotel's system added him to a "due-out" list. Hotel staff check rooms on the list to ensure they have been vacated. When the hotel manager checked Mendoza's room around 2:00 p.m., he saw a number of personal items but no luggage. He marked the room as a checkout, but found the situation odd. A few hours later, the manager returned for another check and discovered a backpack containing wrapped packages of white powder. He told a staff member to call the police.

They arrived around 5:20 p.m. Hotel staff informed the officers that they had found a bag containing drugs in the room of a "walk-out" guest whose stay had ended at noon that day. Police entered the hotel room without a warrant, accompanied by the hotel manager. In the room, the officers "double-check[ed]" with the manager that the guest had "checked out." Supp. App. 4, at 8:35–8:50. The manager appeared to understand the question as asking whether the guest physically checked out at the front desk, so the officer sought to clarify that the room was "vacant," the guest "ha[d] nothing to do with

this room anymore,” possession of the room had reverted to the hotel, and the guest would not be allowed back in if he tried to return. *Id.*, at 8:50–9:35. The manager confirmed this understanding. The police also asked the manager to alert them if the guest returned.

Around 10:00 p.m., Mendoza returned to the hotel. He was arrested with room keycards and the receipt in his pocket.

Mendoza moved to suppress the fruits of the hotel room search under the Fourth Amendment, arguing he had not vacated the room when the police searched it warrantlessly. At the suppression hearing, the hotel manager testified that guests could check out either by going to the front desk or by walking out. After the designated checkout time, walk-out guests’ balances are charged to their credit cards on file, their room keys are deactivated, and their rooms are considered vacant.

The District Court denied Mendoza’s motion. He appeals.

## **II. JURISDICTION AND STANDARD OF REVIEW**

The District Court had jurisdiction under 18 U.S.C. § 3231, and we have jurisdiction under 28 U.S.C. § 1291. “We review a district court’s order denying a motion to suppress under a mixed standard of review. We review findings of fact for clear error, but exercise plenary review over legal determinations.” *United States v. Dyer*, 54 F.4th 155, 158 (3d Cir. 2022) (citation omitted). And “[b]ecause the District Court denied the suppression motion, we view the facts in the light most favorable to the Government.” *Id.* (quoting *United States v. Garner*, 961 F.3d 264, 269 (3d Cir. 2020)).

### III. ANALYSIS

As an initial step in determining whether a search violated the Fourth Amendment, we ask whether the person claiming its protection had “a legitimate expectation of privacy in the invaded place.” *United States v. Montalvo-Flores*, 81 F.4th 339, 342 (3d Cir. 2023) (quoting *Rakas v. Illinois*, 439 U.S. 128, 143 (1978)). This inquiry involves a “subjective” prong—whether the defendant actually expected privacy in that place—and an “objective” prong—whether any such expectation was one that society is prepared to recognize as reasonable.<sup>1</sup> *Id.* (citing *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring)). Mendoza “bears the burden of proving each element.” *Id.* at 343. If he fails his objective burden, he cannot claim Fourth Amendment relief even if he did have a subjective expectation of privacy.

Under the Fourth Amendment, a hotel guest’s privacy interest in a hotel room is the same as that of a tenant in a rented house. *Stoner v. California*, 376 U.S. 483, 490 (1964). But that interest dissipates when the guest vacates the room. *Abel v. United States*, 362 U.S. 217, 241 (1960). “The hotel then ha[s] the exclusive right to its possession,” and hotel management may consent to a search. *Id.*

There is no precedential authority in our Circuit governing whether hotel guests maintain an objectively

---

<sup>1</sup> Courts often refer to this doctrine as a Fourth Amendment standing inquiry because it requires defendants to demonstrate a privacy interest in a searched place before seeking relief under the Fourth Amendment. *See Montalvo-Flores*, 81 F.4th at 342 & n.4. However, this inquiry is not jurisdictional and should not be confused with Article III standing. *Id.* at n.4.

reasonable expectation of privacy in their rooms after checkout time if they have not taken some affirmative action to check out. However, the many circuits to have confronted the issue unanimously hold that the expectation lapses after checkout time. *See, e.g., United States v. Parizo*, 514 F.2d 52, 55 (2d Cir. 1975); *United States v. Jackson*, 585 F.2d 653, 658 (4th Cir. 1978); *United States v. Ramirez*, 810 F.2d 1338, 1341 (5th Cir. 1987); *United States v. Lanier*, 636 F.3d 228, 232 (6th Cir. 2011); *United States v. Akin*, 562 F.2d 459, 464 (7th Cir. 1977); *United States v. Larson*, 760 F.2d 852, 855 (8th Cir. 1985); *United States v. Dorais*, 241 F.3d 1124, 1128–30 (9th Cir. 2001); *United States v. Croft*, 429 F.2d 884, 887 (10th Cir. 1970); *United States v. Ross*, 964 F.3d 1034, 1043 (11th Cir. 2020).

That rule makes sense. Checkout time is an appropriate marker for the end of a guest’s possession of a room and the resumption of possession by the hotel. Once checkout time has passed, hotel staff may—indeed, must—enter a room to clean it and prepare it for the next guest, who might be arriving just a short time later.<sup>2</sup> Leftover items can be removed by a hotel after checkout time. Keycards can be deactivated, terminating the guest’s access to the room. And many hotels, like the one here, do not require guests to check out affirmatively at the front desk; instead, they simply charge the credit card on file

---

<sup>2</sup> That hotel staff may enter a room to maintain it during a guest’s stay does not defeat the guest’s reasonable expectation of privacy from police intrusion. *See United States v. Jeffers*, 342 U.S. 48, 51 (1951). But hotel staff acquire complete discretion to enter the room after checkout time—for example, they may reasonably ignore a “Do Not Disturb” doorhanger left by a guest after checkout. *See Ross*, 964 F.3d at 1043.

after checkout time. Accordingly, guests can lose their privacy interests in a hotel room even without taking affirmative action to check out.

To argue otherwise, Mendoza points to testimony from the hotel manager that “people come in and they think they have the room for 24 hours.” App. 71. On the basis of this testimony, Mendoza contends it was objectively reasonable for him to believe he had the room for a full 48 hours after checking in for a two-night stay. That argument fails. As a matter of societal expectation, most hotel guests understand that the checkout time is a fixed time of day that does not change based on the time they checked in. Travelers receive this information in many ways, including signage, receipts, and the typical check-in colloquy at the front desk. Here, the manager testified that the hotel had signs about the checkout time posted in multiple locations. And Mendoza himself received a receipt stating that his departure date was February 25, not February 26 as it would have been if he had the room for 48 hours.

Because this search happened five hours after checkout time, and there were neither communications between Mendoza and the hotel regarding a late checkout nor any other potentially ambiguous circumstances, it does not raise a close question. A future case nonetheless might. Does the reasonable expectation of privacy disappear immediately at checkout time, or might there be a “grace period” for stragglers who remain slightly overtime? If there should be a grace period, does it vary based on the patterns and practices at that particular hotel, or the hotel’s communications with that particular guest? Circuits disagree on these questions, and we need not weigh in here. *Compare United States v. Kitchens*, 114 F.3d 29, 32 (4th Cir. 1997) (allowing guest to retain

legitimate expectation of privacy after checkout time if hotel has pattern or practice that would make the expectation reasonable), *and Lanier*, 636 F.3d at 232 (same), *and Dorais*, 241 F.3d at 1129 (same), *and United States v. Owens*, 782 F.2d 146, 150 (10th Cir. 1986) (same), *with Ross*, 964 F.3d at 1043 n.6 (expressly rejecting such an exception in favor of “clear Fourth Amendment rules”).

Instead, it is sufficient to say that any subjective expectation of privacy Mendoza had in a hotel room five hours after checkout time was not one that society is prepared to recognize as reasonable. Lacking objective reasonableness, his expectation of privacy cannot support a Fourth Amendment claim.

\* \* \* \* \*

To demonstrate that a search violated his rights under the Fourth Amendment, Mendoza must first show that the place searched was one in which he maintained a legitimate expectation of privacy. An expectation of privacy is legitimate only if it is objectively reasonable. Mendoza’s expectation of privacy in his former hotel room, five hours after checkout time, was not. As such, the police’s search of that room did not violate his Fourth Amendment rights.

We therefore affirm the District Court’s denial of the motion to suppress.

Appendix B  
Memorandum Opinion and Order of the United States District Court  
(App. \_\_\_\_)

[INSERT DISTRICT COURT OPINION HERE]

Appendix B  
Memorandum Opinion and Order of the United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Nos. 21-00503  
ELECTRONICALLY FILED

v.

RYAN MENDOZA,

Defendant.

**MEMORANDUM OPINION AND ORDER DENYING DEFENDANT RYAN  
MENDOZA'S MOTION TO SUPPRESS EVIDENCE (Doc. 55)**

Pending is Defendant Ryan Mendoza's Motion to Suppress Evidence. (Doc. 55). For all of the reasons set forth below, Defendant's Motion to Suppress Evidence shall be denied.

**I. BACKGROUND**

On December 14, 2021, Defendant was charged by Indictment with possession with intent to distribute 100 grams or more of a mixture and substance containing a detectable amount of heroin, and fentanyl, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(b)(i), and 841(b)(1)(b)(vi).

On December 4, 2023, Defendant filed the pending Motion to Suppress Evidence. (Doc. 55). In his Motion to Suppress Evidence, Defendant seeks to suppress all evidence seized from a hotel room searched by law enforcement and statements made to law enforcement by Defendant immediately after his arrest.

A status conference was held on December 5, 2023, at which time the Court ordered the Government to respond to Defendant's Motion to Suppress by February 19, 2024, and a hearing on Defendant's Motion to Suppress was set for March 13, 2024. (Doc. 56).

On February 19, 2024, the Government filed the “Government’s Response to Defendant’s Motion to Suppress Evidence.” (Doc. 68).

On March 10, 2024, Defendant filed a consented to Motion to continue the hearing on Defendant’s Motion to Suppress Evidence, which this Court granted, rescheduling the hearing to April 2, 2024. (Doc. 69, Doc. 70).

As rescheduled, the hearing on Defendant’s Motion to Suppress Evidence (“Suppression Hearing”) was held on April 2, 2024. (Doc. 75).

At the conclusion of the hearing, the Court asked the parties if they wanted to submit simultaneous proposed findings of fact and conclusions of law, to which both parties answered in the affirmative. (Doc. 77 at 49). The parties then agreed to file said findings of fact and conclusions of law no later than May 7, 2024. (*Id.*).

On May 7, 2024, both Defendant and the Government filed Findings of Fact and Conclusions of Law. (Doc. 78, Doc. 79).

Accordingly, as of May 7, 2024, Defendant’s Motion to Suppress Evidence is ripe for adjudication.

## **II. FACTUAL FINDINGS**

### **A. Witness Testimony At Suppression Hearing**

Three fact witnesses testified at the April 2, 2024 Suppression Hearing: (1) Donovan Stephens, General Manager of the DoubleTree Hotel, One Bigelow Square, Pittsburgh, Pennsylvania, on February 25, 2021 (“General Manager Stephens”); (2) City of Pittsburgh Police Officer Gregory Safran (“Officer Safran”); and (3) City of Pittsburgh Police Detective Anthony Seretti (“Detective Seretti”). All three witnesses testified credibly at the hearing.

**1. Hotel General Manager Donovan Stephen's Credible Testimony – How He Went To Room 1904 After The Occupant's Noon Checkout Time, Determined During This Due-Out Process That The Occupant Of Room 1904 Had Checked Out As A Walk-Out, Returned To Room 1904 Later, Opened The Closet And Found The Backpack, Opened The Backpack And Found What He Suspected Was Narcotics, Had His Staff Call The Police, Talked To The Police Prior To Entering Room 1904 About The Due-Out Process, And Then Led The Police Into Room 1904 And Showed Them The Backpack He Had Opened**

General Manager Stephens testified credibly at the Suppression Hearing, via video conference, as follows. (Doc. 77 at 24-43).

General Manager Stephens testified that he was the General Manager at the DoubleTree Hotel on One Bigelow Square in Pittsburgh (“the Hotel”) starting in 2020 for a couple of years. (*Id.* at 25-26).

General Manager Stephens testified that he recalled checking a room on February 25, 2021, because “[i]n hotels when people don't check out at the front desk, we do a due-out,” and that when he went into the room he ultimately found drugs. (*Id.* at 26). A “due-out” is: “Those are people who don't stop at the front desk, and this is just going to be -- people don't think they need to stop by. It is our responsibility to ensure that the room has been vacated, because sometimes people just stay in rooms, and then sometimes they have back-to-back reservations. Somebody will book a reservation for the next night, and we will figure out what happens.” (*Id.*).

General Manager Stephens described what he observed in Room 1904 when he checked it sometime mid-afternoon on February 25, 2021: “Went up to the room, and it was just kind of odd. There were things thrown. It looked like he was gone, but not 100 percent. There were phone chargers. I remember there was a couple phone chargers, a hoodie. There was some bags of chips or snacks, but not like suitcases or laptops or things you would see if someone was

staying over.” General Manager Stephens concluded: “So it looked like the person had left a few things behind.” (*Id.* at 27).

General Manager Stephens testified that he then marked Room 1904 “off as a check-out” and went and checked the rest of the rooms. (*Id.*) When he was done with the other rooms, General Manager Stephens returned to Room 1904: “There was something about that room that struck me odd. It was just not in the norm. I said, Let's go check it again, make sure there was no driver's license or anything. There was some things that were strange.” (*Id.*) It was at this time that General Manager Stephens opened the closet, and found inside a black backpack (“the Backpack”), which he thought was strange. (*Id.*).

General Manager Stephens testified that he opened the Backpack, opened one of the packages inside of the Backpack, and when white powder fell out of the package, he suspected he had found narcotics, went downstairs, and told a staff member to call the police (General Manager Stephens later told the police that he previously had opened one of the drug packages, and the police told him to go wash his hands). (*Id.* at 28, Government Exhibit 2 at 17:38:47).

General Manager Stephens testified that when personal items, as opposed to a suitcase, are left in a room, housekeeping would come up and bag the items, put it in lost and found for a period of 90 days for the person to claim them. (*Id.* at 29).

General Manager Stephens testified that he thought he talked to the police in the lobby when they arrived and escorted them to Room 1904, and prior to going up to the room: “ I think they were asking the condition of the room. I think I said -- I was telling them the story about the check-outs and due-outs, and I went on to what I found, items that I believed were drugs.” (*Id.* at 30-31).

Video from Officer Almusawi's body-cam was admitted into evidence as Government Exhibit 2, and played at the Suppression Hearing as part of General Manager Stephens and Officer Safran testifying. (*Id.* at 13, 32).

During the video, after Officer Almusawi had opened the Backpack previously opened by General Manager Stephens, Officer Almusawi said he was "double checking," and asked General Manager Stephens some questions regarding Room 1904's vacancy. With respect to these "double checking" questions, General Manager Stephens testified that he did not recall speaking with Officer Almusawi or otherwise speaking about the occupancy prior to coming upstairs to the room. (*Id.* at 32). "I think I described the due-out situation." (*Id.*).

During his testimony, the Government showed General Manager Stephens a Hotel receipt that was found in Defendant's coat pocket when he was arrested ("the Hotel Receipt"). (*Id.* at 32-33). A photograph of the Hotel Receipt was admitted into evidence as Government Exhibit 1.

General Manager Stephens testified that the Hotel Receipt appeared to be the hotel receipt for Defendant for Room 1904 from February 23, 2021 to February 25, 2021, and the Hotel Receipt was admitted into evidence as Government Exhibit 1. (*Id.* at 33).

General Manager Stephens testified that the Hotel Receipt showed an arrival date of February 23, 2021, an arrival time of 1:20 A.M., and a departure date of February 25, 2021. (*Id.*). The Hotel Receipt, found on Defendant's person, thus, established that Defendant's term of occupancy for Room 1904 expired on February 25, 2021.

General Manager Stephens testified that the Hotel Receipt "shows the balance of \$248.52. Two nights were intact, and if the person hasn't checked out in the front desk, the card is charged and zero balanced." (*Id.* at 33-34).

General Manager Stephens testified as to the Hotel Receipt: “More than likely, it was probably slid under the door the night before in regard to the prior check-out, or they can stop at the front desk. The only difference if he checked out at the front desk, charges the credit card, it would show balance of zero.” (*Id.* at 34).

General Manager Stephens testified that generally, a hotel’s room key stops working two hours after a guest’s checkout time. (*Id.*).

General Manager Stephens testified that the check-out time at a hotel is usually stated behind the front desk, on a sign/plaque that shows the check-in and check-out times, and it is also stated on the back of the door in the Hotel room. (*Id.*).

General Manager Stephens testified that because the Backpack was not “a normal suitcase,” but instead “was a backpack sitting with no tag on it,” he “thought it was probably good to check inside and see what the contents were.” (*Id.* at 36).

General Manager Stephens testified that it is not necessarily Hotel policy to get a phone number when a guest checks in. (*Id.* at 35). “We do sometimes ask for a phone number or email. It is not required.” (*Id.*).

On cross-examination, General Manager Stephens initially agreed that as to Room 1904, “When you first walked in, you described it to the officers as looking odd and somewhat occupied; right?,” but then clarified his answer: “It seemed, I wouldn't say ‘occupied; I would say ‘odd’.” (*Id.*).

With respect to the Backpack in the closet, General Manager Stephens testified: “Um, I think, because the guest had left, I was trying to verify what was going on. And it wasn't like a normal suitcase. It was a backpack sitting with no tag on it. So I thought it was probably good to check inside and see what the contents were.” (*Id.* at 36).

General Manager Stephens testified that the Hotel Receipt indicated that Defendant checked into the Hotel at approximately 1:28 A.M. (*Id.* at 38).

General Manager Stephens testified that he had thought that Defendant might still think he had the room and that he might come back because: (1) Defendant had left a bag of narcotics in the Hotel room; and (2) Defendant had checked in so late on February 23, 2021. (*Id.*)

Defendant's Exhibit B, the video footage of Defendant checking into the Hotel was played for General Manager Stephens during his testimony, and General Manager Stephens testified that it looked like Defendant had checked in a little after midnight on the 24th. (*Id.* at 38-39).

General Manager Stephens also testified that the Hotel Receipt shows Defendant's check in date as February 23, 2021, but that the video shows a different date. (*Id.* at 39).

General Manager Stephens was shown a video that contained General Manager Stephens and one of the police officers having a discussion. (*Id.*) As stated earlier, this video was not admitted as an Exhibit at the Suppression Hearing. General Manager Stephens confirmed that: (1) General Manager Stephens and the officer were discussing whether or not Defendant may have thought that Defendant still had the room, and that Defendant may be back; and (2) General Manager Stephens thought that because Defendant checked in so late on the 23<sup>rd</sup>/24<sup>th</sup>, Defendant may think he paid for two 24-hour periods. (*Id.* at 39-40). "Travelers think they rent for 24 hours at a time, so they think if they check in at 4:00, they think they have until 4:00 next day. It is posted at the front desk, posted in the back of the door. You see it a lot where people come in and they think they have the room for 24 hours." (*Id.* at 40).

General Manager Stephens also testified that past a hotel's check-out time, a room is considered to be vacant. (*Id.* at 41).

Finally, when questioned by the defense with respect to his response “I think so,” to Officer Almusawi’s “double-checking” question of whether Defendant had checked out of Room 1904, General Manager Stephens testified: “I think I was also kind of freaked out. I found a backpack full of drugs and just didn't know. I was maybe a little off. I'm not used to what had just occurred, so if I said "I think so," I went to the room and I verified. It was a due-out. If I misspoke there, it might have been the shock of what was going on.” (*Id.* at 41-42).

**2. Officer Safran’s Credible Testimony- How the Officers Answered A Call From The Hotel That Hotel Staff Had Found Drugs In A Hotel Room, And Discussed With Hotel Staff Prior To Entering Room 1904 That The Room’s Occupant Had Walked-Out And Was No Longer Staying At The Hotel, And That Room 1904 Had Returned To The Possession Of The Hotel**

Officer Safran testified credibly at the Suppression Hearing as follows. (Doc. 77 at 6-23).

Officer Safran testified that on February 25, 2021, at approximately 5:20 P.M., Officer Safran was dispatched to the DoubleTree Hotel (“the Hotel”), located at One Bigelow Square, in downtown Pittsburgh, Pennsylvania, based on police receiving a call from Hotel staff that suspected drugs had been found in a Hotel room. (*Id.* at 7-8).

Officer Safran testified that he, along with fellow police officers Detective Seretti and Officer Almusawi, arrived at the Hotel lobby within 5 minutes of being dispatched and spoke to the desk clerk and the Hotel’s manager for approximately 15 minutes in the Hotel Lobby. (*Id.* at 8-9).

Officer Safran testified that while in the lobby: “They informed us that someone had checked in, they were no longer staying there. They were supposed to have checked out at noon, and they walked out. Cleaning lady went upstairs and found a bag, and they believed there was drugs inside of it.” (*Id.*). (*See also id.* at 10) (testifying they were told by the Hotel employees in

the lobby, “They were checked out. Their stay ended at noon, and it was a so-called walk-out.”). Officer Safran further testified: [W]e asked the hotel manager multiple times if there was any expectation of privacy inside the room.” (*Id.* at 9).

Officer Safran testified that he believed the Hotel room in question was Room 1904. (*Id.* at 12).

Officer Safran testified that the three officers (Officer Safran, Officer Almusawi, and Detective Seretti) were all wearing body-cams at the Hotel on February 25, 2021, the officers’ body-cams were not activated while they spoke with the Hotel employees in the lobby prior to going to the Room 1904 where the suspected drugs were located, were activated once the officers were about to enter Room 1904, and the first 30 seconds after activation of the body-cam do not capture audio. (*Id.* at 9, 11-13).

Video from Officer Almusawi’s body-cam was played during Officer Safran’s testimony. Thereafter, Officer Safran testified that the information that General Manager Stephens provided the officers about the occupant of Room 1904’s “check-out” process prior to General Manager Stephens opening, and leading the officers into, Room 1904 and showing them the Backpack he previously had opened, was generally the same information General Manager Stephens provided to Officer Almusawi after Officer Almusawi reopened the Backpack, when Officer Almusawi asked General Manager Stephens his “double checking” questions. (*Id.* at 14).

Specifically, Officer Safran testified that prior to going up to Room 1904 it had been explained to the officers that it is common for guests to leave before noon (the Hotel’s checkout time), and to “walk-out” (not physically check out at the front desk) and so “[t]hey would go – you have to check the room to see if anyone was there, and that’s the end of it.” (*Id.*).

Officer Safran also testified that the officers determined that it was not necessary to get a search warrant before searching Room 1904 because they had “determined that the room now belonged back to the hotel, [such that] there was no expectation of privacy.” (*Id.* at 14, 17).

During cross-examination of Officer Safran, the defense played a body-cam video which Officer Safran testified contained Officer Almusawi’s voice. (*Id.* at 19-20). This video was not admitted as an exhibit at the Suppression Hearing. After watching the video, Officer Safran agreed with defense counsel that Officer Almusawi had said “that he [Officer Almusawi] thought Mr. Mendoza might still have the room.” (*Id.* at 20).

Finally, Officer Safran testified that there were some personal effects left in Room 1904 when the officers entered the room. (*Id.* at 22).

**3. Detective Anthony Seretti’s Credible Testimony – How He Responded To Call From Hotel That Defendant Had Returned To Hotel Around 10:00 PM. Or 11:00 PM On February 25, 2021, And After Defendant Was Arrested, The Hotel Receipt For Defendant’s Stay In Room 1904 And Hotel Key Cards Were Found In Defendant’s Coat Pocket**

Detective Anthony Seretti testified credibly at the Suppression Hearing as follows. (*Id.* at 43-48).

Detective Seretti testified that he went to the Hotel around 10:00 PM. or 11:00 PM on February 25, 2021, because the police had been informed that the person who rented the room where the narcotics were found had returned to the Hotel. (*Id.* at 45-46). At this time, it had been approximately 10 hours since the Hotel’s 12:00 P.M. (noon) checkout time had expired.

When Defendant was arrested, a number of items were taken from Defendant’s right coat pocket, including the Hotel Receipt for Defendant’s stay in Room 1904 and Hotel key cards. (*Id.* at 46-47). Photographs of the Hotel Receipt and the Hotel key cards that Detective Seretti testified were found in Defendant’s coat pocket when Defendant returned to the Hotel late in the

evening of February 25, 2021, and was arrested, were admitted into evidence as Government Exhibit 1. (*Id.* at 46-47).

### **B. Video From Officer Almusawi's Body-Cam -- Government Exhibit 2**

As also stated earlier, video from Officer Almusawi's body-cam was admitted into evidence as Government Exhibit 2, and played repeatedly at the Suppression Hearing. (Doc. 77 at 12-13, 32).

The video from Officer Almusawi's body-cam shows the following events occurred on February 25, 2021.

The door to Room 1904 was opened by General Manager Stephens at approximately 5:40 P.M. and General Manager Stephens led the officers into Room 1904. (Government Exhibit 2 at 17:38). As General Manager Stephens led the officers into Room 1904, General Manager Stephens explained that he was checking "due-outs," which meant that the person had not checked out of the room downstairs yet, and it (the room) looked odd to him. (*Id.* at 17:38:13).

General Manager Stephens then led the officers to Room 1904's closet and explained, as he opened the closet door, and took out the Backpack from the closet, and made the Backpack available to the officers by placing it on a desk, that he had found the Backpack in the closet, had opened the Backpack, and found inside the Backpack what he guessed are narcotics. (*Id.* at 17:38:18).

Officer Almusawi reopened the Backpack and saw what he thought was heroin. (*Id.* at 17:38:30). Thus, the officer's examination of the Backpack merely repeated what General Manager Stephens' private search had already uncovered.

At that point, General Manager Stephens stated that when he had opened the Backpack, he also had opened one of the packages inside of the Backpack; Officer Almusawi then told General Manager Stephens to go wash his hands. (*Id.* at 17:38:47).

Officer Almusawi then placed a call to a sergeant, and explained that they had found a substantial amount of drugs: thousands of stamp bags, and “zanie” bars. (*Id.* at 17:39:36).

Officer Almusawi also explained to the sergeant on the phone that the “dude checked out,” that the room’s occupant never went to the front desk to physically “check out,” but that his room had “expired,” and that the manager said that when they (a guest(s)) leave, they (a Hotel employee) come up to the room, and when the manager came to Room 1904, he saw the bag, opened it, and saw what he suspected were drugs. (*Id.* at 17:40:37).

Officer Almusawi also explained to the sergeant that there was still items left in the room: clothes and food. (*Id.* at 17:41:37).

One of the other officers present then stated that “he” had said that the guy did check out, which Officer Almusawi then repeated to the sergeant. (*Id.* at 17:41:35).

At the same time Officer Almusawi was talking to the sergeant on the phone, Officer Safran also was talking to “narcotics,” and stated that “he left the room, he checked out, and he just left all his stuff here.” (*Id.* at 17:41:46).

After the officers had removed all of the contents of the Backpack, they discussed looking under the bed, and opened a drawer. (*Id.* at 17:45:27). The officers then discussed that while the room was now a vacant hotel room, they may need a search warrant, and thus stopped any further searching of the room. (*Id.* at 17:45:39).

General Manager Stephens then returned to the doorway of the room. (*Id.* at 17:45:48).

Officer Almusawi stated to General Manager Stephens that he was “double-checking” and asked General Manager Stephens a series of questions about the room’s occupant “checking out,” and General Manager Stephens confirmed that the room was “vacant,” the room’s occupant “has nothing to do with this room anymore,” and that after the noon checkout time, if the room is checked and the occupant has left the room, the room “automatically goes back” to the Hotel such that the room’s occupant “can’t come back in” the room,” and “he’s checked out at that point.” (*Id.* at 17:46:10-17:47:03).

Officer Almusawi queried a final time of General Manager Stephens: “So he’s checked out?” to which General Manager Stephens replied, “He’s checked out.” (*Id.* at 17:47:34).

General Manager Stephens’ responses confirm that as of noon on February 25, 2021,

Officer Almusawi and General Manager Stephens left Room 1904 together, and took the elevator down to the lobby. (*Id.* at 17:15:40).

While waiting for the elevator, Officer Almusawi indicated to General Manager Stephens that he was confused as to why the room’s occupant left all the items in the room, and then Officer Almusawi concluded that people forget items all the time. (*Id.* at 17:52:08).

### **C. Photograph Of Room 1904 – Defendant’s Exhibit A**

A photograph of Room 1904 that matched how Room 1904 looked on February 25, 2021 on Officer Almusawi’s body-cam video was admitted into evidence as Defendant’s Exhibit A at the Suppression Hearing. (Doc. 77 at 21-22). The photograph shows an unmade bed with an orange sweatshirt on the bed, as well as a phone charger plugged into an outlet on a lamp, and a large plastic bag from Target filled with unknown items on the floor.

#### **D. Surveillance Video From The Hotel – Defendant’s Exhibit B**

Surveillance video from the Hotel was admitted into evidence as Defendant’s Exhibit B, and played at the Suppression Hearing. (Doc. 77 at 48). The video shows an individual walking into the Hotel lobby, and checking in at the front desk. (Defendant Exhibit B at 00:15). On the video is a time stamp of February 24, 2021 at approximately 12:55 A.M. (*Id.*).

### **III. DISCUSSION- CONCLUSIONS OF LAW**

The basis for Defendant’s Motion to Suppress Evidence is that at the time Room 1904 was searched, Defendant had not vacated his room, and thus, was “entitled to the same expectation of privacy to his hotel room as one is to his own home:”

Because Mr. Mendoza had not vacated his hotel room, the search of his room without a warrant was illegal and all evidence seized therefrom must be suppressed. Likewise, Mr. Mendoza’s statements made to law enforcement immediately after his arrest must be suppressed because those statements were made pursuant to an earlier Fourth Amendment violation, barely any time had elapsed between the Fourth Amendment violation, and there were no intervening circumstances between those points in time that would have served to remove the illegal taint of the Fourth Amendment violation as to the search of Mr. Mendoza’s hotel Room.

(Doc. 55 at 6). *See also* (Doc. 78 at 5) (“Because Mr. Mendoza had a reasonable subjective expectation of privacy in his hotel room at the time of the warrantless search, the search of his room without a warrant was illegal and all evidence seized therefrom must be suppressed.

Likewise, Mr. Mendoza’s statements made to law enforcement immediately after his arrest must be suppressed because those statements were made pursuant to an earlier Fourth Amendment violation, barely any time had elapsed between the Fourth Amendment violation, and there were no intervening circumstances between those points in time that would have served to remove the illegal taint of the Fourth Amendment violation as to the search of Mr. Mendoza’s hotel Room.”).

In response to Defendant’s Motion to Suppress Evidence, the Government makes a number of arguments in support of its position that Defendant’s Motion to Suppress Evidence should be denied, *see* Doc. 68, Doc. 79, including that Defendant’s Motion to Suppress Evidence must be denied because “the defendant had no reasonable expectation of privacy in the hotel room five hours after the checkout time had expired,” and therefore, “the defendant does not have standing to challenge the search of the hotel room authorized by hotel staff.” (Doc. 68 at 4). *See also* (Doc. 79 at 5) (asserting: “The defendant’s possessory interest in the hotel room ended at 12:00 pm on February 25, 2021. Because the defendant no longer had a possessory interest in the hotel room past the check-out time, he no longer had a legitimate expectation of privacy in the hotel room. As the defendant no longer had a legitimate expectation of privacy in the hotel room post-check-out time he lacks standing to challenge the search of the hotel room.”).

**A. The Search Of Room 1904 Did Not Violate Defendant’s Fourth Amendment Rights Because Defendant Did Not Have A Legitimate Expectation Of Privacy With Respect To Room 1904 When Police Searched Room 1904**

The Fourth Amendment 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 . . . .” U.S. Const. Amend. IV.

“Because Fourth Amendment rights are ‘personal,’ the proponent of a motion to suppress ‘bears the burden of proving . . . that he had a legitimate expectation of privacy in’ the place searched.” *U.S. v. Stearn*, 597 F.3d 540, 551 (3d Cir. 2010) (quoting *Rawlings v. Kentucky*, 448 U.S. 98, 104 (1980)). *See also Rakas v. Illinois*, 439 U.S. 128, 132 (1978) (explaining, “[t]he proponent of a motion to suppress has the burden of establishing that his own Fourth Amendment rights were violated by the challenged search or seizure”); *id.* at 143 (explaining,

“capacity to claim the protection of the Fourth Amendment depends . . . upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place”).

Recently, in *United States v. Montalvo-Flores*, 81 F.4th 339 (3d Cir. 2023), the United States Court of Appeals for the Third Circuit set forth the inquiry a court is to make to determine whether a defendant who claims the protection of the Fourth Amendment with respect to a warrantless search has established that he has a legitimate expectation of privacy in the invaded place, and thus, in fact, entitled to the Fourth Amendment’s protection against an unreasonable search:

“[C]apacity to claim the protection of the Fourth Amendment depends . . . upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place.” *Rakas v. Illinois*, 439 U.S. 128, 143, 99 S.Ct. 421, 58 L.Ed.2d 387 (1978). To decide that issue, we ask first whether Montalvo-Flores “exhibited an actual (subjective) expectation of privacy and, second, [whether his] expectation [was] one that society is prepared to recognize as ‘reasonable.’” *Katz v. United States*, 389 U.S. 347, 361, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967) (Harlan, J., concurring). These two questions reflect the “subjective” and “objective” prongs, respectively, of the Fourth Amendment’s “standing” inquiry.<sup>4</sup> See *United States v. Cortez-Dutrieville*, 743 F.3d 881, 884 (3d Cir. 2014). Montalvo-Flores bears the burden of proving each element. See *United States v. Stearn*, 597 F.3d 540, 551 (3d Cir. 2010) (“To invoke the Fourth Amendment’s exclusionary rule, a defendant must demonstrate that his own Fourth Amendment rights were violated by the challenged search or seizure.”).

[footnote 4: “The concept of standing in Fourth Amendment cases can be a useful shorthand for capturing the idea that a person must have a cognizable Fourth Amendment interest in the place searched before seeking relief for an unconstitutional search; but it should not be confused with Article III standing, which is jurisdictional and must be assessed before reaching the merits.” *Byrd*, 138 S. Ct. at 1530. We thus use “standing” to denote an element of the Fourth Amendment claim—that the movant has a reasonable expectation of privacy in the invaded place—though it does not implicate our jurisdiction.]

*Montalvo-Flores*, 81 F.4th 339 at 342-43.

Thus, consistent with the above analysis stated in *Montalvo-Flores, supra.*, in order for Defendant to prove that he had a legitimate expectation of privacy in Room 1904 when it was searched without a warrant, as argued by Defendant, so to be entitled to claim that the officers violated Defendant's Fourth Amendment rights when they searched Room 1904 without a warrant, Defendant must establish both that: (1) he "exhibited an actual (subjective) expectation of privacy" in Room 1904 when it was searched; and (2) Defendant's expectation of privacy in Room 1904 when it was searched was "one that society is prepared to recognize as 'reasonable.'" *Id.* at 342.

Having reviewed the evidence of record, the Court finds that Defendant has not established that he had a legitimate expectation of privacy in Room 1904 at the time Room 1904 was searched, as asserted in Defendant's Motion to Suppress Evidence.

To the contrary, the Court finds that Defendant did not have a legitimate expectation of privacy in Room 1904 at the time Room 1904 was searched because: (1) based upon the following evidence of record, after 12:00 P.M. (noon) on February 25, 2021, the exclusive possession of Room 1904 had returned to the Hotel and Defendant no longer had any possessory interest in Room 1904; and (2) society is not prepared to recognize as reasonable a former guest's expectation of privacy in a hotel room past a hotel's checkout time when the former guest did not seek an extension of said checkout time. *See U.S. v. Lanier*, 636 F.3d 228, 230 (6th Cir. 2011) (concluding, where drugs were found by hotel cleaning staff shortly after checkout time when no one answered knock on hotel room door, "[a]s we see it, and as the district court saw it, Lanier had no reasonable expectation of privacy in his hotel room at the time of the search. There is nothing unusual about a hotel housekeeper's entering a room after the check-out time and after no one responds to a knock on the door. And once the hotel learned of the presence of drugs in

the room, it had every right to grant access to the police to determine whether the room was being used for illegal purposes”); *U.S. v. Parizo*, 514 F.2d 52, 54 (2d Cir. 1975) (concluding, “when the term of a guest's occupancy of a room expires, the guest loses his exclusive right to privacy in the room. The manager of a motel then has the right to enter the room and may consent to search of the room and the seizure of the items there found”) (citing *U.S. v. Croft*, 429 F.2d 884 (10 Cir. 1970). *See also cf. Cook v. Drew*, Civ. No. 06-38, 2007 WL 3072238, at \*7 (W.D. Pa. Oct. 19, 2007) (explaining in context of a *Biven* claim: “A paying guest enjoys a legitimate expectation of privacy, and accompanying rights, in his hotel room. Conversely, it is well-established that a guest does not have a reasonable or legitimate expectation of privacy in his hotel room after his rental period has terminated. In other words, society is not prepared to recognize as reasonable a nonpaying guest's expectation of privacy in a hotel room, and therefore no privacy rights inhere in that context. In that case, after taking possession of a room for nonpayment, hotel personnel may lawfully consent to search of the room and articles found therein”) (citations and footnote omitted).

First, as established by the Hotel Receipt found on Defendant’s person in the evening of February 25, 2021, and General Manager Stephens’ testimony, Defendant had only rented Room 1904 through February 25, 2021, the Hotel’s checkout time on February 25, 2021, was 12:00 P.M. (noon), and the Hotel’s checkout time was displayed on the back of the Hotel’s door, as well as likely on a plaque behind the lobby desk. Second, General Manager Stephens’ testimony established that General Manager Stephens went into Room 1904 as part of the Hotel’s standard due-out procedure, and reasonably opened the untagged Backpack in the closet of Room 1904 in order to see if there was a driver’s license inside and to other decide how to deal with the Backpack. Third, no evidence was introduced that would establish that Defendant discussed with

Hotel staff that he sought to rent Room 1904 for any period of time past the Hotel's standard checkout time on February 25, 2021. Fourth, the testimony of Officer Safran, General Manager Stephens, and the body-can video from Officer Almusawi established that approximately 5 hours had passed after Defendant's term of occupancy in Room 1904 had expired before Room 1904 was searched.

Therefore, because Defendant has not met his burden of showing that he had a legitimate expectation of privacy in Room 1904 at the time of the warrantless search, *i.e.*, that Defendant has standing to challenge the warrantless search of Room 1904,<sup>1</sup> Defendant's Motion to Suppress Evidence, which is based on Defendant's assertion that he had a legitimate expectation of privacy in Room 1904 at the time of the warrantless search of the Hotel room such that his

---

<sup>1</sup> In so concluding, while Defendant emphasizes that General Manager Stephens and Officer Almusawi discussed that Defendant had not checked into the Hotel until "a little after midnight on the 24th [of February, 2021]," and that Defendant may have thought that he still had the room, that Defendant may be coming back, and that Defendant may still have the room (which is inaccurate in light of the Hotel's 12:00 P.M. (noon) checkout time), the Court finds that this conversation does not prove that Defendant had a legitimate expectation of privacy in Room 1904 when the evidence of record establishes that the police searched Room 1904 more than 5 hours after Defendant's rental period for Room 1904 had expired on February 25, 2021, and exclusive possession of Room 1904 had returned to the Hotel.

Similarly, given that Defendant had rented Room 1904 from February 23, 2021, to February 25, 2021, and the Hotel's check out time on February 25, 2021, was 12:00 P.M. (noon), such that Defendant's term of occupancy had expired, and exclusive possession of Room 1904 had returned to the Hotel, contrary to Defendant's argument, General Manager Stephens' statement (in response to defense counsel's question: "And that he may be coming back. It sounds like the reason you thought he is because he checked in so late, in fact, straddling between the 23rd and the 24th, and he may think he paid for two days, which would mean two 24-hour periods; correct?"): "Correct. Travelers think they rent for 24 hours at a time, so they think if they check in at 4:00, they think they have until 4:00 next day. It is posted at the front desk, posted in the back of the door. You see it a lot where people come in and they think they have the room for 24 hours," does not establish a legitimate expectation of privacy on the part of Defendant in Room 1904 when the police searched Room 1904.

Finally, in light of Defendant renting Room 1904 from February 23, 2021, to February 25, 2021, and the Hotel's check out time on February 25, 2021, being 12:00 P.M. (noon), such that Defendant's term of occupancy had expired, and exclusive possession of Room 1904 had returned to the Hotel at the time of the search on February 25, 2021, Defendant's assertion that because Defendant had left a number of items (a sweatshirt on the bed, a filled bag on the floor, snacks on a table, and the Backpack in a closet) in Room 1904, he retained a legitimate expectation of privacy in Room 1904 when the police searched Room 1904 is incorrect.

Fourth Amendment rights were violated when Room 1904 was searched without a warrant, shall be denied.

#### **V. CONCLUSION**

For the reasons set forth above, Defendant's Motion to Suppress Evidence (Doc. 55) is DENIED.

**SO ORDERED** this 3<sup>rd</sup> day of June, 2024.

s/Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All counsel of record via CM/ECF

Appendix C

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 persons or things to be seized.