

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

KENDLE RASHEN HAWKINS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

APPENDIX (A-F)

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 20 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENDLE RASHEN HAWKINS,

Defendant - Appellant.

No. 24-7781

D.C. No.

3:21-cr-05213-DGE-1

ORDER

Before: McKEOWN, W. FLETCHER, KOH, Circuit Judges.

The panel has voted to deny the petition for panel rehearing. Judge Koh has voted to deny the petition for rehearing en banc, and Judges McKeown and Fletcher have so recommended. The full court has been advised of the petition for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40. The petitions for panel rehearing and rehearing en banc, Dkt. No. 45, are DENIED.

IT IS SO ORDERED.

APPENDIX B

CASE NO. 24-7781

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,)
)
 Respondent-Appellee,)
)
v.)
)
KENDLE RASHEN HAWKINS,)
)
 Petitioner-Appellant.)

On Appeal From The United States District Court
For The Western District of Washington, Tacoma Division
No. 3:21-CR-05213-DGE-1
Honorable Ricardo S. Martinez and David G. Estudillo

**PETITION FOR PANEL REHEARING AND
FOR REHEARING *EN BANC***

Respectfully submitted,

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STATEMENT PURSUANT TO FRAP 40(b)(1) and (2)

Appellant Kendle Hawkins seeks rehearing by the panel in this case because the opinion overlooked or misapprehended the law concerning independent source and attenuation. The United States Supreme Court and this Court have long held that when police obtain evidence unlawfully, any evidence deriving from the original unlawful conduct—regardless of whether it is obtained through subsequent legal police conduct—is inadmissible as fruit of the poisonous tree, unless subject to well-delineated exceptions. *See, e.g., Wong Sun v. United States*, 371 U.S. 471, 488 (1963); *United States v. Chamberlin*, 644 F.2d 1262, 1269 (9th Cir. 1980), *cert. denied*, 453 U.S. 914 (1981). Where unlawful police conduct resulting in the discovery of evidence is followed by lawful police conduct, the court must assess whether the lawful police conduct is “genuinely independent” of the prior tainted evidence, or whether it is so attenuated as to dissipate the taint from the original misconduct.¹ *Murray v. United States*, 487 U.S. 533, 542 (1988); *United States v. Johns*, 891 F.2d 243, 245 (9th Cir. 1989). Critical to this analysis is the recognition that it is not enough that the evidence ultimately was obtained through lawful means; if the illegally obtained evidence “tend[ed] to significantly direct” the

¹ A third exception, not at issue in this case, occurs when evidence would have been inevitably discovered. *United States v. Gorman*, 859 F.3d 706, 718 (9th Cir. 2017).

investigation that led to the discovery of the evidence at issue, then it is subject to suppression. *Johns*, 891 F.2d at 245.

In this case, the district court found that at the inception of the investigation into Mr. Hawkins, the government obtained a warrant to track his phone's GPS location data through an affidavit that failed to establish probable cause, a finding the panel did not overturn. Absent application of the good faith exception set forth in *Leon*, if evidence obtained through that tainted warrant was then used to further the investigation, it is irrelevant whether subsequent police conduct was lawful. What matters is whether the subsequent conduct was "genuinely independent" of the tainted evidence.

The panel's decision wholly overlooks this legal framework, focusing only on the legality of the traffic stop that led to Mr. Hawkins's arrest, which he conceded was lawful under *Whren v. United States*, 517 U.S. 806 (1996). But the legal principle that it is lawful to stop a speeding vehicle regardless of the officer's motive was not in dispute; what was in dispute was whether the lawful traffic stop was a product of evidence obtained through a bare-bones affidavit that failed to establish probable cause.

By holding that the mere fact that the traffic stop was lawful under *Whren* obviates the need for any further analysis, the panel has issued a ruling that conflicts with longstanding precedent from the United States Supreme Court and

this Court. *En banc* review is therefore appropriate. Separately, this case presented an issue of first impression that the panel did not address, that is, whether the rule set forth in *United States v. Vasey*, 834 F.2d 782 (9th Cir. 1987) and *United States v. Wanless*, 882 F.2d 1459 (9th Cir. 1989),² prohibiting the use of evidence obtained through an unlawful search to obtain a warrant, should be extended to evidence obtained via a warrant that was not supported by probable cause. For this additional reason, the Court should grant rehearing *en banc*.

PROCEDURAL BACKGROUND

Petitioner Kendle Hawkins was arrested after a traffic stop on Interstate 5 near Centralia, Washington, when officers deployed a narcotics detection dog that alerted on the car in which Mr. Hawkins was traveling, leading to a search that uncovered drugs and firearms. (2-ER-161, 263). There is no dispute that Mr. Hawkins’s companion, the driver, was traveling over the posted speed limit. (2-ER-161).

The traffic stop was the culmination of an investigation into Mr. Hawkins that began with an informant tip. The informant, who had a standing payment agreement with the Seattle Police Department, alleged that someone named “Kendle,” who lived in Arizona, drove rental cars to Seattle and distributed drugs

² The *Vasey/Wanless* rule was subsequently limited, in *United States v. Artis*, 919 F.3d 1123, 1133-34 (9th Cir. 2019), but its central premise, that police may not take advantage of their own misconduct to obtain a warrant, remains intact.

to Kenneth Lee, who was a known member of a large drug trafficking organization (“DTO”) the government had been investigating for nearly two years. (2-ER-86-87). Other than supplying a phone number for “Kendle,” the informant gave no other information. (*Id.*). The investigating agent ran the phone number through several databases and found that the phone number was “associated with” addresses in Phoenix that were “associated with” Kendle Hawkins, but was subscribed under a different name. (*Id.*). Based solely on this information, the government applied for and obtained a GPS warrant to track the phone. It should be noted that the two-paragraph warrant application was embedded within a 37-page application for several other phones belonging to known members of the DTO under investigation. (2-ER-60-97).

Law enforcement agents used data from the GPS warrant to track the phone flying to Seattle for an overnight trip and then, six weeks later, driving north from Phoenix on I-5. (2-ER-137, 228-30). After obtaining a Cell Site Simulator (“CSS”) warrant that more precisely tracked the phone’s location, law enforcement assembled a multi-agency team of officers, including a Centralia officer traveling with his K9, to conduct a traffic stop, which ultimately led to Mr. Hawkins’s arrest and charges of possession with intent to distribute fentanyl and unlawful possession of firearms. (2-ER-160-61, 263).

Mr. Hawkins moved to suppress the evidence, arguing that the original GPS warrant lacked probable cause, and that the evidence obtained during the traffic stop was the fruit of the poisonous tree. (2-ER-34-56, 3-ER-281-92). The district court agreed that the GPS warrant application failed to establish probable cause, and also found that the informant's tip was stale, due to Lee having been arrested weeks before the warrant application. (1-ER-2-7, 11-13). It concluded, however, that the good faith exception articulated in *United States v. Leon*, 468 U.S. 897 (1984) applied, and further found that because the traffic stop was lawful, to the extent that Mr. Hawkins's companion was driving above the posted speed limit, evidence obtained as a result of the stop was lawfully obtained. (1-ER-5, 8-10).

Mr. Hawkins entered a conditional guilty plea, reserving the right to appeal the denial of his motion to suppress, and was sentenced to 120 months in prison. (3-ER-360, 374). In his appeal, he argued that: 1) the district court was correct in finding that the original GPS warrant was not supported by probable cause; 2) the warrant was bare bones, and the *Leon* good faith exception therefore did not apply; 3) under *Vasey* and *Wanless*, *supra*, evidence obtained through a warrant that was not supported by probable cause could not form the basis for a subsequent warrant application; 4) the structure of the warrant application, which embedded the sparse allegations about Mr. Hawkins within an application relating to other established DTO members, even though there was no non-stale evidence that Mr. Hawkins

was connected to the DTO, precluded a finding of good faith; and 5) the traffic stop, while lawful under *Whren*, was not independent of the evidence obtained via the GPS and CSS warrants, and was not attenuated from those warrants. He also argued, in the alternative, that the traffic stop was unreasonably extended beyond its mission when police deployed a K9 without completing the normal incidents of addressing the traffic stop. *See generally*, Appellant’s Opening Brief.

THE PANEL OPINION

In an abbreviated unpublished opinion, a panel of this Court affirmed the denial of Mr. Hawkins’s motion to suppress. *United States v. Hawkins*, 2026 WL 1494059 (May 28, 2026) (unpublished) (Attachment 1). The opinion did not overturn the district court’s finding that the GPS warrant lacked probable cause, and did not address the application of the *Leon* good faith exception, or whether *Vasey* and *Wanless* applied. Instead, the panel concluded:

Hawkins’s challenge fails because law enforcement had a lawful basis to stop and search the vehicle independent of the earlier warrants. Officers observed the vehicle speeding, which provided probable cause to conduct a traffic stop That officers may have had a “dual motive” for the stop is irrelevant because there is no dispute that a reasonable officer would stop a car for speeding under the circumstances.

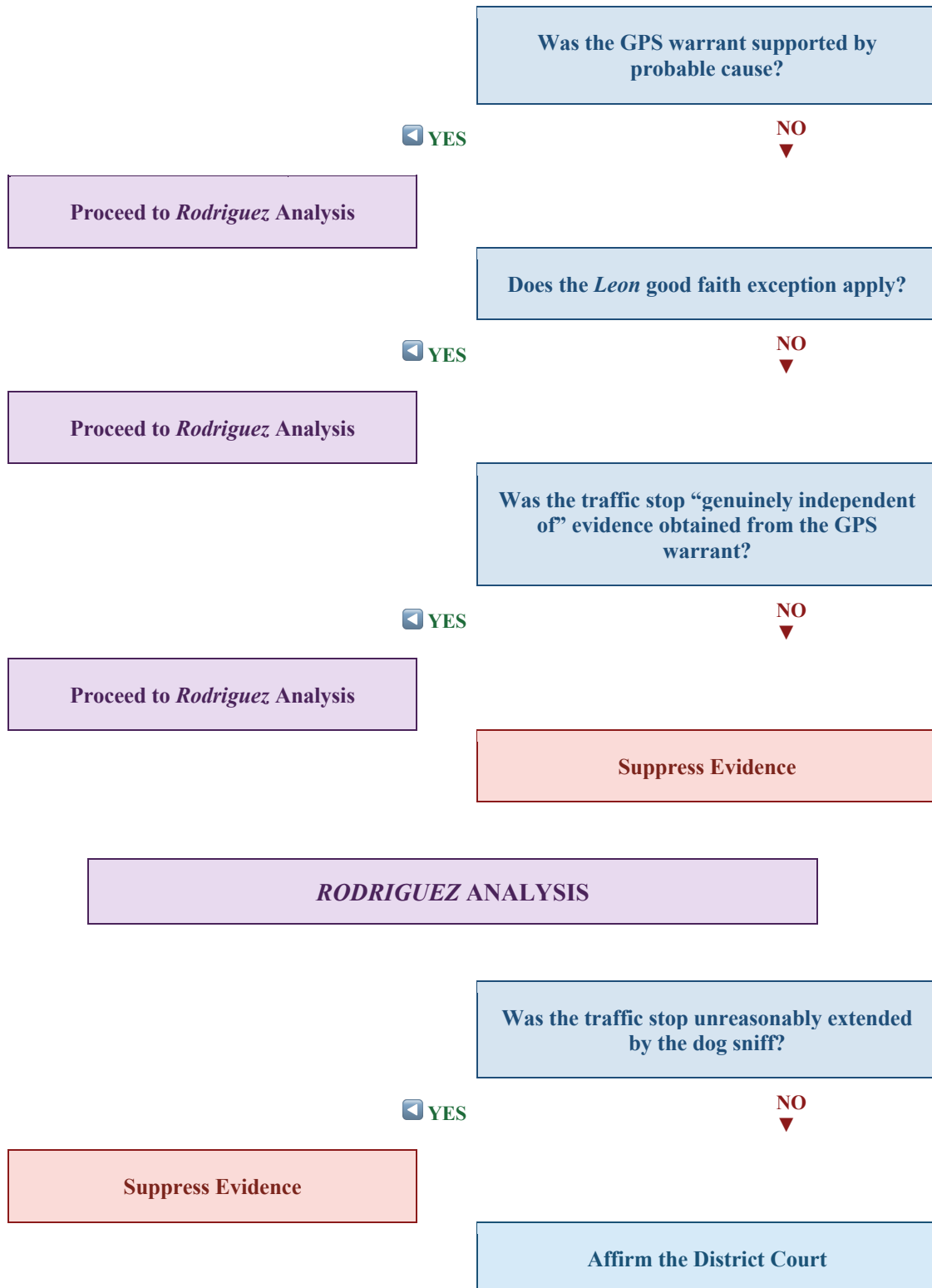
Id. at *1 (internal citations omitted). The panel also rejected Mr. Hawkins’s claim under *Rodriguez v. United States*, 575 U.S. 348 (2015) that the traffic stop was unlawfully extended by the deployment of the narcotics detection dog. *Id.*

ARGUMENT

- I. THE PANEL SHOULD RECONSIDER ITS HOLDING THAT THE LEGALITY OF THE TRAFFIC STOP IN THIS CASE WAS GOVERNED SOLELY BY *WHREN*, BECAUSE THE TRAFFIC STOP WAS NOT INDEPENDENT OF/ATTENUATED FROM THE BARE-BONES WARRANT

At its core, this case involves an analysis of whether the traffic stop at issue was the culmination of an unbroken chain of events that began with the bare-bones warrant the district court found was not supported by probable cause, or whether it was attenuated from—“genuinely independent” of—the original violation. The analysis should have proceeded as follows:

Suppression Analysis



The panel opinion skips over most of the analysis, concluding that because under *Whren*, an officer's motive is irrelevant in assessing the legality of a traffic stop, the traffic stop was lawful, and thus there was no basis for suppression.³ *Hawkins* at *1. But as the Supreme Court held in *Murray*, whether police action is “genuinely independent” of prior illegally obtained evidence is a function of whether the original Fourth Amendment violation (here, the tainted GPS warrant) “affected either (1) the law enforcement officers’ decision to seek a warrant or (2) the magistrate’s decision to grant it.” 487 U.S. at 539-40. *See also Johns*, 891 F.2d at 245 (evidence must be suppressed if illegally obtained evidence “tended significantly” to direct the investigation leading to the evidence at issue).

Here, there was ample evidence that the traffic stop was inextricably intertwined with, and was anything but independent of, the unlawfully obtained GPS tracking data. Prior to obtaining the GPS warrant, all the government knew was that someone named “Kendle” who lived in Arizona supposedly used rental cars to drive drugs to the Seattle area for distribution, and that there was indeed a person named Kendle who lived in Phoenix and was associated with addresses

³ The panel did undertake a *Rodriguez* analysis, concluding that the traffic stop was not unreasonably extended by the deployment of the narcotics-sniffing dog. (Opinion at 2-3). That analysis, however, only comes into play if the stop was independent of the tainted GPS and CSS warrants or the *Leon* good faith exception applied.

associated with the phone number provided by the informant. The odds that a Centralia police officer, who happened to be traveling with his narcotics detection dog, would have stumbled upon Mr. Hawkins, a passenger in a car traveling slightly over the speed limit, and would have deployed his dog with no previous indication there were drugs in the car, are too astronomical to entertain the idea that the traffic stop was “genuinely independent” as required by *Murray*. Indeed, the government repeatedly admitted that the basis for the stop was its suspicion that Mr. Hawkins, whose location had been precisely determined using GPS and CSS data, was transporting drugs. (2-ER-161, 228).

That a second police action is lawful does not automatically validate that action, if it derives from an earlier unlawful action. In *United States v. Gorman*, for example, the defendant was unlawfully detained during a traffic stop and then released. 859 F.3d 706, 709-10 (9th Cir. 2017). At the direction of the first officer, a second officer pulled him over after observing a traffic violation, and conducted a dog sniff. *Id.* at 710. This Court found that regardless of the legal basis for the second stop, it was the result of “an unbroken causal chain of events from the [initial] constitutional violation” that therefore tainted the second stop. *Id.* at 714-16. *See also Johns*, 891 F.2d at 245 (“The question is ‘whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means

sufficiently distinguishable to be purged of the primary taint.””) (*quoting Wong Sun*, 371 U.S. at 488). Because the panel failed to undertake this analysis, rehearing should be granted.

II. THE COURT SHOULD GRANT REHEARING EN BANC

A. The Panel’s Opinion Conflicts With Controlling Precedent From the United States Supreme Court and This Court Regarding Independent Source

As discussed above, ample precedent from both the United States Supreme Court and this Court has held that if law enforcement obtain evidence illegally (here, the GPS tracking data), that evidence cannot be purged of its taint simply because law enforcement subsequently engages in lawful conduct (here, stopping a vehicle traveling above the speed limit). *Wong Sun* (371 U.S. at 488), *Murray* (487 U.S. at 537), *Johns* (891 F.2d at 245), and *Gorman* (859 F.3d at 718), all make clear that a court must determine whether the lawful police conduct was “genuinely independent” of the original police misconduct, or was so attenuated from the original police misconduct as to break the chain of causation. Indeed, the independent source and attenuation doctrines presuppose that at some point after initial unlawful conduct, law enforcement engaged in lawful conduct leading to the discovery of evidence. Because the panel’s opinion holds that the mere fact that evidence was ultimately obtained through a lawful traffic stop automatically

purges the taint from the original conduct, to avoid conflicting opinions from different panels, this Court should grant *en banc* rehearing.

B. The Court Should Also Consider Whether the Rule Set Forth in *Vasey* and *Wanless* Extends to Evidence Obtained Through Warrants That Were Not Supported By Probable Cause, an Issue of First Impression the Panel Did Not Consider

In *United States v. Vasey*, this Court held that law enforcement may not exploit the fruits of a warrantless search to obtain a warrant from a judicial officer. 884 F.2d 782, 789 (9th Cir. 1987). The Court reaffirmed its holding in *United States v. Wanless*, ruling that where evidence supporting a warrant was obtained through an illegal search, the search warrant could only be valid if the application, purged of the illegally obtained evidence, was sufficient to establish probable cause. 882 F.2d 1459, 1466-67.

Following the Supreme Court’s decision in *Herring v. United States*, 555 U.S. 135 (2009), this Court reevaluated the *Vasey/Wanless* doctrine, holding that in such an instance, a court must evaluate whether the initial unlawful police conduct was “sufficiently deliberate” such that excluding subsequently obtained evidence would effect meaningful deterrence. *United States v. Artis*, 919 F.3d 1123, 1133-34 (9th Cir. 2019).

The Court has never considered whether evidence obtained through a warrant that was issued via an affidavit that failed to establish probable cause should be subject to the same analysis as if the evidence was obtained through an

illegal search. Because in both instances a court can assess the deliberateness of the police misconduct, the analysis set forth in *Vasey*, *Wanless* and *Artis* should apply with equal force. Here, the affidavit underlying the GPS warrant, the affidavit used to obtain the CSS warrant, and the police conduct surrounding the traffic stop, demonstrate that law enforcement's conduct was deliberate. The investigating agent knew the information provided by the informant was insufficient to establish probable cause, knew there had been virtually no corroboration undertaken, knew there was no current link between Mr. Hawkins and the DTO under investigation, and knew that embedding the request for GPS tracking within an application involving targets for whom there was significantly more evidence, would likely result in the magistrate issuing the warrant even though it was bare bones. Under the *Vasey/Wanless/Artis* framework, the deliberateness of the agent's conduct should have precluded her from using the fruits of the GPS warrant to further the investigation into Mr. Hawkins. For this additional reason, the Court should grant rehearing *en banc*.

CONCLUSION

For all of the reasons set forth above, Mr. Hawkins respectfully requests that the Court grant his petition for panel rehearing, or rehearing *en banc*.

DATED this 11th day of June, 2026

Respectfully submitted,
LAW OFFICE OF LYNN C. HARTFIELD, LLC

s/ Lynn C. Hartfield

Attorney for Defendant-Appellant

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing **PETITION FOR PANEL REHEARING AND FOR REHEARING *EN BANC*** complies with FRAP 40 and Ninth Circuit Rule 40-1, and contains 2790 words.

s/ Lynn C. Hartfield

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2026, I electronically filed the foregoing **PETITION FOR PANEL REHEARING AND FOR REHEARING *EN BANC*** using the CM/ECF system which will send notification of such filing to all parties of record.

s/ Lynn C. Hartfield

ATTACHMENT 1

***United States v. Hawkins*, 2026 WL 1494059
(May 28, 2026) (unpublished)**

2026 WL 1494059

Only the Westlaw citation is currently available.

NOT FOR PUBLICATION

United States Court of Appeals, Ninth Circuit.

UNITED STATES Of America, Plaintiff - Appellee,

v.

Kendle Rashen HAWKINS, Defendant - Appellant.

No. 24-7781

|

Argued and Submitted April
20, 2026 Seattle, Washington

|

Filed May 28, 2026

Appeal from the United States District Court for the Western
District of Washington David G. Estudillo, District Judge,
Presiding, D.C. No. 3:21-cr-05213-DGE-1**Attorneys and Law Firms**[Krista Kay Bush](#), Lyndsie Schmalz, [Lauren Elizabeth Watts Staniar](#), DOJ-United States Attorney's Office, Seattle, WA,
[Teal Luthy Miller](#), Davis Wright Tremaine LLP, Seattle, WA,
for Plaintiff Appellee.[Lynn C. Hartfield](#), Law Office of Lynn C. Hartfield, LLC,
Denver, CO, [Paula T. Olson](#), Law Office of Paula T. Olson,
Tacoma, WA, for Defendant Appellant.Before: [McKEOWN](#), [W. FLETCHER](#), [KOH](#), Circuit Judges.MEMORANDUM^{*}

***1** Kendle Hawkins appeals the denial of his motions to suppress evidence obtained from a vehicular search. Hawkins argues that the evidence should have been suppressed as “fruit of the poisonous tree” because the search resulted from two allegedly defective warrants. We review de novo the denial of a motion to suppress and for clear error any underlying factual findings. [United States v. Payne](#), 99 F.4th 495, 501–02 (9th

Cir. 2024). We have jurisdiction under [28 U.S.C. § 1291](#), and we affirm.

Hawkins's challenge fails because law enforcement had a lawful basis to stop and search the vehicle independent of the earlier warrants. Officers observed the vehicle speeding, which provided probable cause to conduct a traffic stop.

See [Whren v. United States](#), 517 U.S. 806, 810 (1996). That officers may have had a “dual motive” for the stop is irrelevant because there is no dispute that a reasonable officer would stop a car for speeding under the circumstances. See

[United States v. Orozco](#), 858 F.3d 1204, 1213 (9th Cir. 2017); Oral Arg 1:17:30–55. While the stop was ongoing, officers were allowed to conduct “unrelated investigations that did not lengthen the roadside detention,” including deploying a narcotics-detection dog to the exterior of the

vehicle. [Rodriguez v. United States](#), 575 U.S. 348, 354 (2015); see also [Illinois v. Caballes](#), 543 U.S. 405, 408 (2005) (explaining that a “dog sniff [does] not change the character of a traffic stop that is lawful at its inception and [is] otherwise executed in a reasonable manner”). The canine unit's positive alert, in turn, furnished probable cause to search the car. ^{**}

Hawkins argues that officers unlawfully extended the stop to facilitate the dog sniff by removing both him and the driver from the car. ^{***} But that step was justified, too. Officers explained that they gave the order to exit the vehicle after observing a high-capacity magazine in the glove compartment. Their decision was a reasonable way to attend to officer safety concerns and was therefore within the stop's lawful scope. [Rodriguez](#), 575 U.S. at 354.

For those reasons, we need not address whether the initial search warrants lacked probable cause or whether the good-faith exception to the warrant requirement would apply.

AFFIRMED.**All Citations**

Not Reported in Fed. Rptr., 2026 WL 1494059

Footnotes

- * This disposition is not appropriate for publication and is not precedent except as provided by [Ninth Circuit Rule 36-3](#).
- ** The dog's lack of specific training to detect fentanyl—the substance ultimately found in the car—does not change that conclusion. Hawkins makes no argument that the canine was insufficiently reliable as a general matter. See  [Caballes, 543 U.S. at 409](#) (rejecting similar argument “call[ing] into question the premise that drug-detection dogs alert only to contraband” without “evidence or findings”).
- *** To the extent that Hawkins alleges that the dog sniff itself extended the stop, no evidence in the record supports that allegation.

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APPENDIX C

2026 WL 1494059

Only the Westlaw citation is currently available.

NOT FOR PUBLICATION

United States Court of Appeals, Ninth Circuit.

UNITED STATES Of America, Plaintiff - Appellee,

v.

Kendle Rashen HAWKINS, Defendant - Appellant.

No. 24-7781

|

Argued and Submitted April
20, 2026 Seattle, Washington

|

Filed May 28, 2026

Appeal from the United States District Court for the Western
District of Washington David G. Estudillo, District Judge,
Presiding, D.C. No. 3:21-cr-05213-DGE-1

Attorneys and Law Firms

[Krista Kay Bush](#), Lyndsie Schmalz, [Lauren Elizabeth Watts Staniar](#), DOJ-United States Attorney's Office, Seattle, WA,
[Teal Luthy Miller](#), Davis Wright Tremaine LLP, Seattle, WA,
for Plaintiff Appellee.

[Lynn C. Hartfield](#), Law Office of Lynn C. Hartfield, LLC,
Denver, CO, [Paula T. Olson](#), Law Office of Paula T. Olson,
Tacoma, WA, for Defendant Appellant.

Before: [McKEOWN](#), [W. FLETCHER](#), [KOH](#), Circuit Judges.

MEMORANDUM*

***1** Kendle Hawkins appeals the denial of his motions to suppress evidence obtained from a vehicular search. Hawkins argues that the evidence should have been suppressed as “fruit of the poisonous tree” because the search resulted from two allegedly defective warrants. We review de novo the denial of a motion to suppress and for clear error any underlying factual findings. [United States v. Payne](#), 99 F.4th 495, 501–02 (9th

Cir. 2024). We have jurisdiction under [28 U.S.C. § 1291](#), and we affirm.

Hawkins's challenge fails because law enforcement had a lawful basis to stop and search the vehicle independent of the earlier warrants. Officers observed the vehicle speeding, which provided probable cause to conduct a traffic stop.

See [Whren v. United States](#), 517 U.S. 806, 810 (1996). That officers may have had a “dual motive” for the stop is irrelevant because there is no dispute that a reasonable officer would stop a car for speeding under the circumstances. See

[United States v. Orozco](#), 858 F.3d 1204, 1213 (9th Cir. 2017); Oral Arg 1:17:30–55. While the stop was ongoing, officers were allowed to conduct “unrelated investigations that did not lengthen the roadside detention,” including deploying a narcotics-detection dog to the exterior of the

vehicle. [Rodriguez v. United States](#), 575 U.S. 348, 354 (2015); see also [Illinois v. Caballes](#), 543 U.S. 405, 408 (2005) (explaining that a “dog sniff [does] not change the character of a traffic stop that is lawful at its inception and [is] otherwise executed in a reasonable manner”). The canine unit's positive alert, in turn, furnished probable cause to search the car. **

Hawkins argues that officers unlawfully extended the stop to facilitate the dog sniff by removing both him and the driver from the car. *** But that step was justified, too. Officers explained that they gave the order to exit the vehicle after observing a high-capacity magazine in the glove compartment. Their decision was a reasonable way to attend to officer safety concerns and was therefore within the stop's lawful scope. [Rodriguez](#), 575 U.S. at 354.

For those reasons, we need not address whether the initial search warrants lacked probable cause or whether the good-faith exception to the warrant requirement would apply.

AFFIRMED.

All Citations

Not Reported in Fed. Rptr., 2026 WL 1494059

Footnotes

- * This disposition is not appropriate for publication and is not precedent except as provided by [Ninth Circuit Rule 36-3](#).
- ** The dog's lack of specific training to detect fentanyl—the substance ultimately found in the car—does not change that conclusion. Hawkins makes no argument that the canine was insufficiently reliable as a general matter. See  [Caballes, 543 U.S. at 409](#) (rejecting similar argument “call[ing] into question the premise that drug-detection dogs alert only to contraband” without “evidence or findings”).
- *** To the extent that Hawkins alleges that the dog sniff itself extended the stop, no evidence in the record supports that allegation.

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APPENDIX D

AO245B

(Rev. 09/19) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Western District of Washington

UNITED STATES OF AMERICA

v.

KENDLE RASHEN HAWKINS

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:21CR05213DGE-001

USM Number: 50521-509

Paula T. Olson

Defendant's Attorney

THE DEFENDANT:☒ pleaded guilty to count(s) 1 and 2 of the Superseding 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:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(A) and 18 U.S.C. § 2	Possession of Fentanyl with Intent to Distribute	06/14/2021	1
18 U.S.C. § 922(g)(1) and 18 U.S.C. § 2	Unlawful Possession of a Firearm	06/14/2021	2

The defendant is sentenced as provided in pages 2 through 7 of 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.

Lyndan R. Schmalz
Assistant United States Attorney

December 19, 2024
Date of Imposition of Judgment

Signature of Judge

David G. Estudillo
Name and Title of Judge

12/19/2024
Date

AO245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 2 — Imprisonment

Judgment — Page 2 of 7

DEFENDANT: **KENDLE RASHEN HAWKINS**
CASE NUMBER: 3:21CR05213DGE-001

IMPRISONMENT

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

120 months

☒ The court makes the following recommendations to the Bureau of Prisons:

Placement at FCI Phoenix.

Participation in RDAP.

☒ 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

DEFENDANT: **KENDLE RASHEN HAWKINS**
CASE NUMBER: **3:21CR05213DGE-001**

SUPERVISED RELEASE

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

5 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 make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ 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 additional conditions on the attached pages.

DEFENDANT: **KENDLE RASHEN HAWKINS**
CASE NUMBER: 3:21CR05213DGE-001

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 your 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 you must 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 your 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 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 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.
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.

U.S. Probation Office 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 judgment 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 _____

DEFENDANT: **KENDLE RASHEN HAWKINS**
CASE NUMBER: 3:21CR05213DGE-001

SPECIAL CONDITIONS OF SUPERVISION

1. You shall abstain from the use of alcohol, intoxicants and illegal drugs during the term of supervision. You must contribute towards the cost of any programs, to the extent you are financially able to do so, as determined by the probation officer. In addition to urinalysis testing that may be a part of a formal drug treatment program, you shall submit up to eight (8) urinalysis tests per month.
2. You must undergo a substance use disorder evaluation as directed by the probation officer and, if recommended by a licensed/certified treatment provider, enter and successfully complete an approved outpatient substance use treatment program. The probation officer will monitor your participation in the program. The program may include urinalysis testing to determine if you have used drugs or alcohol. You must allow full reciprocal disclosure between the supervising probation officer and treatment provider. You must contribute towards the cost of any programs, to the extent you are financially able to do so, as determined by the probation officer.
3. You must undergo a mental health evaluation as directed by the probation officer and, if recommended by a licensed/certified treatment provider, participate as directed in an outpatient mental health treatment program approved by the probation officer. The probation officer will monitor your participation in the program. You must allow full reciprocal disclosure between the supervising officer and treatment provider. You must contribute towards the cost of any programs, to the extent you are financially able to do so, as determined by the probation officer.
4. The defendant shall participate as directed in the Moral Reconciliation Therapy program approved by the United States Probation and Pretrial Services Office. The defendant must contribute towards the cost of any programs, to the extent the defendant is financially able to do so, as determined by the U.S. Probation Officer.
5. The defendant shall submit his or her person, property, house, residence, storage unit, vehicle, papers, computers (as defined in 18 U.S.C. §1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a 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 supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition.

DEFENDANT: **KENDLE RASHEN HAWKINS**
CASE NUMBER: 3:21CR05213DGE-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 200.00	\$	\$ Waived	\$ 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.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00
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- ☐ 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:
- ☒ The court finds the defendant is financially unable and is unlikely to become able to pay a fine and, accordingly, the imposition of a fine is waived.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** 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.

DEFENDANT: **KENDLE RASHEN HAWKINS**
CASE NUMBER: 3:21CR05213DGE-001

SCHEDULE OF PAYMENTS

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

- ☒ PAYMENT IS DUE IMMEDIATELY. Any unpaid amount shall be paid to Clerk's Office, United States District Court, 700 Stewart Street, Seattle, WA 98101.
- ☒ During the period of imprisonment, no less than 25% of their inmate gross monthly income or \$25.00 per quarter, whichever is greater, to be collected and disbursed in accordance with the Inmate Financial Responsibility Program.
- ☒ During the period of supervised release, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after release from imprisonment.
- ☐ During the period of probation, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program are made to the United States District Court, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified on the Criminal Monetaries (Sheet 5) page.

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

- ☐ Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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- ☐ 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:
See Preliminary Order of Forfeiture at Dkt. 142.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA Assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

APPENDIX E

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

KENDLE RASHEN HAWKINS,

Defendant.

CASE NO. CR21-5213RSM

ORDER DENYING SECOND MOTION TO
SUPPRESS EVIDENCE

This matter comes before the Court on Defendant Hawkins's Second Motion to Suppress Evidence recovered by law enforcement pursuant to a Search Warrant and Pen-Trap Order that was authorized on May 20, 2021, and a subsequent Search Warrant that was authorized on June 14, 2021. Dkt. #74. Mr. Hawkins has been charged in a Superseding Indictment with Possession of Fentanyl with Intent to Distribute and Felon in Possession of a Firearm. Dkt. #44. Although this is a stand-alone indictment, this case is related to those brought against approximately 39 other Defendants under 13 different cause numbers. *See* Dkts. #21, 31, and 34.

The Court previously heard a very similar Motion to Suppress, Dkt. #39, and denied it. *See* Order at Dkt. #64. The Court incorporates by reference the facts and legal analysis of that Order.

Mr. Hawkins now argues for suppression of evidence recovered by law enforcement pursuant to the search warrant signed on June 14, 2021, in part because the Court found the first

1 warrant issued on May 20, 2021, to be “too thin and insufficiently reliable.” Dkt. #74 at 1.

2 However, the Court’s Order went on to state:

3 Furthermore, the Court agrees that “[e]ven if there were flaws in the
4 GPS Warrant or subsequent warrants that undermine these three
5 magistrates’ findings of probable cause, the *Leon* good-faith
6 exception would apply.” Dkt. #54 at 29 (citing, 468 U.S. at 920–
7 21). Under *Leon*, evidence is admissible if police obtained it in
8 “objectively reasonable reliance” on a search warrant, even if a
9 reviewing court later invalidates the warrant. *Leon*, 468 U.S. at 922.
10 “When officers have acted pursuant to a warrant, the prosecution
11 should ordinarily be able to establish objective good faith without a
12 substantial expenditure of judicial time.” *Id.* at 924. *Leon*’s good-
13 faith exception applies in all but four circumstances: (1) when the
14 warrant is “so facially deficient” that no executing officer could
15 reasonably presume it to be valid; (2) when the warrant results from
16 recklessly or knowingly misleading the issuing judge; (3) when the
17 affidavit supporting the warrant is “bare bones”; and (4) when the
18 issuing judge “wholly abandons his or her judicial role.” *Id.* at 922–
19 23. None of those circumstances apply to the warrants here.

20 Dkt. #64 at 5–6. Mr. Hawkins acknowledges that finding but states, “[t]he Cell Site Simulator
21 Warrant affidavit was equally deficient with respect to its effort to establish probable cause, and
22 the affidavit itself provides the basis as to why the traffic stop was not reasonable and why the
23 *Leon* good faith exception does not apply.” Dkt. #74 at 2.

24 The Government argues there is no reason for the Court to depart from its prior rulings
25 and that “Hawkins’s untimely motion is also effectively a motion to reconsider the Court’s
26 previous ruling—although it is not labelled as such—yet it does not meet the stringent
27 requirements for such a motion.” Dkt. #78 at 1–2. More specifically, they state:

28 This issue has already been decided. This Court closely examined
29 the GPS Warrant Affidavit and determined that “none of those
30 circumstances appl[ied],” including the “bare bones” exception.
31 Dkt. 64, at 5–6. The CSS Warrant has the same evidence as the GPS
32 Warrant and more. It was not bare bones. Because there was at least
33 a colorable argument for probable cause here, the agents had every
34 reason to believe that the CSS Warrant was valid, and this Court
35 should again conclude that the agents relied on it in good faith.

1 *Id.* at 10.

2 “Motions for reconsideration are disfavored.” Local Criminal Rule 12(b)(13)(A). “The
3 court will ordinarily deny such motions in the absence of a showing of manifest error in the prior
4 ruling or a showing of new facts or legal authority which could not have been brought to its
5 attention earlier with reasonable diligence.” *Id.*

6 The Court agrees that Mr. Hawkins’s Motion is essentially a mislabeled motion for
7 reconsideration. It addresses the same issues previously ruled on by the Court without attempting
8 to show manifest error or new facts or legal authority which could not have been brought to the
9 Court’s attention earlier with reasonable diligence. On that basis alone, the Court could deny
10 this Motion.
11

12 Even after analyzing the substance of Mr. Hawkins’s Motion, the Court continues to find
13 that the traffic stop was lawful and that the *Leon* good faith exception applies for the reasons
14 stated by the Court previously and precludes granting the requested relief. The Court agrees that
15 the CSS Warrant has the same evidence as the GPS Warrant and more, and that Mr. Hawkins has
16 failed to demonstrate any other basis to find that this was a bare bones affidavit.
17

18 Having reviewed the briefing for this Motion, along with the remainder of the record, the
19 Court hereby finds and ORDERS that Defendant’s Second Motion to Suppress, Dkt. #74, is
20 DENIED.

21 DATED this 24th day of May, 2023.
22

23 

24 RICARDO S. MARTINEZ
25 UNITED STATES DISTRICT JUDGE
26
27

APPENDIX F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

KENDLE RASHEN HAWKINS,

Defendant.

CASE NO. CR21-5213RSM

ORDER DENYING MOTION TO
SUPPRESS EVIDENCE

This matter comes before the Court on Defendant Hawkins's Motion to suppress evidence recovered by law enforcement pursuant to a Search Warrant and Pen-Trap Order that was authorized on May 20, 2021, and a subsequent Search Warrant that was authorized on June 14, 2021. Dkt. #39. Mr. Hawkins has been charged in a Superseding Indictment with Possession of Fentanyl with Intent to Distribute and Felon in Possession of a Firearm. Dkt. #44. Although his is a stand-alone indictment, this case is related to those brought against approximately 39 other Defendants under 13 different cause numbers. *See* Dkts. #21, 31, and 34.

In 2019, the FBI and Seattle Police Department began investigating a drug trafficking organization ("DTO") allegedly controlled by an individual named Michael Walker within the Western District of Washington. On May 20, 2021, FBI Special Agent Shawna McCann applied for and obtained a search warrant for information to track Mr. Hawkins's phone. Dkt. #40 ("the GPS Warrant").

1 The GPS Warrant was based on a tip from a confidential source (“CS”) in late April of
2 2021 alleging a person “Kendle” was supplying cocaine to Kenneth Lee, who had already been
3 indicted for his connection to the Michael Walker DTO. Dkt. #40 at ¶ 66. The CS said Kendle
4 lived in Arizona, rented cars to drive up to the Seattle area a few times a year, and brought
5 kilograms of cocaine with him to distribute to others, including Lee. *Id.* The CS gave
6 investigators Kendle’s phone number. *Id.* The Government checked out the number and found
7 it associated with an address listed under “Kendle Hawkins” and another listed under another
8 name but associated with Kendle Hawkins. *Id.*

10 In a footnote, the GPS Warrant noted that this CS “has provided credible and reliable
11 information in the past on other investigations” but had “multiple felony convictions involving
12 crimes of violence” as well as “several gross misdemeanor or misdemeanor convictions, which
13 include making false or misleading statements more than five years ago.” *Id.* at 27 n.12.
14 Apparently this CS had been a paid informant for the Seattle Police Department for over five
15 years and “has not been closed for cause by any other law enforcement agency.” *Id.* No further
16 details about this CS, this tip, or Mr. Hawkins were provided.

18 Two days after this first warrant was issued, GPS data showed the phone travelling from
19 Phoenix, Arizona to Seattle by air. Dkt. #41, ¶ 22. After observing more travels from Phoenix
20 to Sacramento, California and up I-5, the Government applied for a warrant to use a cell-site
21 simulator to find the car being used. That warrant was granted on June 14, 2021, by a different
22 magistrate judge. Dkt. #55-1 (“The CSS Warrant”).

24 On June 14, 2021, agents observed Mr. Hawkins traveling northbound on I-5 in a rental
25 car; a Centralia, Washington police officer pulled over the vehicle for going 78 in a 70-mph zone.
26 Dkt. #43 at 1–2. This traffic stop was based on “the speeding infraction and the independent
27

1 probable cause developed by agents from CS information, GPS location data for [Defendant's
2 phone], and physical surveillance.” *Id.* Defendant Hawkins was in the passenger seat. When
3 the driver opened the glove box to get his license, officers observed, in plain view, “a high
4 capacity drum magazine.” *Id.* The officers asked about the reasons for the trip from Arizona to
5 Washington. Eventually they brought in a drug-sniffing dog who alerted on the passenger side
6 of the vehicle. This dog was certified for detecting cocaine, heroin, and methamphetamine. *Id.*
7 at 3. Agents obtained a search warrant, searched the vehicle, and found several guns and tens of
8 thousands of light blue “M-30” pills, later determined to be more than four kilograms of fentanyl.
9

10 The Fourth Amendment protects “[t]he right of the people to be secure in their persons,
11 houses, papers, and effects, against unreasonable searches and seizures” and requires that a search
12 warrant issue only upon a finding of probable cause. U.S. Const. Amend. IV. The standard of
13 review to be applied by judicial officers in reviewing and approving search warrants is set forth
14 in *Illinois v. Gates*, 462 U.S. 213, 103 S. Ct. 2317 (1983), which held that probable cause is a
15 “practical, non-technical conception.” 462 U.S. at 232. Furthermore, “[t]he task of the issuing
16 [judicial officer] is simply to make a practical, common sense decision whether, given all of the
17 circumstances set forth in the affidavit. . . there is a fair probability that contraband or evidence
18 of a crime will be found in a particular place.” *Id.* at 238. In making this determination, the
19 judicial officer is entitled to draw “reasonable inferences” based upon the information set forth
20 in the affidavit. *Id.* at 241. Further, the judicial officer is entitled to “rely on the conclusions of
21 experienced law enforcement officers regarding where evidence of a crime is likely to be found.”
22 *United States v. Fannin*, 817 F.2d 1379, 1382 (9th Cir. 1987). Additionally, as stated by the
23 Ninth Circuit in *United States v. Terry*, 911 F.2d 272, 275 (9th Cir. 1990):
24
25

26 A magistrate is permitted to draw reasonable inferences about where
27 evidence is likely to be kept based on the nature of the evidence and

1 the type of offense . . . He need not determine that the evidence
2 sought is in fact on the premises to be searched . . . or that the
3 evidence is more likely than not to be found where the search takes
4 place . . . The magistrate need only conclude that it would be
reasonable to seek the evidence in the place indicated in the
affidavit.

5 Once made, the probable cause determination is entitled to “great deference” by
6 reviewing courts. *United States v. Alexander*, 761 F.2d 1294, 1300 (9th Cir. 1985). When
7 evidence of probable cause is lacking, the court’s remedy is to suppress any evidence seized,
8 unless the officers relying on the warrant can show good faith. *United States v. Leon*, 468 U.S.
9 897, 903 (1984).

10 The Court agrees with Mr. Hawkins that the information provided to the magistrate judge
11 for the initial GPS warrant was too thin and insufficiently reliable. *See* Dkt. #39 at 15. No
12 evidence was provided connecting Mr. Hawkins to the DTO other than the CS tip, and nothing
13 corroborated this tip other than the fact that the phone number was indeed connected to Mr.
14 Hawkins. It is not clear that the tip was based on firsthand knowledge, and it was not sufficiently
15 detailed to describe when, where, with whom, and in what quantity some future drug transaction
16 might occur. The Court also generally agrees with Defendant that the timing of the warrant
17 reduced the chance of finding contraband or evidence of a crime because Kenneth Lee had
18 already been arrested and indicted before the tip.
19

20 However, this does not mean the evidence at issue must be suppressed because there was
21 a valid independent basis for the traffic stop and subsequent search.
22

23 An investigatory stop of a car requires only reasonable suspicion. *United States v.*
24 *Choudhry*, 461 F.3d 1097, 1100 (9th Cir. 2006). The reasonable duration of a traffic stop depends
25 on the stop’s “mission.” *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). Officers need
26 no additional reasonable suspicion to conduct tasks consistent with the stop’s mission and address
27

1 any related safety issues. *Id.* at 354–55; *United States v. Evans*, 786 F.3d 779, 786 (9th Cir.
2 2015). Police may extend a traffic stop if reasonable suspicion supports the extension.
3 *Rodriguez*, 575 U.S. at 358; *Evans*, 786 F.3d at 786. “The reasonable-suspicion standard is not
4 a particularly high threshold to reach.” *United States v. Valdes-Vega*, 738 F.3d 1074, 1078 (9th
5 Cir. 2013) (en banc). It “falls considerably short of satisfying a preponderance of the evidence
6 standard,” *United States v. Arvizu*, 534 U.S. 266, 274 (2002), and is “‘obviously less’” than
7 probable cause, *Navarette v. California*, 572 U.S. 393, 397 (2014) (citation omitted).
8

9 The traffic stop for speeding is not questioned by Defendant. Shortly after the stop,
10 officers applied a K-9 to the exterior of the car to determine whether the odor of drugs was
11 present. Mr. Hawkins does not dispute that such an alert can create probable cause for a search.
12 *See Florida v. Harris*, 568 U.S. 237, 248 (2013). To put it all together: the traffic stop was valid,
13 the officers on the scene had reasonable suspicion of a crime, they extended the stop consistent
14 with their larger mission (which was not invalidated by the lack of probable cause for the GPS
15 warrant), and after the dog alerted they had probable cause to conduct the subsequent search.
16 Suppression is not warranted.
17

18 Furthermore, the Court agrees that “[e]ven if there were flaws in the GPS warrant or
19 subsequent warrants that undermine these three magistrates’ findings of probable cause, the *Leon*
20 good-faith exception would apply.” Dkt. #54 at 29 (citing, 468 U.S. at 920–21). Under *Leon*,
21 evidence is admissible if police obtained it in “objectively reasonable reliance” on a search
22 warrant, even if a reviewing court later invalidates the warrant. *Leon*, 468 U.S. at 922. “When
23 officers have acted pursuant to a warrant, the prosecution should ordinarily be able to establish
24 objective good faith without a substantial expenditure of judicial time.” *Id.* at 924. *Leon*’s good-
25 faith exception applies in all but four circumstances: (1) when the warrant is “so facially
26
27

1 deficient” that no executing officer could reasonably presume it to be valid; (2) when the warrant
2 results from recklessly or knowingly misleading the issuing judge; (3) when the affidavit
3 supporting the warrant is “bare bones”; and (4) when the issuing judge “wholly abandons his or
4 her judicial role.” *Id.* at 922–23. None of those circumstances apply to the warrants here.

5 Given the above, a Franks hearing to determine probable cause for the GPS warrant or
6 any other search warrant is unnecessary.

7 Having reviewed the briefing for this Motion, along with the remainder of the record, the
8 Court hereby finds and ORDERS that Defendant’s Motion to Suppress, Dkt. #39, is DENIED.
9

10 DATED this 20th day of July, 2022.

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13 RICARDO S. MARTINEZ
14 CHIEF UNITED STATES DISTRICT JUDGE
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