

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 21-cr-00116
)	
WILLIAM MCCALL CALHOUN, JR)	
<i>Defendant.</i>)	

DEFENDANT'S MOTION TO RETURN PROPERTY SEIZED IN THE ABSENCE OF
A SEARCH WARRANT AND IN VIOLATION OF THE FOURTH AMENDMENT

COMES NOW, Defendant, William McCall Calhoun, Jr., by and through counsel, Jessica N. Sherman-Stoltz, Esq., and respectfully moves this court to enter an order returning his property seized by the Federal Bureau of Investigation in absence of a search warrant, and in violation of the Fourth Amendment. In support of his Motion, he sets forth the following facts and argument.

I. BACKGROUND

On January 15, 2021, a complaint, affidavit in support, arrest warrant and motion for detention were filed against Mr. Calhoun in the U.S. District Court for the Middle District of Georgia (Macon). The complaint charged Mr. Calhoun with one count of entry to Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a), one count of Violent Entry or Disorderly Conduct in violation of 40 U.S.C. § 5104(e)(2), and one count of Obstruction of an Official Proceeding, in violation of 18 U.S.C. § 1512(c)(2). Mr. Calhoun was arrested that same day, and he made his first appearance before the U.S. District Court for the Middle

District of Georgia (Macon). The Defendant was subsequently charged by Indictment in the District of Columbia in the instant matter on February 12, 2021, and arraigned before this Court on March 1, 2021.

On January 15, 2021, after having been arrested without incident, Mr. Calhoun's sister's house was subsequently searched by law enforcement, and numerous items of Mr. Calhoun's were seized. *See* Exhibit A – United States Department of Justice, Federal Bureau of Investigation, Receipt for Property. To Mr. Calhoun and his sister's knowledge, this search was conducted without a search warrant, and without consent.

II. LEGAL STANDARD OF REVIEW

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” The “‘very core’” of this guarantee is “‘the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.’” *Florida v. Jardines*, 569 U. S. 1, 6, 133 S. Ct. 1409, 185 L. Ed. 2d 495 (2013); *See Caniglia v. Strom*, 141 S. Ct. 1596, 1599, 209 L. Ed. 2d 604 (2021). There are a few exceptions where invasions of a home and its curtilage are permissible. The most recognized are searches and seizures pursuant to a valid search warrant, and searches following valid consent. Courts have also held that law enforcement officers may enter a home without a warrant under certain exigent circumstances.

An arrest warrant, like the one obtained for Mr. Calhoun, is not the same as a search warrant. An arrest warrant allows the police to enter an arrestee's home only to execute an arrest and not to conduct a general search of the home. *See Mincey v. Arizona*, 437 U.S. 385, 391-92, 98 S. Ct. 2408, 57 L. Ed. 2d 290 (1978); *United States v. Robertson*, 239 F. Supp. 3d 426, 450 (D. Conn. 2017).

III. ARGUMENT

To Mr. Calhoun's belief and understanding, the search and seizure that was effectuated on his sister's home on January 15, 2021 was without a warrant, without consent, or exigent circumstances. Therefore, Mr. Calhoun's property was seized unlawfully, and in violation of his Rights under the Fourth Amendment.

IV. CONCLUSION

WHEREFORE, Defendant, William Calhoun, moves this Honorable Court to enter an Order directing that Mr. Calhoun's unlawfully seized personal belongings be returned to him.

Dated: September 6, 2022.

Respectfully Submitted,
WILLIAM MCCALL CALHOUN, JR.

/s/ Jessica N. Sherman-Stoltz
Jessica N. Sherman-Stoltz, Esq.
Virginia State Bar #90172
Sherman-Stoltz Law Group, PLLC.
P.O. Box 69, Gum Spring, VA 23065
Phone: (540) 451-7451 / Fax: (540) 572-4272
Email: jessica@sslawgroupva.com

CERTIFICATE OF SERVICE

I hereby CERTIFY that on this the 6th day of September 2022, a true and correct copy of the foregoing *Defendant's Motion to Return Property Seized in the Absence of a Search Warrant and in Violation of the Fourth Amendment* with the Clerk of Court via the CM/ECF system, which will automatically send an email notification of such filing to all counsel of record.

/s/ Jessica N. Sherman-Stoltz
Jessica N. Sherman-Stoltz, Esq.
Virginia State Bar #90172
Sherman-Stoltz Law Group, PLLC.