

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD E. DAVIS,

Defendant.

AMENDED
REPORT AND
RECOMMENDATION

07-CR-15-S

REPORT

In this court's July 27, 2007 report and recommendation, I observed, incorrectly, that defendant Richard E. Davis had not attempted to establish that he had a reasonable expectation of privacy in the searched apartment.. *See United States v. Brack*, 188 F.3d 748, 754-55 (7th Cir. 1999), *quoting Minnesota v. Carter*, 525 U.S. 83, 88 (1998); *see also United States v. Torres*, 32 F.3d 225, 229-30 (7th Cir. 1994). Today Davis's attorney wrote to point out that Davis submitted an affidavit at the motion hearing on June 28, 2007. *See* *dk. 63*. Davis is correct: this affidavit is in the record, *see* *dk. 33*, and it sufficiently establishes Davis's expectation of privacy in the apartment that was searched. As a result, I am removing the conditional recommendation that this court deny suppression and endorsing the recommendation that this court grant suppression.

Because this amendment does not change the substantive contours of the original report and recommendation, objections remain due by August 6, 2007.

RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1)(B) and for the reasons stated above, I recommend that this court GRANT defendant Richard E. Davis's motion to quash the warrant and to suppress evidence.

Entered this 30th day of July, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge