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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

LANCE SLIZEWSKI,

Defendant.

REPORT AND RECOMMENDATION

14-cr-87-jdp

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**REPORT**

On August 6, 2014, the grand jury charged defendant Lance Slizewski in a one-count indictment with having possessed a .40 caliber pistol on July 9, 2014, after previously having been convicted of a felony. *See* dkt. 2. The firearm charged against Slizewski was found in a car that he was renting, which the Madison Police Department (MPD) impounded then searched pursuant to a warrant issued by the Circuit Court for Dane County. Slizewski has filed a motion to suppress the firearm and other evidence, contending that the search warrant is invalid because the complainant, MPD Detective Joel Peterson, deliberately and recklessly made material misstatements and omitted material facts, thereby fatally tainting the court's probable cause determination. *See* dkt. 21 (as amended by dkt. 23).[1]

Slizewski has requested a *Franks* hearing[2] to explore Det. Peterson's *scienter*. The government opposes holding a hearing and disputes that Det. Peterson made any material misstatements or omitted any material facts. In his supporting brief, Slizewski also

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[1] With his first motion, Slizewski attached an affidavit for a buccal swab warrant (dkt. 20-2) but this appears to have been a mistake. This affidavit does provide an informal inventory of what Det. Peterson found in Slizewski's car, *id.* at 4.

[2] *Franks v. Delaware*, 438 U.S. 154 (1978).

constructively challenges the probable cause for the warrant by offering innocuous interpretations of virtually every piece of inculpatory evidence supporting the state court's probable cause determination.

For the reasons stated below, I find that no *Franks* hearing is necessary, there was probable cause to support the warrant and the warrant remains valid even if the court were to indulge those of Slizewski's contentions that have arguable traction. I am recommending that the court deny Slizewski's motion to suppress evidence.

**The Complaint for the Search Warrant**

Slizewski has submitted a copy of Det. Peterson's complaint for a state search warrant (dkt. 24-1) which speaks for itself. (I will refer to the complaint as an "affidavit" hereafter, defaulting to federal court terminology). For the reader's benefit I synopsize the affidavit's most salient averments:

On July 16, 2014, Det. Peterson sought a search warrant for a 2014 black Chevrolet Impala sedan owned by an affiliate of Enterprise Rent A Car and identified both by VIN and license plate. Det. Peterson wished to search the Impala for personal property that would identify the person(s) who controlled the car and for property relating to recent activity–that is, the armed robberies under investigation–including handguns, eye irritants and clothing matching the description of items worn by the robber(s) during the robberies.

Det. Peterson reported that he and other MPD officers were investigating a series of armed robberies in Madison:

On April 29, 2014, a man wearing gray sneakers and brandishing a silver-and-black handgun robbed the Pizza Extreme at 1614 Monroe Street.

On May 2, 2014, a masked man brandishing a black-and-silver handgun robbed the Wing Stop restaurant. A Wing Stop employee described the robber as a light-skinned black male about 5'9" weighing about 185 pounds. A second Wing Stop employee reported that he had fled out the back of the restaurant when he saw the robbery commence; from there he saw the robber enter an already-occupied black sedan that was "similar to a Chevrolet Malibu."

On May 7, 2014 at about 12:42 a.m., two masked suspects robbed Player's Sports Bar & Grill at 2013 Winnebago Street. The bar's surveillance video showed that one suspect brandished a pistol-grip cannister of eye irritant (pepper spray or mace) and was wearing a grayish hooded jacket with reflective material on the right arm. The bartender described him as a lighter-skinned black male or person of mixed race, 5'9" or 5'10", about 200-220 pounds. The other suspect brandished a black-and-silver handgun. The bartender described the gunman as a black male about 30-40 years old, about 5'9" or 5'10", also about 200 to 220 pounds. The bar's outdoor surveillance video showed that about 15-20 minutes before the robbery, a newer model black four-door vehicle slowly drove past the front of the bar four times, once stopping in the middle of the street directly in front of the bar.

On May 15, 2014, a lone robber held up the Market Basket convenience store on 312 East Mifflin Street. The robber wore a grayish hooded jacket with reflective material on the right arm and brandished a black-and-silver handgun. Outdoor video surveillance showed the robber leaving the scene in a red Ford Focus. On May 16, 2014, police located this car on Madison's north side and interviewed the driver, Marquell Hatchett. Hatchett reported that a guy he knew

as "Jay" had recruited Hatchett to drive Jay around on May 15. Jay payed Hatchett $40 for his time and gas. At one point, Jay got out of the car and returned with a bag of money. While they drove around, Jay talked about how he had been "hitting licks," slang for committing robberies. Hatchett dropped Jay off at 601 Vera Court. Hatchett viewed the Market Basket video and confirmed that the robber was Jay.

Hatchett then viewed the video of the April 29 Pizza Extreme robbery and pointed out that the robber was wearing the same gray sneakers–Hatchett described them as "Jordans"[3]–that Jay had worn when robbing the Market Basket.

Hatchett then viewed a surveillance video taken outside the Wing Stop on May 2, 2014 prior to the robbery. Two black men were outside the restaurant, apparently "casing" it; Hatchett identified one of them as Jay, wearing a gray hooded jacked with reflective material on the right sleeve, and a black-brimmed St. Louis Cardinals baseball cap.

Although Det. Peterson doesn't spell this out, it is clear from what the police did next that they had information that "Jay" was a man named James Sexton, who lived 601 Vera Court. Hatchett had a phone number for Jay, so on May 16, 2014, he called Jay (Sexton) to lure him out of his residence, where police arrested him. Hatchett confirmed that Sexton was Jay.[4] Sexton had a cell phone with him, which contained "selfies" of himself wearing a gray hooded jacket with and a black-brimmed St. Louis Cardinals baseball cap. The phone's stored data

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[3] "Jordans" are basketball shoes named for the long-retired Michael Jordan and sold by Nike to this day. *See, e.g.,* www.nike. com/us/en_us/c/jordan.

[4] The government has charged Sexton in a separate indictment with a set of Hobbs Act and 924(c) counts arising out of five armed robberies, including those mentioned in Detective Peterson's search warrant affidavit. *See* 14-cr-86, dkt. 1. Sexton's trial date recently was reset to June 8, 2015.

revealed repeated calls to "Lance" at 608-213-2238. Det. Peterson ascertained from MPD records that Lance Slizewski had used phone number 608-213-2238.

Sexton was detained at the Dane County Jail, where, according to two other inmates (Eddie Royal and Kyle Nelson), he bragged about robbing Players and "Burrito Drive,"[5] providing accurate details about these robberies that the police had not made public. From the jail, Sexton called the 213-2238 number associated with "Lance" numerous times, referring to the man who answered the phone as "Uncle Cletus." Sexton tells him to have Sprint re-set his telephone and change the number. Sexton warns this man that Sexton's parole officer took Sexton's clothing upon his arrest. Sexton says something unintelligible about looking for something on Sherman (Avenue) and saying "I suggest you do the same for the rest."

Det. Peterson was aware that Lance Slizewski was on state parole (or probation). Police officers conducted surveillance of Slizewski's June 2, 2014 meeting with his probation agent. Slizewski arrived driving a black 2014 Impala sedan, license plate 315-UFR. Police learned that Slizewski had been renting this car from Enterprise Rent A Car since March 27, 2014 (that is, before the first robbery).

On July 9, 2014, Slizewski's probation agent placed a "hold" on him and he was arrested by police at her office. Although Slizewski had been observed driving to the appointment in the black Impala, he lied to the police and told police that he had been dropped off by someone else. Police impounded the Impala. They retrieved the keys from Slizewski when they booked him. According to jail booking information, Slizewski is a 29-year old white man, 5'9" and 200

[5] Apparently Sexton was referring to a May 4, 2014 robbery of a restaurant at 310 South Brearly. Det. Peterson did not include the details of this robbery in his affidavit.

pounds. According to Det. Peterson, Slizewski has an "olive-skinned" complexion and "appears to be possibly mixed race according to his Dane County Jail booking photo." Det. Peterson did not attach the booking photo to his affidavit. (This booking photo is docketed as 24-6). Following his arrest, Slizewski made calls from the jail's telephone (which were automatically recorded) in which he repeatedly told a friend (surmised to be Lisa Brown) to find out where his car was, to get it back and to get "the stuff" out of it. Slizewski bemoaned to Brown that "his life was over," "even though," observed Det. Peterson, "he is only incarcerated on a Parole hold."

According to Det. Peterson, the impounded Impala "bears a strong resemblance"to the vehicle seen in the bar surveillance video. In plain view on the back seat of the car was a red baseball cap with a black brim and "STL" in white lettering. In plain view on the floor behind the driver's seat Det. Peterson saw "a pair of gray and white basketball shoes." Det. Peterson believed that a search of the car would uncover evidence that would link Slizewski and Sexton to the robberies outlined in the affidavit, such as weapons, eye irritants, clothing, documents and electronics.

The state court issued the warrant and evidence was seized from the car.

**Analysis**

Slizewski, by counsel, contends that Det. Peterson made materially false statements in his search warrant affidavit and that he did so in reckless disregard for the truth. *See* Motion To Suppress (dkt. 20). In support of this contention, Slizewski's attorney filed a 49-paragraph initial affidavit (dkt. 21) followed by a 37-paragraph supplemental affidavit (dkt. 24), both accompanied by exhibits, in which counsel details every conceivable basis for quarreling with any

assertion offered by Det. Peterson in his affidavit. In his supporting brief (dkt. 25), Slizewski hones in a bit more tightly, alleging these intentional material falsehoods and omissions by Det. Peterson:

(1) Det. Peterson claimed that the 2014 Impala he wishes to search is similar to the vehicle seen on the recording from the exterior surveillance video at Players, but comparing that video to the photos of Slizewski's car "clearly shows it is a different car." Specifically, the car seen in the bar video had five-spoke wheels, while Slizewski's Impala had six-spoke wheels; also, the back ends of the cars look different. Dkt. 25 at 7.

(2) The employee who witnessed the Wing Stop robbery describes the car that the robber entered a black sedan similar in style to a Chevy Malibu, but Det. Peterson provides no additional supporting details and no indication that a Malibu is similar to an Impala.

(3) The unwitting wheel man, Marquell Hatchett, said that the robber of the Market Basket was wearing the same gray Jordans that Sexton had been wearing that day. The shoes in the car turned out to be a pair of "LeBron Soldier V" basketball shoes. *See* photos, dkts. 24-2 through 24-5.[6] Det. Peterson does not report what shoes Sexton was wearing when he was arrested on May 16, 2014, the day after the May 15 robbery of the Market Basket robbery, and Det. Peterson does not refer to any meeting between Sexton and Slizewski during that time.

(4) Slizewski claims that he does not have any African American features and further claims that his booking photo doesn't make him look African American or multiethnic. Det. Peterson did not attach a copy of Slizewski's booking photo (*see* dkt. 24-6) to his affidavit for the court to see this for itself.

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[6] Nike makes LeBron James basketball shoes. *See, e.g.,* store.nike.com/us/en_us/pw/lebron/9a3.

(5) Det. Peterson did not include in his affidavit the case numbers for Slizewski's two convictions for which he was on probation, which would have provided context for his telephonic lamentations that his "life was over."

After alleging these material omissions and misstatements by Det. Peterson, Slizewski lists nine other facts in the affidavit that he labels as appearing to be important in establishing probable cause, *see* dkt. 25 at 9, ¶¶ (a) - (i), then argues why these statements are subject to innocuous interpretation and therefore do not support the state court's determination of probable cause, particularly when this court redacts the five statements set forth above.

In its response brief, (dkt. 26), the government argues that Slizewski has not met his burden for holding a *Franks* hearing and is not entitled to have the search warrant quashed. The government focuses on and refutes these six arguments from Slizewski's brief: (1) Slizewski's car had more spokes on its wheels and a different back end than the car in the bar's surveillance video; (2) Sexton didn't wear a St. Louis Cardinals hat in the robberies of Player's or the Market Basket; (3) Det. Peterson should have recognized that the sneakers in Slizewski's car were not Jordans; (4) Slizewski does not appear to be multiethnic in his booking photo; (5) Det. Peterson should have explained in his affidavit that Slizewski only faced a probation hold, which would have put his jail calls in a different context; and (6) it was irrelevant that Sexton had in his cell phone "Lance" and Slizewski's phone number. (Dkt. 26 at 6). While conceding nothing, the government suggests that the bar surveillance video is not necessary to probable cause and that the jail booking photo is not necessary for probable cause.

In reply (dkt. 29), Slizewski does not accept the government's concessions regarding the cars or the booking photo, sticking with his theme that Det. Peterson intentionally included

misleading information in his affidavit in order to trick the state court into issuing a search warrant that was not actually supported by probable cause. Notwithstanding the quantitative mass of Slizewski's attack on the search warrant affidavit, for the most part he is grasping at straws.

Square one of the analysis is that this court must pay "great deference" to the state court's finding of probable cause. This court's job is to ensure simply that the issuing court "had a substantial basis for concluding that probable cause existed." *United States v. Scott*, 731 F.3d 659, 665 (7th Cir. 2013), citations omitted. The challenged warrant passes muster if, as a practical, commonsense matter, given all the circumstances set forth in the affidavit before the issuing court, there was "a fair probability that contraband or evidence of a crime will be found in a particular place." *United States v. Sewell,* ___ F.3d ___, 2015 WL 1087750, *4 (7th Cir. March 13, 2015) (internal citation omitted).

Worth noting is that a search warrant is directed toward a *place*: although Det. Peterson believed he would find evidence against both Sexton *and* Slizewski in the Impala, the state court could have issued the warrant without necessarily finding probable cause that Slizewski was involved in Sexton's robberies. It would have been enough if the court simply had found that there was a fair probability that the sneakers and the hat in the back of the Impala were Sexton's, and that other evidence of the listed armed robberies might be in the car. These findings are obvious enough from Det. Peterson's affidavit, but I will address Slizewski's primary arguments to see if they change anything. (They don't.)

Probable cause is a fluid concept that turns on assessment of probabilities in particular factual contexts; it is established when, based on the totality of circumstances, the application

sets forth sufficient evidence to induce a reasonably prudent person to believe that a search will uncover evidence of a crime. *Id.* In issuing a search warrant, the court is given license to draw reasonable inferences concerning where evidence referred to in the affidavit is likely to be kept, taking into account the nature of the evidence and the offense. *Scott*, 731 F.3d at 665 (quoting *United States v. Singleton*, 125 F.3d 1097, 1102 (7th Cir. 1997)). As the Supreme Court noted 66 years ago in *Brinegar v. United States*, 338 U.S. 160 (1949),

> In dealing with probable cause, . . . as the very name implies, we are dealing with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians act.
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> 338 U.S. at 175.

More recently, the Court observed that:

> The test for probable cause is not reducible to precise definition or quantification. Finely tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence have no place in the probable cause decision. All we have required is the kind of fair probability on which reasonable and prudent people, not legal technicians, act.
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> In evaluating whether the State has met this practical and commonsensical standard, we have consistently looked to the totality of the circumstances. We have rejected rigid rules, bright-line tests, and mechanistic inquiries in favor of a more flexible, all-things-considered approach. In *Gates,* for example, we abandoned our old test for assessing the reliability of informants' tips because it had devolved into a complex superstructure of evidentiary and analytical rules, any one of which, if not complied with, would derail a finding of probable cause. We lamented the development of a list of inflexible, independent requirements applicable in every case. Probable cause, we emphasized, is a fluid concept–turning on the assessment of probabilities in particular factual contexts–not readily, or even usefully, reduced to a neat set of legal rules.
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> *Florida v. Harris*, ___ U.S. ___, 133 S.Ct. 1050, 1055-56 (2013) (internal quotations and citations omitted).

This is a low evidentiary threshold, requiring only a probability or a substantial chance of criminal activity, not an actual showing of such activity. *United States v. Roth*, 201 F.3d 888, 893 (7th Cir. 2000) (quoting *Illinois v. Gates*, 462 U.S. 213, 244 (1983)). *See also Gutierrez v. Kermon*, 722 F.3d 1003, 1008 (7th Cir. 2013) (probable cause is a practical, common sense standard that requires only the type of fair probability on which reasonable people act); *United States v. Jones*, 763 F.3d 777, 795 (7th Cir. 2014) (probable cause is not even proof by a preponderance of the evidence).

Slizewski eschews this mandated *gestalt* test in favor of a "divide-and-conquer" approach, attempting to portray the collectively damning evidence as innocuous when examined piecemeal. This approach is incorrect, self-serving and unpersuasive because it misses the point of the test that actually governs this court's review of his suppression motion. *See United States v. Caldwell*, 423 F.3d 754, 760-61 (7th Cir. 2005); *Sewell,* 2015 WL 1087750. Under the totality of circumstances test, there was a fair probability that evidence of the listed armed robberies would be found in Slizewski's rented Impala. When the correct test is used, it is unnecessary for the court to address each of Slizewski's separate challenges to separate facts asserted in the affidavit.

The next step is to address Slizewski's allegations in support of his request for a *Franks* hearing. As the government notes, Hancock is not entitled to a *Franks* hearing unless he makes a substantial preliminary showing of (1) a material falsity or omission that would alter the probable cause determination and (2) a deliberate or reckless disregard for the truth. *United States v. Glover*, 755 F.3d 811, 819-820 (7th Cir. 2014). Because this burden is so high, *Franks* hearings are rarely held. *United States v. Swanson,* 210 F.3d 788, 790 (7th Cir. 2000). Here, notwithstanding the large number of claimed intentional misstatements omissions, Slizewski is

just throwing pebbles at a tank, to use Judge Evans's analogy from *Swanson*. *Id.*; *see also United States v. Caldwell*, 423 F.3d 754, 761 n.2 (7th Cir. 2005) (appeal of denial of *Franks* hearing "does not require extended discussion" because defendant "does not come close" to meeting his burden).

First, Slizewski claims that Det. Peterson intentionally misstated a material fact when he claimed that Slizewski's Impala was similar to the vehicle seen on the recording from the exterior surveillance video at Players. Slizewski points out that *his* car has *six*-spoke wheels, while the car in the video had *five*-spoke wheels. Also, the back ends of the cars are different. This five spokes-versus-six spokes distinction cannot possibly be an intentional misstatement; does anyone reading this report know without looking how many spokes are on the wheels of his/her motor vehicle? Det. Peterson's failure to notice and flag this distinction cannot possibly qualify as an intentional misstatement. Similarly, this court is not going to hold Det. Peterson's feet to the fire because he didn't note that the haunches of the two cars were different. At most, failing to pass Slizewski's compare-and-contrast exam would constitute negligence, and negligence is not a basis for convening a *Franks* hearing. *Swanson*, 210 F.3d at 790-91. Further, as the government points out, Det. Peterson does not claim that the cars were the same; he describes Slizewski's Impala as "similar to" the car in the video. Maybe the wheel man had a penchant for big American sedans. In any event, the government has volunteered to remove this comparison from the affidavit, so it falls by the wayside. It certainly isn't material to the court's probable cause determination.

Slizewski isn't done with the car: he claims a *Franks* violation because the witness at the Wing Stop robbery described the getaway car as "a sedan similar in style to a Chevy Malibu,"

but Det. Peterson provided no additional supporting details and no indication that a Malibu is similar to an Impala. This is true as far as it goes, but it doesn't go far. On the one hand, the Impala and the Malibu both are iconic Chevies that have been around forever (well, since 1958 and 1964, respectively), and both have been offered as sedans for decades. Even if it isn't common knowledge that the Malibu is the Impala's little brother, it would be fair for the state court to infer that Chevy sedans might be mistaken for each other by a civilian witness fleeing from an armed robbery at his work site.

On the other hand, and much more to the point, if the state court *didn't* know that Malibus and Impalas look alike, then the court simply would have disregarded this statement as irrelevant to the probable cause determination. Det. Peterson did not lie or mislead the court in any fashion: he accurately reported what the witness said and he accurately described the car that he wished to search. The absence of a connecting explanation could not help him, it could only hurt him. This is not a *Franks* violation. Indeed, if Det. Peterson had *not* volunteered that the witness described the car as being similar to a Malibu, then Slizewski likely would have accused him of withholding exculpatory information, which is forbidden. *United States v. Glover*, 755 F.3d 811, 819-20 (7th Cir. 2014). The most thorough, accurate approach for Detective Peterson to take was exactly the approach that he took.

Next, the shoes. It was the civilian witness, Marquell Hatchett, who said that the robber of the Market Basket was wearing the same gray Jordans that Sexton had been wearing that day. The shoes in Slizewski's car turned out to be a pair of LeBrons. As the government notes, Det. Slizewski simply stated that a pair of gray-and-white basketball shoes were plainly visible on the floor area behind the driver's seat. According to Slizewski, this is an intentional lie by Det.

Peterson because, while peering down through a closed car window at these shoes on the floorboard, the detective must have recognized that they actually were Nike LeBrons–"Soldier Vs" at that–instead of Nike Jordans; *a fortiori*, these basketball shoes could not possibly be the basketball shoes that Hatchett was talking about. The most charitable characterization of Slizewski's argument is that it does not rise to the level of a substantial preliminary showing of a falsehood by Det. Peterson, intentional or otherwise. It doesn't even show negligence by Det. Peterson.

Slizewski's next *Franks* claim is that he does not have any African American features and his booking photo doesn't make him look African American or "mixed race," to use the witnesses' term. Det. Peterson did not attach a copy of Slizewski's booking photo to his affidavit for the court to see this for itself; rather, he referenced the photo and stated that in it, "Slizewski appears to be possibly mixed race." Slizewski is correct at least to this point: Det. Peterson should have attached to booking photo to his affidavit rather than provide such a wishy-washy description of how a viewer might describe Slizewski's ethnicity. This was salient only because some of the witnesses had so described one of the robbers; the question for probable cause purposes would be whether those descriptions might include Slizewski.

At this stage of the analysis, this court has the option of reforming Det. Peterson's affidavit to add the booking photo and then determine whether it affects the probable cause analysis. *See United States v. Hoffman*, 519 F.3d 672, 676 (7th Cir. 2008). Because one could perhaps interpret Slizewski's argument on this point as including a claim that Det. Peterson intentionally omitted exculpatory evidence, *see Glover*, 755 F.3d at 819-20, the prudent course is to add the photo to the affidavit rather than accept the government's offer simply to drop this

point. It will be up to the district judge to determine whether Slizewski's appearance is inconsistent with Det. Peterson's description of him as possibly mixed race. For what it's worth, I offer this litotes: Slizewski's appearance is not inconsistent with being described as "mixed race," whatever that actually means. The term itself is incredibly vague and probably offensive to some people, but Det. Peterson had to play the evidentiary hand the witnesses had dealt him. It is not so clear from Slizewski's booking photo that he is not "mixed race" that this court should deem it an intentional material omission/misstatement for Det. Peterson to have described the photo rather than attach it to his affidavit. This does not seem even to constitute negligence on Det. Peterson's part, but even if it were negligent, this is not enough to obtain a *Franks* hearing or to quash the warrant. As a matter of probable cause, the government is correct that the warrant survives even if the court determines that the witnesses were not describing Slizewski.

Slizewski's final *Franks* argument is that Det. Peterson should have included in his affidavit the case numbers of Slizewski's two convictions for which he was on probation, which would have provided context for his telephonic comments that his "life was over." Both sides spill a lot of ink on this point, but it is a non-issue for probable cause. The state court judge knew Slizewski was being held on a state "parole" hold, and the judge was in as good a position as anyone (certainly in a better position than anyone in this federal court) to know what the consequences of revocation might be. Thus, the state court judge had enough information to determine for himself whether Slizewski was worried about revocation or worried about what the police would find in his car. It would neither add nor detract from the state court's probable cause analysis to know more specifically the crimes for which Slizewski was on state probation.

In its response brief, the government specifically addresses one of Slizewski's arguments about probable cause involving what the police had found in his cell phone. Although I don't see this as a *Franks* issue, I agree with the government that the mere fact that while in jail Sexton repeatedly called a telephone number associated with Slizewski is a brick in the probable cause wall. The fact that Sexton referred to this person as "Uncle Cletus" was revealed in the affidavit, so it was up to the state court to determine what weight these calls were due in the probable cause analysis.

Which circles the analysis back to the totality-of-circumstances test. When this court considers all of the evidence, along with the modifications suggested above, there is probable cause to believe that evidence of the armed robberies would be found in Slizewski's Impala. Slizewski's attack on the warrant, both on *Franks* grounds and on probable cause grounds, is unavailing. The warrant is valid.

Because the government did not make a fall-back argument of good faith pursuant to *United States v. Leon*, 468 U.S. 897, I won't address it.

## RECOMMENDATION

Pursuant to 42 U.S.C. § 636(b)(1)(B) and for the reasons stated above, I recommend that this court deny defendant Lance Slizewski's motion to suppress evidence seized during execution of the challenged search warrants.

Entered this 24th day of March, 2015.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge

UNITED STATES DISTRICT COURT
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March 24, 2015

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Re: United States v. Roger Slizewski
Case No. 14-cr-87-jdp

Dear Counsel:

The attached Report and Recommendation has been filed with the court by the United States Magistrate Judge.

The court will delay consideration of the Report in order to give the parties an opportunity to comment on the magistrate judge's recommendations.

In accordance with the provisions set forth in the memorandum of the Clerk of Court for this district which is also enclosed, objections to any portion of the report may be raised by either party on or before April 7, 2015, by filing a memorandum with the court with a copy to opposing counsel.

If no memorandum is received by April 7, 2015, the court will proceed to consider the magistrate judge's Report and Recommendation.

Sincerely,

/s/
Susan Vogel for Connie Korth
Secretary to Magistrate Judge Crocker

# MEMORANDUM REGARDING REPORTS AND RECOMMENDATIONS

Pursuant to 28 U.S.C. § 636(b), the district judges of this court have designated the full-time magistrate judge to submit to them proposed findings of fact and recommendations for disposition by the district judges of motions seeking:

(1) injunctive relief;
(2) judgment on the pleadings;
(3) summary judgment;
(4) to dismiss or quash an indictment or information;
(5) to suppress evidence in a criminal case;
(6) to dismiss or to permit maintenance of a class action;
(7) to dismiss for failure to state a claim upon which relief can be granted;
(8) to dismiss actions involuntarily; and
(9) applications for post-trial relief made by individuals convicted of criminal offenses.

Pursuant to § 636(b)(1)(B) and (C), the magistrate judge will conduct any necessary hearings and will file and serve a report and recommendation setting forth his proposed findings of fact and recommended disposition of each motion.

Any party may object to the magistrate judge's findings of fact and recommended disposition by filing and serving written objections not later than the date specified by the court in the report and recommendation. Any written objection must identify specifically all proposed findings of fact and all proposed conclusions of law to which the party objects and must set forth with particularity the bases for these objections. An objecting party shall serve and file a copy of the transcript of those portions of any evidentiary hearing relevant to the proposed findings or conclusions to which that party is objection. Upon a party's showing of good cause, the district judge or magistrate judge may extend the deadline for filing and serving objections.

After the time to object has passed, the clerk of court shall transmit to the district judge the magistrate judge's report and recommendation along with any objections to it.

The district judge shall review de novo those portions of the report and recommendation to which a party objects. The district judge, in his or her discretion, may review portions of the report and recommendation to which there is no objection. The district judge may accept, reject or modify, in whole or in part, the magistrate judge's proposed findings and conclusions. The district judge, in his or her discretion, may conduct a hearing, receive additional evidence, recall witnesses, recommit the matter to the magistrate judge, or make a determination based on the record developed before the magistrate judge.

NOTE WELL: A party's failure to file timely, specific objections to the magistrate's proposed findings of fact and conclusions of law constitutes waiver of that party's right to appeal

to the United States Court of Appeals. *See United States v. Hall,* 462 F.3d 684, 688 (7th Cir. 2006).

Next, Slizewski contends that the good faith doctrine[7] cannot save this warrant because it the affidavit is so bare-bones that Det. Jaszczak could not have reasonably believed that he had probable cause.

[7] *See United States v. Leon*, 468 U.S. 897 (1984)