

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

LONNIE WHITAKER,

Defendant.

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ORDER

14-cr-17-bbc

Defendant Lonnie Whitaker has moved for reconsideration of the order entered in his case on June 16, 2014 adopting the United States Magistrate Judge's recommendation to deny defendant's motion to suppress evidence against him seized in a search of an apartment he used. Defendant argues that the recent decision in United States v. Glover, --- F.3d ---, 2014 WL 2747124 (7th Cir. June 18, 2014), requires this court to hold a hearing under Franks v. Delaware, 438 U.S. 154 (1978).

In Glover, the search warrant at issue rested entirely on information provided by an unnamed confidential informant and lacked important information about the informant's credibility, such as what information he had provided in the past, how accurate that information had been, his gang affiliation, his having used aliases on two occasions when questioned by the police, his receipt of payments by the police in the past for providing information and his criminal history (including the fact that he had been convicted 14 times

in the past, sometimes while he was acting as an informant for the police). Glover, 2014 WL 2747124, at \*1. The court of appeals held that in these circumstances, the district court had erred in not holding a Franks hearing to determine whether the officer had acted with reckless disregard for the truth by omitting this information from the affidavit. Id. at \*9.

Defendant argues that the omission from the affidavit in his case of information that a narcotic sniffing dog had alerted on a different apartment before alerting on the apartment associated with defendant is of equal materiality to the information withheld in Glover, characterizing it as “known and substantial adverse information about the informant’s credibility.” Mot., dkt. #50, at 1. I disagree, as I explained in the June 16 order. The omission was not material in and of itself or to support the finding of probable cause. The dog did alert briefly to a different apartment but it also alerted to the defendant’s apartment. Moreover, the dog sniffing information was only one part of an extensive showing justifying the issuance of a search warrant.

#### ORDER

IT IS ORDERED that defendant Lonnie Whitaker’s motion for reconsideration of the opinion and order entered June 16, 2014, dkt. #49, is DENIED.

Entered this 26th day of June, 2014.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge