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### **ISSUES PRESENTED**

1. Whether the warrant affidavit provided a substantial basis to conclude there was a fair probability that contraband or evidence of specified drug crimes would be found at defendant's home.
2. In the alternative, whether the evidence found at defendant's home should not be suppressed under the good-faith exception to the exclusionary rule.

### **STATEMENT OF FACTS**

On June 11, 2009, Judge Stephen White signed a search warrant authorizing law enforcement to search (1) the person of Ruben J. Casillas; (2) the single-family residence located at 701 West Marion Street in Joliet; and (3) a black Ford Explorer bearing Illinois registration "X942056." AE1-2.<sup>1</sup> Defendant Jorge Manzo, Jr. resided at 701 W. Marion with his then-girlfriend (later wife) Leticia Hernandez. R548-49, 848, 860-61; *see also* AE8. Ruben Casillas was Hernandez's cousin who occasionally stayed overnight around the time of the challenged search. R505, 507, 824-25, 841, 853, 868-69.

The warrant permitted officers to seize any evidence of the offenses of unlawful possession of a controlled substance and unlawful possession of a controlled substance with intent to deliver, such as: cocaine, United States currency, proof of residency or identification, drug records, drug packaging, and drug paraphernalia. AE2. The search warrant was executed on June 12, 2009 at 8:24 a.m. AE8. Officers seized several items from 701 W. Marion, including a

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<sup>1</sup> As in defendant's brief, Judge White is also referred to as "the magistrate," *see* Def. Br. 6, and the record is cited as follows: "C\_" refers to the common law record; "R\_" refers to the report of proceedings; "Def. Br." refers to defendant's opening brief; "A\_" refers to defendant's appendix; and "AE\_" refers to the appendix to this brief.

bag containing 348 grams of cocaine, a handgun, ammunition, a digital scale, a box of plastic baggies, over \$9000 in U.S. currency, and “proof of residency” for both defendant and Casillas. AE9.<sup>2</sup> The cocaine, handgun, ammunition, digital scale, and box of plastic baggies were discovered in a safe inside the master bedroom closet; the cash was found inside the pockets of two jackets in the same closet; defendant’s proof of residence at 701 W. Marion was found in a bedroom drawer and elsewhere in the house; none of the paperwork found for Casillas reflected the 701 W. Marion address. R505, 508-20, 524-27, 539-45, 548-52, 854. On the basis of these recovered items, defendant was charged with unlawful possession of a controlled substance with intent to deliver (between 100 and 400 grams of cocaine) and unlawful use of a weapon by a felon. C4-5, 14-15.

### ***The Search Warrant Application***

In support of the search warrant application, Officer Jeremy Harrison submitted a sworn statement containing “information provided by law enforcement officers, law enforcement records, and [his] own observations.” AE4-7. Officer Harrison had worked at the Joliet Police Department for over ten years and was then assigned to the Narcotics Unit. AE5. Harrison purchased cocaine from Casillas three times while working undercover, twice in the vicinity of 701 W. Marion. *Id.*

For the first of these three purchases, on May 20, 2009, Officer Harrison called Casillas by phone, and arranged to buy \$150 worth of cocaine from him. *Id.* Casillas told Harrison to meet him at the Gonzalez Supermarket, located at

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<sup>2</sup> Although defendant asserts that police did not search the Ford Explorer, Def. Br. 5 n.4, the record is ambiguous on this point, R110, 131 (defense counsel stated that police “didn’t search the vehicle or find anything in the vehicle”).



652 Collins Street in Joliet. *Id.* As Harrison arrived at the supermarket, he observed Casillas walking into the store from a Ford Explorer before motioning that he (Harrison) should enter the store. *Id.* Casillas placed a clear plastic baggie (containing suspected cocaine) on a shelf and told Harrison that it is “right there.” *Id.* Harrison picked up the baggie and handed Casillas \$150 in exchange. *Id.* Officer Simonich observed Casillas exit the store, enter the Ford Explorer, and leave the area. *Id.* Harrison later weighed the baggie, which contained 3.7 grams of a substance that field-tested positive for cocaine. *Id.* Harrison subsequently determined that the Ford Explorer was registered to Leticia Hernandez at 701 W. Marion. *Id.*

For the second purchase, on May 28, 2009, Officer Harrison arranged to purchase \$300 worth of cocaine from Casillas through a series of telephone calls and text messages to the same phone number. AE6. Casillas instructed Harrison to meet him inside of Stang Kelly Liquor Store, located at 712 West Jefferson Street. *Id.* During this meeting, Casillas pointed toward a shelf and said, “they are right there.” *Id.* Harrison retrieved two clear plastic baggies (containing suspected cocaine) and gave Casillas \$300 in exchange. *Id.* Harrison later weighed the baggies, which contained 7.9 grams of a substance that field-tested positive for cocaine. *Id.*

And for the third purchase, on June 8, 2009, Officer Harrison arranged to buy \$150 worth of cocaine from Casillas after a series of text messages to the same phone number. *Id.* At the same time, Officers Simonich and Prochaska surveilled 701 W. Marion. *Id.* Casillas told Harrison to meet him at the same liquor store. *Id.* As Harrison drove to the meeting, Officer Simonich, through

“uninterrupted surveillance,” observed Casillas exit 701 W. Marion and walk to Martinez Grocery Store at 704 West Jefferson Street, in Joliet. *Id.* During that time, Casillas told Harrison to instead meet him inside the Martinez Grocery Store. *Id.* Harrison did so, and Casillas again pointed to a shelf and said, “it’s right there.” *Id.* Harrison retrieved a clear plastic baggie (containing suspected cocaine) from the shelf and gave Casillas \$150 in exchange. AE6-7. Harrison later weighed the baggie, which contained 3.6 grams of a substance that field-tested positive for cocaine. AE7.

Harrison identified Casillas from an Illinois Secretary of State driver’s license photograph. *Id.* Harrison’s sworn complaint further stated that “law enforcement records show Ruben J. Casillas as an associate of Leticia Hernandez who resides at 701 W. Marion St., Joliet.” *Id.* Harrison stated his belief that there was probable cause for a search warrant for Casillas’s person, 701 W. Marion, and the Ford Explorer. *Id.*

### ***Defendant’s Pretrial Challenge to the Search Warrant***

Defendant filed a motion to quash the search warrant and suppress evidence, C58-61, alleging that there was an insufficient connection between Harrison’s three undercover drug purchases from Casillas and 701 W. Marion to establish probable cause justifying the search. C58-61; R122-30. In response, the State asserted that the motion should be denied because Officer Harrison’s sworn statement provided probable cause to validate the search of 701 W. Marion, in part because there is no requirement that a criminal suspect (Casillas) reside at a residence to be searched. Alternatively, the evidence should not be suppressed under the good-faith exception to the exclusionary rule. C75-81; R134-39.

Defendant replied that the search warrant was so facially deficient that the good-faith exception was inapplicable. R140-41.

Ultimately, the trial court (Judge Edward Burmila, not the magistrate who issued the search warrant) did not suppress the evidence recovered at 701 W. Marion, recognizing that probable cause supported the warrant. *See* R262-63 (stating that it was reasonable to infer that there was a fair probability that drugs would be found at the residence, particularly because Casillas left there and went directly to third sale from there).

### ***The Jury Trial and Appellate Court Proceedings***

The jury found defendant not guilty of unlawful possession of a controlled substance with intent to deliver and guilty of unlawful use of a weapon by a felon, C292-93; R975-77, and defendant was sentenced to thirty-six months of intensive probation, R1021, 1024.

In a divided opinion, the appellate court affirmed. A11. The majority concluded that the magistrate had a substantial basis for finding probable cause to search 701 W. Marion. A14. After summarizing the connections between Casillas's drug activity and the residence, the majority found a sufficient nexus to conclude that a fair probability existed that evidence of that activity would be found in defendant's residence, distinguishing *People v. Lenyoun*, 402 Ill. App. 3d 787 (1st Dist. 2010). A15-17. The dissenting justice emphasized the lack of evidence in the affidavit that Casillas lived at the residence or stored or sold narcotics in the residence, and concluded that *Lenyoun* supported suppression here. A17-19.

**ARGUMENT**

**The Trial Court Correctly Denied Defendant’s Motion to Quash the Search Warrant and Suppress Evidence.**

The Fourth Amendment to the United States Constitution protects people from unreasonable searches and seizures, and reasonableness generally requires a warrant supported by probable cause. *People v. Sorenson*, 196 Ill. 2d 425, 432 (2001) (citing U.S. Const., amend. IV). The search and seizure clause of the Illinois Constitution is interpreted in “limited lockstep” with its federal counterpart. *People v. Burns*, 2016 IL 118973, ¶ 19 (internal quotation marks omitted).

**A. The Magistrate Had a Substantial Basis to Find a Fair Probability that Evidence of Casillas’s Criminal Drug Activity Would Be Found at 701 W. Marion.**

**1. Standard of review**

When evaluating whether probable cause supports a warrant, the reviewing court considers only the information submitted to the magistrate and not the content of subsequent hearings. *People v. Pettis*, 2015 IL App (4th) 140176, ¶ 19; *People v. Bryant*, 389 Ill. App. 3d 500, 511-12 (4th Dist. 2009); see also *People v. Brown*, 2014 IL App (2d) 121167, ¶ 23 (court reviews whether magistrate correctly found probable cause, not whether trial court correctly ruled on suppression motion). And when reviewing a magistrate’s decision that there is probable cause to issue a search warrant, “the task of a reviewing court is not to conduct a de novo determination of probable cause, but only to determine whether there is substantial evidence in the record supporting the magistrate’s decision to issue the warrant” under the totality of the circumstances known to

the magistrate. *Massachusetts v. Upton*, 466 U.S. 727, 728 (1984) (per curiam) (citing *Illinois v. Gates*, 462 U.S. 213 (1983)); see also *id.* at 732-33 (finding state supreme court erred in conducting de novo probable cause determination that gave no deference to magistrate's decision to issue search warrant); see also *United States v. Leon*, 468 U.S. 897, 914 (1984) (“[r]easonable minds frequently may differ on the question whether a particular affidavit establishes probable cause, and we have thus concluded that the preference for warrants is most appropriately effectuated by according ‘great deference’ to a magistrate’s determination.”).

This Court has similarly stated that a reviewing court should not substitute its judgment for that of the magistrate issuing the warrant but instead should “ensure that the magistrate had a substantial basis for concluding that probable cause existed” under the totality of the circumstances. *People v. Sutherland*, 223 Ill. 2d 187, 219 (2006).

Contrary to this established precedent, defendant advocates de novo review of whether the trial court properly denied his motion to quash the search warrant and suppress evidence. Def. Br. 19. To that end, he provides an extensive discussion of the trial court proceedings on his suppression motion. *Id.* at 5-10, 28-31. But precedent instead requires reviewing courts to review the magistrate’s decision to issue the search warrant under a deferential standard in light of the information known to the magistrate when issuing the warrant.<sup>3</sup>

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<sup>3</sup> *People v. McCarty*, 223 Ill. 2d 109 (2006), is not to the contrary: while evaluating the sufficiency of probable cause for the warrant, this Court applied the deferential “substantial basis” standard to review the magistrate’s decision. *Id.* at 153.

## 2. Background principles

There is probable cause for a search warrant when “given all the circumstances set forth in the affidavit . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place.”

*Sutherland*, 223 Ill. 2d at 219 (quoting *People v. Hickey*, 178 Ill. 2d 256, 285 (1997) (quoting *Gates*, 462 U.S. at 238)) (quotation marks omitted).

Warrant affidavits must be viewed in a “commonsense” rather than a “hypertechnical” manner. *Sutherland*, 223 Ill. 2d at 219 (quoting *People v. Thomas*, 62 Ill. 2d 375, 380 (1975); *United States v. Ventresca*, 380 U.S. 102, 109 (1965)). In fact, “affidavits of probable cause are tested by much less rigorous standards than those governing the admissibility of evidence at trial.” *People v. Stewart*, 104 Ill. 2d 463, 475 (1984) (internal quotation marks omitted) (citing *McCray v. Illinois*, 386 U.S. 300, 311 (1967)). In “doubtful or marginal” cases, courts generally should construe the affidavit in favor of upholding the warrant. *Id.* at 477 (quoting *Ventresca*, 380 U.S. at 109).

When evaluating the propriety of a search warrant, courts ask whether there was a sufficient nexus between a criminal offense, the items to be seized, and the location to be searched. *People v. Butler*, 2015 IL App (1st) 131870, ¶ 48 n.4; *People v. Beck*, 306 Ill. App. 3d 172, 178-79 (1st Dist. 1999) (citing *People v. McCoy*, 135 Ill. App. 3d 1059, 1066 (2d Dist. 1985)); *see also* 2 W. LaFave, Search & Seizure § 3.7(d) (5th ed. 2017 Supp.); Def. Br. 23. In the absence of direct evidence establishing such a nexus, the court may draw reasonable inferences to establish the nexus. *Beck*, 306 Ill. App. 3d at 179 (citing *McCoy*, 135 Ill. App. 3d at 1066); *see also* LaFave, *supra*, § 3.7(d). But a magistrate should not issue a

warrant based solely on the bare conclusions of others, on what is sometimes termed a “bare bones” affidavit. *Gates*, 462 U.S. at 239.

In determining whether it is reasonable to infer the requisite nexus between suspected criminal activity, the items to be seized, and the location to be searched, courts consistently identify the same factors: the type of crime involved, the nature of the items to be seized, the extent of the suspect’s opportunity to conceal evidence of wrongdoing, and common-sense inferences as to where a criminal would be likely to conceal such evidence. *See, e.g., State v. Mariner*, 162 A.3d 241, 244 (Me. 2017); *State v. Yarbrough*, 841 N.W.2d 619, 622-23 (Minn. 2014); *United States v. Rodrigue*, 560 F.3d 29, 33 (1st Cir. 2009); *State v. Byrne*, 972 A.2d 633, 640 (R.I. 2009); *United States v. Williams*, 544 F.3d 683, 687 (6th Cir. 2008); *Commonwealth v. Anthony*, 883 N.E.2d 918, 926 (Mass. 2008); *Morgan v. State*, 962 A.2d 248, 253 (Del. 2008); *Holmes v. State*, 796 A.2d 90, 100 (Md. 2002) (collecting cases); *State v. Reid*, 91 S.W.3d 247, 275 (Tenn. 2002) (also considering whether criminal activity is isolated or protracted pattern of conduct); *United States v. Whitner*, 219 F.3d 289, 297 (3d Cir. 2000); *State v. Gogg*, 561 N.W.2d 360, 365 (Iowa 1997); *United States v. Jackson*, 756 F.2d 703, 705 (9th Cir. 1985); *United States v. Rambis*, 686 F.2d 620, 624 (7th Cir. 1982).

**3. The appellate court correctly affirmed the magistrate’s decision to issue the search warrant for 701 W. Marion.**

Defendant wrongly claims that the warrant affidavit provided insufficient evidence of a connection between Casillas’s drug activity and defendant’s home.

Def. Br. 21-34. Under the applicable deferential standard of review, however, the

information in the affidavit, along with inferences reasonably drawn therefrom, established a substantial basis to conclude that there was a fair probability that contraband or evidence of illegal drug activity would be found at 701 W. Marion.

Officer Harrison, a narcotics officer with over ten years of law enforcement experience, contacted Casillas by phone and purchased cocaine from him on three occasions within a twenty-day span, with the last purchase occurring only four days before the warrant was executed. AE5-8. The number and timing of these drug sales shed light on a salient factor: the type of crime involved. Although the affidavit did not specify how much time elapsed between the orders and the deliveries, in all three sales, both occurred on the same day, and in the third sale, both order and delivery occurred while police officers conducted “uninterrupted surveillance” of Casillas. AE5-6. A dealer’s ability, as here, to produce drugs soon after receiving a request for them suggests that he has a ready supply. *Commonwealth v. Clagon*, 987 N.E.2d 554, 557 (Mass. 2013). And a dealer who has participated in multiple drug sales is far likelier than a one-time dealer or a drug user to store or have access to large quantities of drugs and other tools of the drug trade. *Sowers v. Commonwealth*, 643 S.E.2d 506, 511-12 (Va. Ct. App. 2007). Thus, the facts in the warrant affidavit here permitted a reasonable inference that Casillas was an established drug dealer, rather than a one-time dealer, who likely had ready access to a large cocaine supply that in turn would likely be accompanied by other tools of the drug trade.

The warrant affidavit also provided a substantial basis to conclude there was a fair probability that, even if Casillas did not reside at 701 W. Marion, he stored evidence of his drug dealing there. There is no requirement that a



criminal suspect reside at the residence to be searched. *Zurcher v. Stanford Daily*, 436 U.S. 547, 556-57 (1978) (“The critical element in a reasonable search is not that the owner of the property is suspected of crime but that there is reasonable cause to believe that the specific ‘things’ to be searched for and seized are located on the property to which entry is sought.”); *Clagon*, 987 N.E.2d at 558 (that warrant affidavit failed to establish location of search was drug dealer’s residence not fatal; affidavit sufficiently demonstrated dealer made use of premises, even if not owner or resident). Thus, defendant’s argument that the affidavit created a reasonable inference that Casillas did *not* live there, Def. Br. 25, misses the mark.

Tools of the drug trade, many of which are intrinsically illicit, are more likely to be stored in a hidden, private place. *See, e.g., State v. Samson*, 916 A.2d 977, 982 (Me. 2007) (evidence of child pornography likely found in private, secluded place given their illicit nature); *Commonwealth v. Harmon*, 826 N.E.2d 761, 766 (Mass. App. Ct. 2005) (reasonable to believe inculpatory evidence connected to serious crime, murder, would be hidden or disposed of soon after crime). Moreover, because established drug dealers, in contrast with drug users, are reasonably expected to possess larger quantities of drugs and other related evidence — such as packaging, scales, weapons, and large amounts of cash — there is a greater prospect that the drug dealer needs a private location to store these items, such as at a residence. *See, e.g., People v. Pressey*, 126 Cal. Rptr. 162, 170 (Cal. Ct. App. 2002). Dealers also sometimes use “stash houses” to store drugs and related items. *See, e.g., United States v. Garcia-Villalba*, 585 F.3d 1223, 1234 (9th Cir. 2009). Thus, two additional nexus factors — the nature of

the items to be seized and reasonable inferences about where such items would be kept — strengthen the inference that Casillas would store items connected to his drug dealing in a private place like 701 W. Marion.

And multiple pieces of evidence connected 701 W. Marion with Casillas's confirmed drug sales. For the first sale, Casillas directed Officer Harrison to meet him at a supermarket at 652 Collins Street in Joliet, and police officers saw Casillas arrive at and depart from that location in the Ford Explorer registered to Leticia Hernandez at 701 W. Marion. AE5. The fact that she allowed Casillas to drive her car suggests that Casillas had more than a casual acquaintance with Hernandez, and that relationship supports an inference that it was fairly probable that Casillas would hide evidence at her residence, 701 W. Marion. *See, e.g., Harmon*, 826 N.E.2d at 766-67.

For the second drug sale eight days later, Casillas directed Harrison to meet him at a liquor store at 712 W. Jefferson Street in Joliet, three-tenths of a mile or a five-minute walk from 701 W. Marion. AE6, 11.<sup>4</sup> This fact supports a reasonable inference that Casillas was familiar with the neighborhood around 701 W. Marion and strengthened the conclusion that 701 W. Marion was a logical and convenient place for Casillas to store and access his cocaine supply and additional tools of drug dealing. *United States v. Stearn*, 597 F.3d 540, 559-60 (3d Cir. 2010) (citing proximity of residence searched to criminal activity as factor

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<sup>4</sup> This Court may take judicial notice of “matters that are readily verifiable from sources of indisputable accuracy,” *People v. Mata*, 217 Ill. 2d 535, 539 (2005), such as geographical facts from mainstream Internet sites, including distances reflected in this map from Google Maps and the other two maps in the appendix, AE10 & 12, which include estimated walk and drive times, *see, e.g., Peters v. Riggs*, 2015 IL App (4th) 140043, ¶ 49; *People v. Crawford*, 2013 IL App (1st) 100310, ¶ 118, n.9.

supporting probable cause for warrant); *Holmes*, 796 A.2d at 101 (similar, given that drug transaction occurred less than one block from defendant’s home); *Commonwealth v. Young*, 931 N.E.2d 494, 499 (Mass. App. Ct. 2010) (similar, given that drug sale was in “close walking proximity” of location searched); *State v. Harris*, 589 N.W.2d 782, 788-89 (Minn. 1999) (proximity of apartment to crime scene “increases the probability” that stolen items would be stored there because it was a convenient place for concealing contraband).

For the third drug sale, eleven days after the second, Casillas first directed Harrison to meet him at the same liquor store but then, en route, changed the meeting place to an adjacent grocery store located at 704 W. Jefferson Street, only two-tenths of a mile, or a three-minute walk, from 701 W. Marion. AE6, 11-12.<sup>5</sup> That Casillas again chose a locale within walking distance of 701 W. Marion strengthens the inference that he was familiar with the neighborhood and that 701 W. Marion was a logical and convenient place for Casillas to store both his cocaine supply and other evidence of his drug crimes. *Cf. Young*, 931 N.E.2d at 499 (defendant’s “routine” of walking from apartment to multiple drug sales and back to apartment afterwards created reasonable inference that apartment was base of operations for drug sales and that cache of drugs was kept there).

Perhaps most tellingly, a police officer conducting “uninterrupted surveillance” observed Casillas exit 701 W. Marion and walk to the third drug sale. AE6. Because Casillas left the home to complete a drug sale, it is likely that he possessed the drugs at that location and it is reasonable to infer that his drug supply and other tools of drug dealing were stored there. *United States v.*

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<sup>5</sup> See note 4, *supra*.

*Aguirre*, 664 F.3d 606, 613-14 (5th Cir. 2011) (probable cause for search warrant of defendant's mobile home supported by law enforcement observing him with drugs immediately after leaving residence); *United States v. Montes-Medina*, 570 F.3d 1052, 1060 (8th Cir. 2009) (similar, citing that police observed defendant exit residence and drive to drug deal); *United States v. Dessesauere*, 429 F.3d 359, 368-69 (1st Cir. 2005) (similar, citing that defendant went from apartment to pick up drug buyer, "making it likely that the drugs he sold to [the buyer] came from the apartment"); *State v. Saine*, 297 S.W.3d 199, 206 (Tenn. 2009) (similar, citing that defendant went directly from residence to drug sale and back to his residence, from which "the magistrate could reasonably infer that the supply of drugs was located in [defendant]'s residence"); *Holmes*, 796 A.2d at 101 (similar, citing that defendant was in and out of house prior to drug sale).

It makes no difference that 701 W. Marion was not Casillas's residence. *See, e.g., State v. Rogahn*, 879 N.W.2d 454, 458 (N.D. 2016) (finding probable cause to search third party's house, noting that drug dealer entered house after one sale and entered and exited house after later request for pricing for second sale); *Garcia-Villalba*, 585 F.3d at 1233-34 (finding probable cause to search "stash house," noting that multiple drug dealers traveled from their residences to stash house immediately after receiving orders to deliver drugs to customer); *State v. Verrecchia*, 880 A.2d 89, 97-98 (R.I. 2005) (finding probable cause to search barn, noting that upon receiving order for firearms, defendant drove from work, and entered and exited barn, shortly before arrest by undercover police officer purchaser).

Relatedly, defendant's objections that he was not the "target" of the search warrant, *see, e.g.*, Def. Br. 2, 19, 22, are unfounded. In fact, such argument is based on a misnomer because "[s]earch warrants are not directed at persons; they authorize the search of places and the seizure of things, and as a constitutional matter they need not even name the person from whom the things will be seized." *Zurcher*, 436 U.S. at 555. That is why there is no requirement that the owner of the place to be searched be suspected of criminal involvement. *Id.* at 555-56 (noting that the State's interest in enforcing criminal laws and recovering evidence is same regardless of whether owner is culpable).

Nor is there any requirement that the suspected criminal activity be occurring *in* the residence to justify its search; instead, the probable cause standard demands only a fair probability that contraband or evidence of criminal activity will be found in the residence. *See, e.g., United States v. Joubert*, 778 F.3d 247, 252 (1st Cir. 2015) ("The question is whether evidence of the crime is likely to be found in the specific place being searched, not whether the crime occurred there"); *United States v. Kapordelis*, 569 F.3d 1291, 1310 (11th Cir. 2009) ("There need not be an allegation that the illegal activity occurred at the location to be searched, for example the home"). Thus, defendant gets it wrong when he criticizes the appellate majority for failing to explaining "*why* it was reasonable to infer that criminal activity was ongoing in someone else's home." Def. Br. 31 (emphasis in original); *see also* Def. Br. 19 & 22 (stressing absence of direct evidence that Casillas dealt drugs from the home or that criminal activity was ongoing in the home).

There is also no requirement that a search warrant affidavit demonstrate that the place to be searched is the *most likely* place where evidence of the crime would be stored. For example, that a drug dealer may have stored her cocaine in a vehicle rather than the home to be searched did not defeat probable cause because the magistrate “is not required to rule out every other possible alternative.” *United States v. Corral*, 970 F.2d 719, 728 (10th Cir. 1992) (internal quotation marks omitted); *see also United States v. Sidwell*, 440 F.3d 865, 869 (7th Cir. 2006) (noting that other possible scenarios about location of cocaine in apartment building did not negate probable cause because “[p]robable cause requires only a probability or substantial chance that evidence may be found; it does not, by contrast, require absolute certainty.”). Defendant also wrongly criticizes the affidavit by listing information that it does not include. *See, e.g.*, Def. Br. 24-25, 27. Regardless of whether such information would have strengthened the affidavit, the relevant question remains whether the information it contained gave the magistrate a substantial basis to conclude that evidence of the crime would probably be found on the premises. *See, e.g.*, *Clagon*, 987 N.E.2d at 557-58.

Here, the evidence and reasonable inferences provided probable cause to search 701 W. Marion for evidence connected to Casillas’s drug activity. Within a three-week span, an experienced undercover narcotics officer participated in three cocaine transactions with Casillas in which Casillas provided the requested drugs the same day. This raises a reasonable inference that Casillas was an established dealer with access to a ready supply of cocaine, which would likely be stored, along with other tools of the drug trade, in a private place such as a

residence or stash house. Casillas drove a vehicle registered to an owner at 701 W. Marion to and from the first drug sale, suggesting a level of trust between himself and the residents there. The latter two drug sales occurred within walking distance of 701 W. Marion, increasing the likelihood that the residence would serve as a logical and convenient place for Casillas to access and store his drug supply and other tools, an inference bolstered by the fact that Casillas, in fact, walked from 701 W. Marion to the third sale. Thus, it is reasonable to infer that Casillas was a repeated participant in a larger drug operation, which would require a private location to store the larger drug supply and other related tools, and which was probably located at 701 W. Marion given its multiple ties to Casillas's drug activity.

In short, the combination of evidence and reasonable inferences provides a substantial basis to conclude that there was a fair probability that evidence connected to Casillas's drug dealing would be found at 701 W. Marion. *See Commonwealth v. Escalera*, 970 N.E.2d 319, 325-26 (Mass. 2012) (while observing drug dealer leave his home and go directly to sale once is insufficient to establish probable cause to search home, a single such observation along with other information can raise inference that drugs are in home); *see also Upton*, 466 U.S. at 734 (even if each component of affidavit appears insubstantial, viewed together, they demonstrate "an internal coherence that g[i]ve[s] weight to the whole.").

The three cases that defendant relies upon in support of his contrary argument, Def. Br. 26-27, are distinguishable because they involve less evidence connecting the drug activity and the place to be searched. First, *Commonwealth*

*v. Smith*, 783 N.E.2d 463 (Mass. App. Ct. 2003), was subsequently confined to its facts and stands only for the proposition that a single police observation of an individual driving home from a drug sale, without more, does not establish probable cause to search the home. *Commonwealth v. Tapia*, 978 N.E.2d 534, 541 n.11 (Mass. 2012). Second, *People v. Rojas*, provided even less evidence connecting the crime to the residence searched. 2013 IL App (1st) 113780, ¶¶ 5, 18, 22 (insufficient nexus given that affidavit offered only experienced officer’s “generic” speculation that drug trafficking records are often kept at traffickers’ residences; defendant’s phone request to meet trafficker close to home warranted no weight given no indication about why they met, if they met at all). Third, as construed by the appellate majority, A16, *People v. Lenyoun*, 402 Ill. App. 3d (1st Dist. 2010), is distinguishable. There, a single confirmed drug sale (away from the residence), provided little reason to conclude that Lenyoun was an established drug dealer likely to need access to a larger drug supply or other tools of the drug trade. 402 Ill. App. 3d at 795.<sup>6</sup>

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<sup>6</sup> Alternatively, this Court should disapprove *Lenyoun* to the extent that it is inconsistent with both upholding the search warrant in this case and established probable cause principles. As the dissent explained, Lenyoun drove directly from his apartment to the confirmed cocaine sale, and drove to and from the apartment for three other suspected drug deals in which police observed him exchange items with men who approached his car, one of whom also participated in the later confirmed drug deal and told police that Lenyoun had sold him drugs on multiple occasions over the previous year and a half. 402 Ill. App. 3d at 803-04 (Lampkin, J., dissenting). After Lenyoun returned to his apartment following the third suspected drug deal, another man entered, stayed ten minutes, and when he was later stopped by police, tried to flee before he was arrested in possession of \$1,151. *Id.* at 788, 804. When searching Lenyoun’s person days later, police found \$352; when searching Lenyoun’s car, police found a list that included the word “dope” and a business card listing the same telephone number a buyer had called to order cocaine from Lenyoun; a canine alerted to the car and Lenyoun’s money. *Id.* at 804. The totality of these circumstances provided a



Under the totality of the circumstances, including the evidence and reasonable inferences from that evidence, the magistrate had a substantial basis to find a fair probability that evidence of Casillas’s drug dealing would be found at 701 W. Marion, justifying both the search warrant and the trial court’s denial of defendant’s suppression motion.

**B. Alternatively, the Evidence Seized from 701 W. Marion Should Not Be Suppressed Under the Good-Faith Exception to the Exclusionary Rule.**

**1. Standard of review**

The Court reviews de novo the legal question of whether the good-faith exception applies. *People v. Turnage*, 162 Ill. 2d 299, 305 (1994); *Rojas*, 2013 IL App (1st) 113780, ¶ 21.

**2. Background principles**

The Fourth Amendment “says nothing about suppressing evidence obtained” from unreasonable searches. *Davis v. United States*, 564 U.S. 229, 236 (2011) (internal quotation marks omitted). Instead, judges created the exclusionary rule as a “prudential doctrine” to deter police misconduct. *Id.* (internal quotation marks omitted). As this Court has noted, exclusion imposes a heavy toll on the judicial system and society because it usually requires courts to ignore reliable, trustworthy evidence relevant to guilt or innocence and can result

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substantial basis to conclude that Lenyoun was an established drug dealer who was fairly likely to store his drug supply or other tools at his residence, providing probable cause for the search warrant. *Id.* at 805. The majority’s conclusion to the contrary can be explained by its mistaken application of de novo review, *id.* at 791-92, its incomplete summary of the relevant evidence as consisting solely of a single drug transaction unconnected to the residence, *id.* at 795-96, and its erroneous belief that an inference of criminal activity occurring *in the apartment* was required to justify a search of the apartment, *id.* at 797-98.

in setting the criminal loose in the community without punishment. *People v. LeFlore*, 2015 IL 116799, ¶ 23. Thus, exclusion is appropriate only if the deterrent benefit of suppression outweighs the substantial social costs; the exclusionary rule is restricted to “those unusual cases where it can achieve its sole objective: to deter future fourth amendment violations.” *Id.* at ¶¶ 22-23 (internal quotation marks omitted); see also *Leon*, 468 U.S. at 906-09.

The United States Supreme Court has cautioned repeatedly that such exclusion is a “last resort, not our first impulse.” *LeFlore*, 2015 IL 116799 at ¶ 22 (quoting *Herring v. United States*, 555 U.S. 135, 140 (2009)) (additional internal quotation marks omitted). The exclusionary rule’s purposes are “only rarely served” by applying it in the context presented here: police executing a subsequently invalidated search warrant. *Leon*, 468 U.S. at 926. In particular, the rule’s deterrence rationale cannot be effectively promoted in a case in which no illicit police conduct was involved. *LeFlore*, 2015 IL 116799 at ¶ 24. Such a case includes one in which the “police acted with an objectively reasonable good-faith belief that their conduct was lawful or when their conduct involved only simple, isolated negligence.” *Id.* (internal quotation marks and brackets omitted). The good-faith analysis is an objective one, rather than an inquiry into the subjective belief of the officers. *Id.* at ¶ 25. That is, the Court should evaluate whether “a reasonably well trained officer would have known that the search was illegal in light of all of the circumstances.” *Id.* (citing *Leon*, 468 U.S. at 922 n.23).

The good-faith exception to the exclusionary rule has been codified by the General Assembly. *Burns*, 2016 IL 118973, ¶ 48 (citing 725 ILCS 5/114-12(b)(1)

(2012)). The statute defines “good faith” as including whenever a police officer obtains evidence “pursuant to a search . . . warrant obtained from a neutral and detached judge, which warrant is free from obvious defects other than non-deliberate errors in preparation and contains no material misrepresentation by any agent of the State, and the officer reasonably believed the warrant to be valid.” 725 ILCS 5/114-12(b)(2)(i) (2009); *see also Leon*, 468 U.S. at 923.

**3. Defendant’s objection to application of the good-faith exception is unfounded because the belief that the warrant affidavit provided probable cause was not entirely unreasonable.**

Here, if the search warrant was invalid, the evidence should not be suppressed because the police obtained the evidence pursuant to the warrant under circumstances that satisfied the requirements of the good-faith exception. *See Leon*, 468 U.S. at 923; 725 ILCS 5/114-12(b)(2)(i) (2009). The record confirms — and defendant has never contested — that the magistrate was neutral and detached and that the warrant was free from obvious defects. Similarly, defendant does not contend that the warrant affidavit contained a material misrepresentation. Def. Br. 35-39.<sup>7</sup>

Thus, the only dispute is whether the officers executing the search warrant reasonably believed that it was valid. They did, and defendant’s argument that “the affidavit was so lacking in indicia of probable cause as to render official

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<sup>7</sup>To be sure, for a time, the trial court suppression proceedings and filings focused on whether a line from the warrant affidavit, AE7 (“Law enforcement records show Ruben J. Casillas as an associate of Leticia Hernandez who resides at 701 W. Marion St.”), was a misrepresentation, *see* C182, 194-200, 203-05, 228, 250; R270, 1040-42, 1047. But, ultimately, the trial court correctly found that the line was immaterial because the remaining information in the affidavit provided probable cause, C228, 250; R270, 1040-42. *See supra* Part A.3.

belief in its existence entirely unreasonable,” Def. Br. 35 (quoting *Rojas*, 2013 IL App (1st) 113780, ¶ 21) (citing *Leon*, 468 U.S. at 922-23)), borders on the frivolous. Importantly, defendant fails to acknowledge that the threshold for demonstrating this basis to refuse to apply the good-faith exception “is a high one, and it should be.” *Messerschmidt v. Millender*, 565 U.S. 535, 547 (2012). In “the ordinary case, an officer cannot be expected to question the magistrate’s probable-cause determination’ because ‘[i]t is the magistrate’s responsibility” to evaluate probable cause and issue warrants, and there is “a sound presumption that the magistrate is more qualified than the police officer to make a probable cause determination.” *Id.* (quoting *Leon*, 468 U.S. at 921, and *Malley v. Briggs*, 475 U.S. 335, 346 n.9 (1986)).

Defendant cannot clear this high threshold. Here, in addition to the magistrate, two of three appellate court justices (and the circuit court judge who denied the suppression motion) concluded that the warrant affidavit provided probable cause to justify the search of 701 W. Marion. A11-17. The United States Supreme Court has held that officers acted on objectively reasonable reliance on a subsequently invalidated search warrant for precisely this reason. *Leon*, 468 U.S. at 926. That is, the Supreme Court found the good-faith exception applicable where there was disagreement among judges of a divided appellate court panel over whether probable cause for a warrant existed, because this showed that the officers’ reliance on the magistrate’s determination of probable cause was objectively reasonable. *Id.* Here, the reasoned probable cause finding by the two appellate court justices in the majority (and the circuit court judge ruling on the suppression motion) definitively dispels defendant’s assertion that the affidavit

was so obviously deficient to make the officers' reliance on it "entirely unreasonable."

Even if this Court looks beyond this fact, defendant's argument gains no traction. The good-faith exception is inapplicable on this basis only if the affidavit is so obviously deficient as to accurately be described as "bare bones" regarding an evidentiary connection between the criminal conduct, the items to be seized, and the place to be searched, or if it is facially overbroad in its scope. *Rojas* provides an example of such a "bare bones" affidavit: though it provided extensive detail on other matters, evidence of a nexus between criminal drug trafficking activity and the defendant's residence was "entirely lacking," consisting only of experienced officer's "generic" speculation that drug trafficking records are often kept at traffickers' residences. 2013 IL App (1st) 113780, ¶¶ 5, 18, 22. And while the *Lenyoun* majority also correctly noted that a "bare bones" affidavit precluded application of the good-faith exception, the majority wrongly held that the affidavit there was "bare bones" given multiple circumstances indicating that Lenyoun was an established drug dealer who probably stored his drug supply and other tools in his apartment, 402 Ill. App. 3d at 800. *See id.* at 806-07 (Lampkin, J., dissenting); note 6, *supra*. This case is distinguishable from *Rojas* and resembles *Lenyoun*, as correctly analyzed by the dissenting justice. As detailed in *supra* Part A.3., the warrant affidavit here cited multiple pieces of evidence tying Casillas and his drug-selling activity to 701 W. Marion based on direct observation and related reasonable inferences. The affidavit here is not appropriately described as "bare bones."

Nor was the affidavit facially overbroad. For example, in *People v. Reed*, 202 Ill. App. 3d 760, 761, 764 (3rd Dist. 1990), the warrant authorized police to search Willie Harrington or anyone who happened to be in a particular tavern for drug-related evidence because an informant had purchased cocaine there on at least six occasions in the preceding forty-five days, including from Harrington during one “controlled buy.” The court concluded that the warrant was overbroad as to people other than Harrington because the affidavit included no evidence that others had sold narcotics. *Id.* at 764. In criticizing the affidavit here as overbroad because it was ambiguous and invited multiple interpretations about whether Casillas or Hernandez resided at 701 W. Marion, Def. Br. 38, 39, defendant simply misunderstands this principle. The warrant here appropriately authorized a search of three targeted places, including 701 W. Marion, that were connected to Casillas’s drug dealing as detailed in the affidavit. Whether Casillas resided there was immaterial. See *supra* at 14. There is no overbreadth problem here.

Finally, defendant emphasizes that the affiant, Officer Harrison, was one of the officers who executed the search, arguing both that Harrison could not believe that the warrant was supported by probable cause because he drafted the allegedly ambiguous affidavit and that the other executing officers could not claim ignorance of the process by which the warrant was obtained under Supreme Court precedent rejecting such ignorance as grounds for finding good-faith action. Def. Br. 36-39. But ignorance of how the warrant was obtained is not the basis for claiming that the officers here acted in good faith. Rather, the officers who executed the warrant acted in good faith because the warrant

affidavit included enough information to connect Casillas's drug activity with 701 W. Marion that it was not so obviously deficient to render it unreasonable for them to have relied on it, as confirmed by the fact that multiple judges concluded that it provided probable cause to search the house.

Thus, if the search of 701 W. Marion was invalid, the good-faith exception to the exclusionary rule should apply.

### **CONCLUSION**

For these reasons, the People of the State of Illinois respectfully ask this Court to affirm the appellate court's judgment.

June 12, 2018

Respectfully submitted,

LISA MADIGAN  
Attorney General of Illinois

DAVID L. FRANKLIN  
Solicitor General

MICHAEL M. GLICK  
Criminal Appeals Division Chief

LEAH M. BENDIK  
Assistant Attorney General  
100 West Randolph Street, 12th Floor  
Chicago, Illinois 60601-3218  
(312) 814-5029  
eserve.criminalappeals@atg.state.il.us

*Counsel for Plaintiff-Appellee  
People of the State of Illinois*

**CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 25 pages.

/s/ Leah M. Bendik  
LEAH M. BENDIK  
Assistant Attorney General



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07/20/09 WCCH

STATE OF ILLINOIS )  
                                  )  
COUNTY OF WILL )

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

FILED  
09 JUN 17 PM 12:39  
12TH JUDICIAL CIRCUIT  
WILL COUNTY ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS )

vs. )

NO. )

2009 C

RUBEN J. CASILLAS )

*Ruben J. Casillas*

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# SEARCH WARRANT

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TO ALL PEACE OFFICERS OF THE STATE OF ILLINOIS:

1. On this day, Thursday, June 11, 2009, Jeremy Harrison, Complainant and affiant have signed and sworn to a complaint for search warrant before me. Upon examination of the written complaint I find that said complaint on its face states facts sufficient to show probable cause for the issuance of a search warrant, and I therefore command that the following be searched:

\*\*\*

WCCH 07202009

07/20/09 WCCH

A. The person of: Ruben J. Casillas, M/H, 5'07", 165 lbs, DOB: 03/04/86.

B. The following described property:

1. THE PREMISES LOCATED AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS, BEING A WHITE TWO-STORY SINGLE FAMILY RESIDENCE CLEARLY MARKED '701' ON THE FRONT OF THE RESIDENCE.

2. A BLACK FORD EXPLORER BEARING IL REGISTRATION 'X942056'.

2. I further command that the following described instruments, articles and things which have been used in the commission of, or which constitute evidence of the offense of UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, and seize therefrom: COCAINE, UNITED STATES CURRENCY, INCLUDING OFFICIAL ADVANCED FUNDS, PROOF OF RESIDENCY, PROOF OF IDENTIFICATION, DRUG RECORDS, DRUG PACKAGING, DRUG PARAPHERNALIA AND ANY OTHER EVIDENCE OF THE CRIMES OF UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE AND UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER.

3. I further command that a return of anything so seized shall be made without unnecessary delay before me or before Judge SCHEIDT or before any Court of competent jurisdiction.

  
Judge

Date of Issuance 11th day of June, 2009.

Time of Issuance 12<sup>50</sup> P.M.

WCCH 07202009

07/20/09 WCCH

**RETURNED EXECUTED**

Executed by searching: \_\_\_\_\_

on the \_\_\_\_ day of \_\_\_\_\_, 2009 at \_\_\_\_ o'clock \_\_.M. and seizing the articles

listed in the attached inventory and returning same to Judge \_\_\_\_\_; and

leaving a copy of attached Search Warrant (with) (at) \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_, 2009

\_\_\_\_\_  
Officer

Date Returned \_\_\_\_\_, 2009

Time Returned \_\_\_\_\_ M.

\_\_\_\_\_  
Judge

**RETURNED NOT EXECUTED**

I did not execute this warrant within 96 hours from the time of issuance and it  
it is hereby returned to the Court as void and not executed.

\_\_\_\_\_  
Officer

Date Returned \_\_\_\_\_, 2009

Time Returned \_\_\_\_\_ M.

WCCH 07202009

07/20/09 WCC

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

COMPLAINT FOR SEARCH WARRANT

1. **OFFICER JEREMY HARRISON**, Complainant, now appears before the undersigned Judge of the Circuit Court and requests the issuance of a search warrant to search

A. The person of: **Ruben J. Casillas, M/H, 5'07", 165 lbs., DOB: 03/04/86.**

B. The following described property:

1. **THE PREMISES LOCATED AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS, BEING A WHITE TWO-STORY SINGLE FAMILY RESIDENCE CLEARLY MARKED '701' ON THE FRONT OF THE RESIDENCE.**

2. **A BLACK FORD EXPLORER BEARING IL REGISTRATION 'X942056'.**

2. Complainant requests a search warrant for the purpose of seizing the following described instruments, articles and things: **COCAINE, UNITED STATES CURRENCY, INCLUDING OFFICIAL ADVANCED FUNDS, PROOF OF RESIDENCY, PROOF OF IDENTIFICATION, DRUG RECORDS, DRUG PACKAGING, DRUG PARAPHERNALIA AND ANY OTHER EVIDENCE OF THE CRIMES OF UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE AND UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER.**

3. The aforescribed instruments, articles and things have been used in the commission of or constitute evidence of the offense of **UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE AND UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER.**

4. Complainant has probable cause to believe, based upon the following facts, that the above listed things to be seized are now located upon the person and/or property set forth above:

WCC 07202009

07/20/09 WCCH

YOUR COMPLAINANT (Y/C), JEREMY HARRISON, HAS BEEN A MEMBER OF THE JOLIET POLICE DEPARTMENT FOR OVER THE PAST TEN YEARS AND IS CURRENTLY ASSIGNED TO THE NARCOTICS UNIT. THE INFORMATION CONTAINED IN THIS APPLICATION FOR SEARCH WARRANT IS BASED UPON INFORMATION PROVIDED BY LAW ENFORCEMENT OFFICERS, LAW ENFORCEMENT RECORDS, AND MY OWN OBSERVATIONS. OVER THE PAST TWENTY DAYS, YOUR COMPLAINANT HAS PURCHASED COCAINE FROM RUBEN J. CASILLAS IN AN UNDERCOVER CAPACITY THREE TIMES, TWO OF WHICH OCCURRED IN THE VICINITY OF 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS.

ON 05/20/09, YOUR COMPLAINANT PLACED AN OUTGOING TELEPHONE CALL TO 815-661-1451 AND SPOKE WITH RUBEN J. CASILLAS IN REFERENCE TO PURCHASING COCAINE FROM HIM IN EXCHANGE FOR \$150 UNITED STATES CURRENCY/OFFICIAL ADVANCED FUNDS (USC/OAF). RUBEN J. CASILLAS DIRECTED Y/C TO MEET HIM AT THE GONZALEZ SUPERMARKET AT 652 COLLINS ST., JOLIET, WILL COUNTY, ILLINOIS. Y/C DROVE HIS U/C MOTOR VEHICLE TO 652 COLLINS ST., JOLIET, WILL COUNTY, ILLINOIS, AND OBSERVED RUBEN J. CASILLAS WALKING AWAY FROM A BLACK FORD EXPLORER BEARING IL REGISTRATION 'X942056'. RUBEN J. CASILLAS MOTIONS FOR Y/C TO COME INSIDE THE STORE. Y/C FOLLOWS CASILLAS INTO THE STORE WHERE CASILLAS PLACES A CLEAR PLASTIC BAG CONTAINING SUSPECTED COCAINE ONTO A STORE SHELF AND TELLS Y/C THAT IT IS "RIGHT THERE". Y/C RETRIEVED THE SUSPECTED COCAINE AND HANDS RUBEN J. CASILLAS \$150 USC/OAF IN EXCHANGE. OFFICER SIMONICH OBSERVED RUBEN J. CASILLAS EXIT THE STORE AND RE-ENTER THE BLACK FORD EXPLORER BEARING IL REGISTRATION 'X942056' AND LEAVE THE AREA. Y/C LATER WEIGHED THE SUSPECTED COCAINE AT 3.7 GRAMS AND CONDUCTED A FIELD TEST WHICH INDICATED A POSITIVE REACTION FOR THE PRESUMPTIVE PRESENCE OF COCAINE. Y/C CHECKED THE REGISTRATION ON THE BLACK FORD EXPLORER AND IT REGISTERED TO LETICIA HERNANDEZ AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS.

WCCH 07/20/09

07/20/09 WCCH

ON 05/28/09, Y/C MADE A SERIES OF TELEPHONE CALLS AND TEXT MESSAGES TO 815-661-1451 IN REFERENCE TO PURCHASING COCAINE FROM RUBEN J. CASILLAS FOR \$300 USC/OAF. CASILLAS DIRECTED Y/C TO MEET HIM INSIDE THE STANG KELLY LIQUOR STORE LOCATED AT 712 W. JEFFERSON ST. Y/C DROVE HIS U/C MOTOR VEHICLE TO 712 W. JEFFERSON ST. AND WALKED INSIDE. Y/C DID MEET RUBEN J. CASILLAS IN AN AISLE WHERE HE POINTED TOWARD SOME LIQUOR BOTTLES ON A STORE SHELF AND SAID, "THEY ARE RIGHT THERE". Y/C DID RETRIEVE 2 CLEAR PLASTIC BAGGIES CONTAINING SUSPECTED COCAINE AND THEN HANDED RUBEN J. CASILLAS \$300 USC/OAF IN EXCHANGE. Y/C LATER WEIGHED THE SUSPECTED COCAINE AT 7.9 GRAMS AND CONDUCTED A FIELD TEST WHICH INDICATED A POSITIVE REACTION FOR THE PRESUMPTIVE PRESENCE OF COCAINE.

ON 06/08/09, Y/C MADE A SERIES OF TEXT MESSAGES TO 815-661-1451 IN REFERENCE TO PURCHASING COCAINE FROM RUBEN J. CASILLAS FOR \$150 USC/OAF. WHILE THESE TEXT MESSAGES WERE TAKING PLACE, OFFICERS SIMONICH AND PROCHASKA CONDUCTED SURVEILLANCE ON 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS. CASILLAS DIRECTED Y/C TO MEET HIM AT THE SAME SPOT AS BEFORE, MEANING STANG KELLY LIQUORS AT 712 W. JEFFERSON ST. AS Y/C WAS DRIVING HIS U/C MOTOR VEHICLE TO 712 W. JEFFERSON ST., OFFICER SIMONICH OBSERVED CASILLAS EXIT THE RESIDENCE AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS. OFFICER PROCHASKA CONDUCTED UNINTERRUPTED SURVEILLANCE OF CASILLAS AS HE WALKED TO THE MARTINEZ GROCERY STORE LOCATED AT 704 W. JEFFERSON ST., JOLIET, WILL COUNTY, ILLINOIS. DURING HIS WALK, CASILLAS DIRECTED Y/C TO MEET HIM AT THE MARTINEZ GROCERY STORE. CASILLAS THEN DIRECTED Y/C THAT HE WAS INSIDE TO MEET HIM INSIDE THE STORE. Y/C ENTERED THE MARTINEZ GROCERY STORE LOCATED AT 704 W. JEFFERSON ST., JOLIET, WILL COUNTY, ILLINOIS AND MET RUBEN J. CASILLAS IN AN AISLE. CASILLAS POINTED TO A STORE SHELF AND STATED, "IT'S RIGHT THERE". Y/C THEN RETRIEVED A CLEAR PLASTIC BAGGIE CONTAINING

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SUSPECTED COCAINE FROM THE STORE SHELF AND HANDED CASILLAS \$150 USC/OAF IN EXCHANGE. Y/C LATER WEIGHED THE SUSPECTED COCAINE AT 3.6 GRAMS AND CONDUCTED A FIELD TESTED WHICH INDICATED A POSITIVE REACTION FOR THE PRESUMPTIVE PRESENCE OF COCAINE.

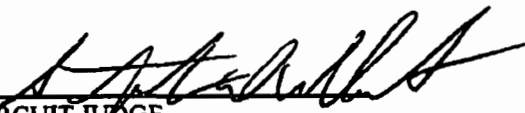
Y/C HAS POSITIVELY IDENTIFIED RUBEN J. CASILLAS FROM AN ILLINOIS SECRETARY OF STATE DRIVER'S LICENSE PHOTOGRAPH. LAW ENFORCEMENT RECORDS SHOW RUBEN J. CASILLAS AS AN ASSOCIATE OF LETICIA HERNANDEZ WHO RESIDES AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS.

Y/C HAS VIEWED THE RESIDENCE LOCATED AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS AND DESCRIBES IT AS A WHITE TWO-STORY SINGLE FAMILY RESIDENCE CLEARLY MARKED '701' ON THE FRONT OF THE RESIDENCE.

THEREFORE, Y/C BELIEVES PROBABLE CAUSE EXISTS FOR THE ISSUANCE OF A SERACH WARRANT FOR THE PERSON OF RUBEN J. CASILLAS, M/H, 5'07", 165 LBS., D.O.B. 03/04/86, THE PREMISES LOCATED AT 701 W. MARION ST., JOLIET, WILL COUNTY, ILLINOIS, AND A BLACK FORD EXPLORER BEARING IL REGISTRATION 'X942056'.

 # 301  
COMPLAINANT

Subscribed and sworn to before  
me this 11th day of June,  
2009, at 12<sup>00</sup>PM.

  
CIRCUIT JUDGE

WCCH. 07202009



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**RETURNED EXECUTED**

Executed by searching: 701 W. MARION ST. JOLIET, IL  
on the 12<sup>th</sup> day of JUNE, 2009 at 8:24 o'clock A.M. and seizing the articles  
listed in the attached inventory and returning same to Judge D. ROZAK; and  
leaving a copy of attached Search Warrant (with) (at) JORGE MANZO AT 701 W.  
Marion St. on 06/12, 2009

Date Returned July 17, 2009  
Time Returned 9:18 A.M.

[Signature] #301  
Officer  
[Signature]  
Judge

**RETURNED NOT EXECUTED**

I did not execute this warrant within 96 hours from the time of issuance and it  
it is hereby returned to the Court as void and not executed.

\_\_\_\_\_  
Officer

Date Returned \_\_\_\_\_, 2009  
Time Returned \_\_\_\_\_ M.

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**STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY**

The People of the State of Illinois

Vs.

Ruben J. Casillas

**INVENTORY OF ARTICLES SEIZED**

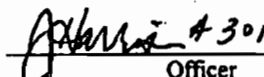
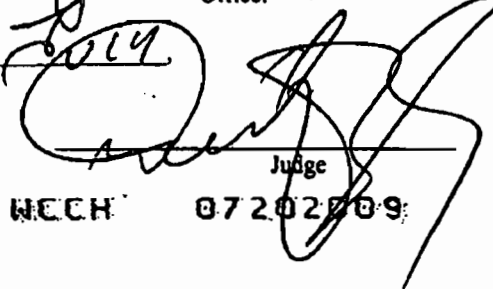
Having executed a search warrant at the time and in the manner as appears from my return thereof, I hereby make inventory of instruments, articles, and things seized as follows:

1. A clear plastic bag containing 348 grams of cocaine.
2. A black 9mm Taurus PT11 semi-automatic handgun with magazine containing 9 live 9mm bullets. The handgun is bearing serial number TTG38770.
3. A white plastic bag with 15 live 9mm bullets and a cardboard box with 35 live 9mm bullets.
4. A black digital scale, a box of Glad sandwich bags, a small plastic bottle of inositol, an orange plastic cup, clear plastic bags with cocaine residue, and playing cards.
5. A black Honeywell safe.
6. \$4000 in U.S. Currency.
7. \$5060 in U.S. Currency.
8. A black leather coat with a plastic Superman wallet which contained item #6.
9. A pink coat which contained item #7.
10. Proof of residency for Jorge Manzo.
11. Proof of residency for Ruben Casillas.
12. A vehicle title for a 2000 Ford Explorer.
13. A black Samsung cellular telephone and a gold Verizon cellular telephone.
14. A black Sony playstation 3 bearing serial #CK021343712-CECHK01.
15. A 32" Sharp television bearing serial #804832714.

The undersigned being first duly sworn on oath deposes and says the above inventory is true.

Subscribed and sworn to before me this

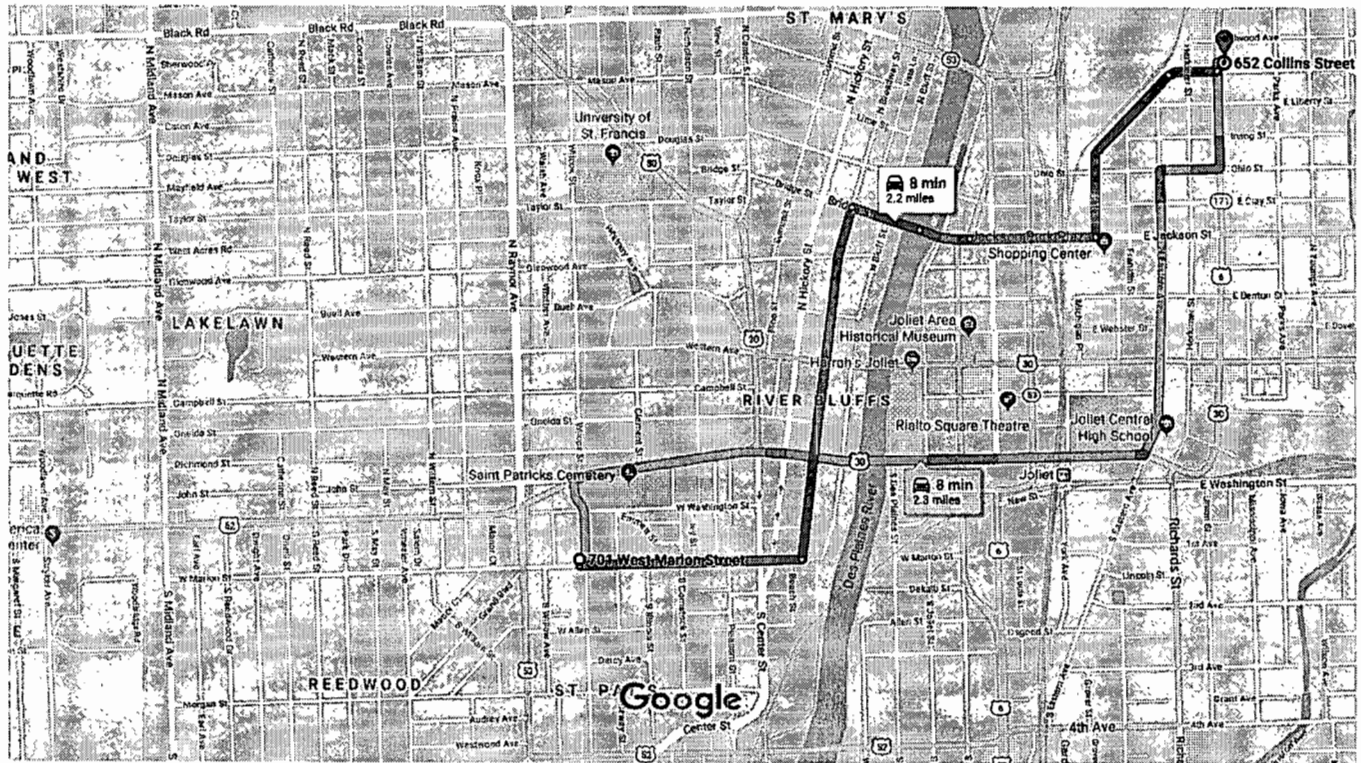
17 day of

  
 Officer  
  
 Judge  
 WCCH 07202009

Google Maps

701 W Marion St, Joliet, IL 60436 to 652 Collins Street, Joliet, IL

Drive 2.2 miles, 8 min



Map data ©2018 Google 1000 ft

via S Broadway St  
Fastest route, the usual traffic

8 min  
2.2 miles

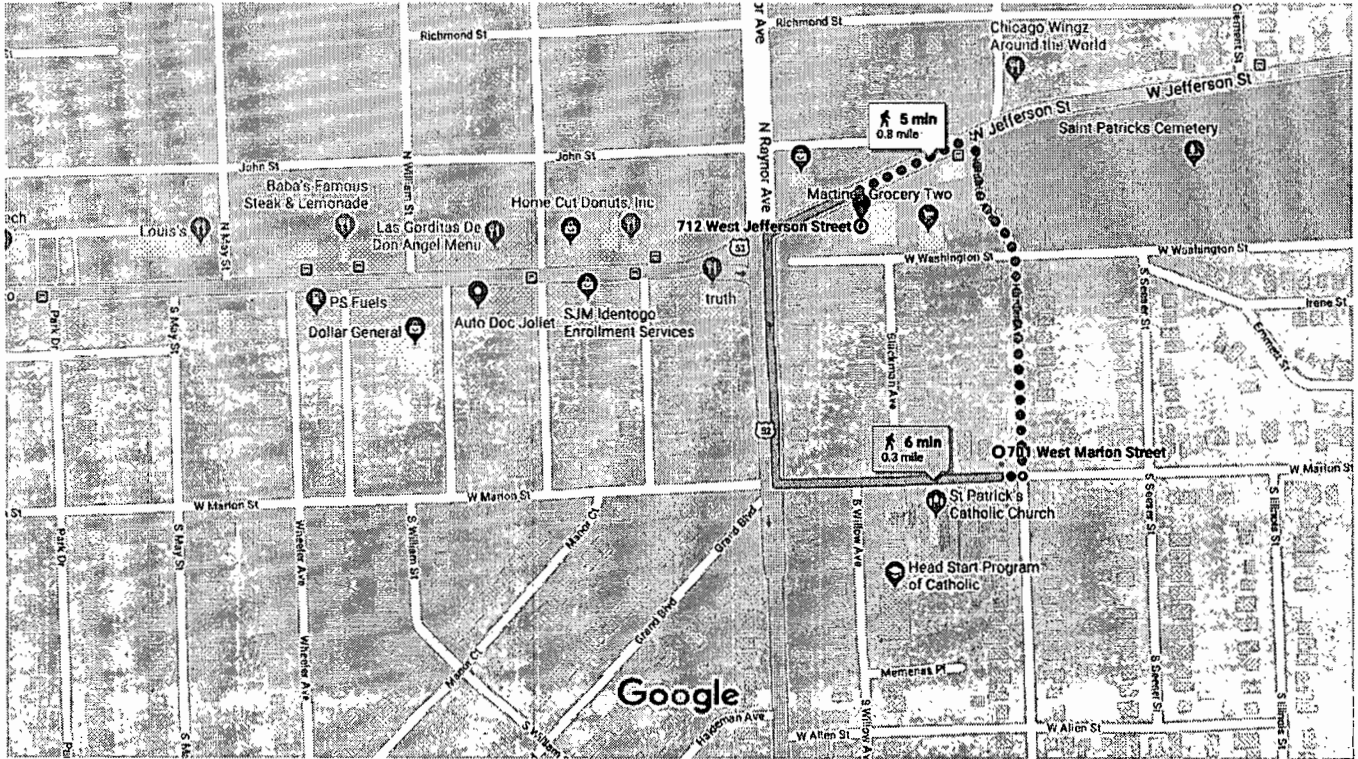
via W Jefferson St and N Eastern Ave

8 min  
2.3 miles

Google Maps

701 W Marion St, Joliet, IL 60436 to 712 W Jefferson St, Joliet, IL 60435

Walk 0.3 mile, 5 min



Map data ©2018 Google 200 ft

via S Hunter Ave and W Jefferson St

5 min  
0.3 mile

via W Marion St and US-52 W

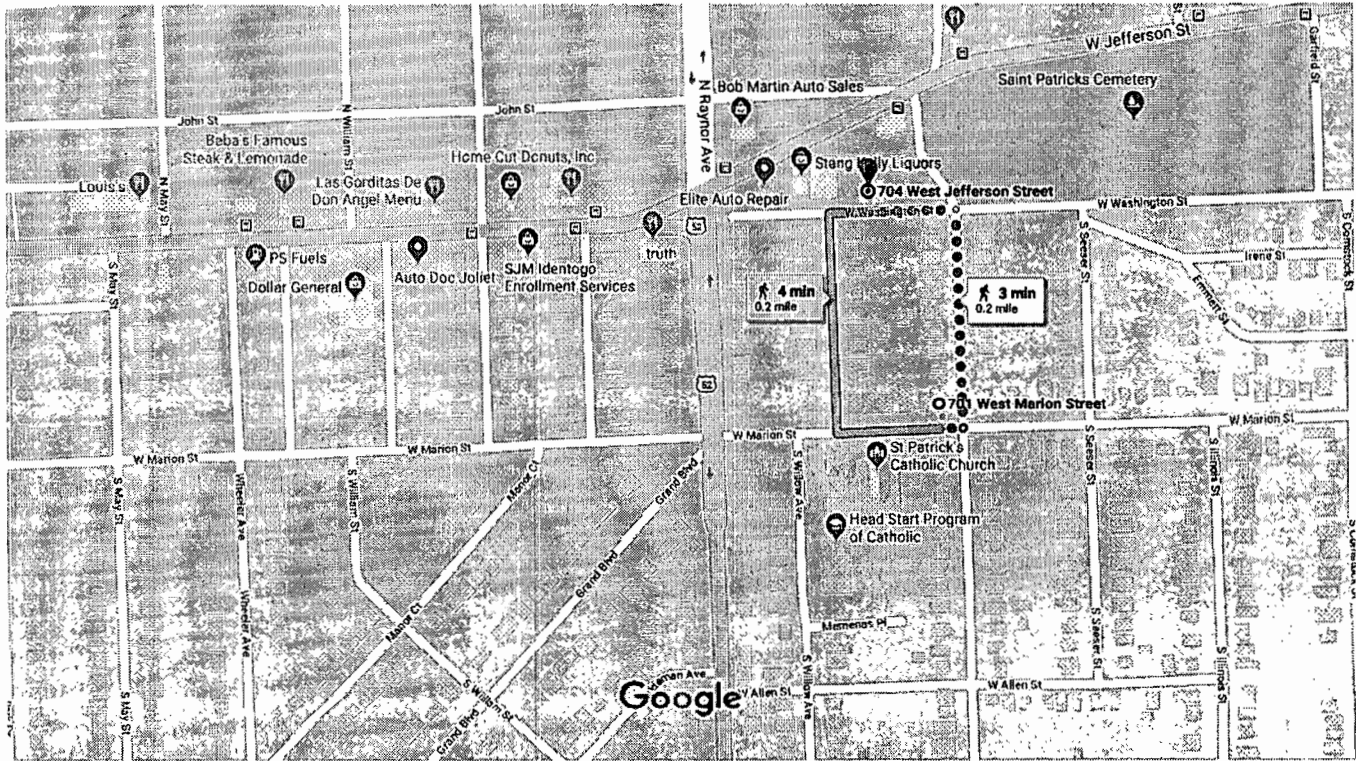
6 min  
0.3 mile

All routes are mostly flat

Google Maps

701 W Marion St, Joliet, IL 60436 to 704 W Jefferson St, Joliet, IL 60435

Walk 0.2 mile, 3 min



Map data ©2018 Google 200 ft

via S Hunter Ave and W Washington St

3 min  
0.2 mile

via W Marion St and Blackman Ave

4 min  
0.2 mile

All routes are mostly flat

**PROOF OF FILING AND SERVICE**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On June 12, 2018, the **Brief and Appendix of Plaintiff-Appellee People of the State of Illinois** was (1) filed with the Clerk of the Supreme Court of Illinois, using the Court's electronic filing system, and (2) served by transmitting a copy from my email address to the email addresses of the persons named below:

Editha Rosario-Moore  
1stdistrict.eserve@osad.state.il.us

Patrick Delfino, Director  
David Robinson, Acting Deputy Director  
Mark A. Austill, Staff Attorney  
State's Attorneys Appellate Prosecutor  
3rddistrict@ilsaap.org

James W. Glasgow  
Will County State's Attorney  
Colleen Griffin  
Assistant State's Attorney  
cgriffin@willcountyillinois.com

Additionally, upon its acceptance by the Court's electronic filing system, the undersigned will mail thirteen duplicate paper copies of the brief to the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois, 62701.

/s/ Leah M. Bendik  
LEAH M. BENDIK  
Assistant Attorney General