

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

DANIEL T. MILLER, III,

Defendant.

CRIMINAL ACTION NO.

1:21-cr-142-TWT-CMS

FINAL REPORT AND RECOMMENDATION

This case is before the Court on the remaining portion of the Preliminary Omnibus Motion to Suppress filed by Defendant Daniel T. Miller, III¹ (“First Motion to Suppress”) [Doc. 48] and on a later-filed motion to suppress (“Second Motion to Suppress”) [Doc. 53]. Between these two motions, Miller takes issue with four warrants, making multiple challenges to each warrant.

I. BACKGROUND

On January 15, 2021, law enforcement observed a Chevrolet Camaro engaging in an apparent drug transaction in Kennesaw, Georgia, and conducted a traffic stop on the car. [Doc. 91 at 9–63]. Miller was the driver, and he had a female

¹ On October 7, 2025, I issued a Non-Final Report and Recommendation in which I recommended that the other portion of the First Motion to Suppress be denied. [Doc. 103].

passenger with him. After a canine officer alerted to the odor of narcotics, law enforcement searched the Camaro and discovered approximately five kilograms of methamphetamine and two firearms in the car. Both Miller and his passenger were arrested at that time. [*Id.* at 62–63].

Ten days later, on January 25, 2021, Homeland Security Administration Task Force Officer (“TFO”) Jared Israel applied to Cobb County Magistrate Court Judge Charles Chesbro for a warrant to search the cell phone that Miller was carrying at the time of his arrest. [Doc. 51-1 at 1–5; Doc. 112-1; Doc. 112-2]. TFO Israel averred that there was probable cause to believe that a violation of O.C.G.A. § 16-13-31 (trafficking in methamphetamine) had occurred and that a forensic examination of Miller’s phone was necessary for the investigation into that crime. [Doc. 51-1 at 1, 2]. Judge Chesbro signed the warrant. [*Id.* at 6–8 (“State Cell Phone Warrant”)].

Two months later, on March 18, 2021, Homeland Security Administration Special Agent Bennie Bryant applied for a federal warrant to search Miller’s apartment in Atlanta, Georgia. [Doc. 52-2 at 1–19]. Special Agent Bryant averred that there was probable cause to believe that the apartment would contain evidence of violations of Title 21, United States Code, Sections 841 and 846, laws addressing the unlawful possession of controlled substances. [*Id.* at 1, 2]. United States

Magistrate Judge Justin S. Anand signed the warrant the same day. [Doc. 52-2 (“Residence Warrant”)].

On April 13, 2021, a Grand Jury sitting in the Northern District of Georgia returned a four-count indictment against Miller, charging him with conspiracy to possess with intent to distribute methamphetamine (Count One), possession with intent to distribute methamphetamine (Count Two), possession of a firearm in furtherance of a drug trafficking crime (Count Three), and possession of a firearm by a convicted felon (Count Four). [Doc. 1 at 1–3]. The indictment also contained a Prior Conviction Notice. [*Id.* at 3].

Three days later, on April 16, 2021, Special Agent Bryant applied for two more federal search warrants—one to search the forensic image of the same phone that had previously been searched pursuant to Judge Chesbro’s warrant [Doc. 51-3 at 1–24] and one to search five electronic devices that had been seized during the search of Miller’s apartment [Doc. 105-2 at 1–26]. Special Agent Bryant averred that there was probable cause to believe that the phone and the five other devices contained evidence of federal drug and gun crimes. [Doc. 51-3 at 1–3; Doc. 105-2 at 1–3]. United States Magistrate Judge Alan J. Baverman signed both warrants that day. [Doc. 51-3 at 25–28 (“Federal Cell Phone Warrant”); Doc. 105-2 at 27–30 (“Five Devices Warrant”)].

In his two motions to suppress, Miller argues that the warrants are faulty in the following ways:

- The State Cell Phone Warrant was not supported by probable cause, and the affidavit failed to provide a nexus between the investigation and the phone. [Doc. 48 at 10, 13].
- The State Cell Phone Warrant was overly broad because it included GPS data and did not have a time limitation for the data to be searched. [*Id.* at 11–12].
- Law enforcement’s ten-day delay in obtaining the State Cell Phone Warrant was unjustified. [*Id.* at 13–14].
- The Residence Warrant lacked probable cause because it contained information from a confidential informant that was not corroborated or otherwise proven reliable. [*Id.* at 14–15].
- The Residence Warrant was overly broad and non-particularized. [*Id.* at 15–16].
- The Federal Cell Phone Warrant was not supported by probable cause, and the affidavit failed to provide a nexus between the investigation and the phone. [Doc. 53 at 2, ¶ 6].
- The Federal Cell Phone Warrant was overly broad. [*Id.*].
- Law enforcement impermissibly delayed obtaining the Federal Cell Phone Warrant. [*Id.*].
- The Five Devices Warrant was not supported by probable cause, and the affidavit failed to provide a nexus between the investigation and the five devices. [*Id.* at 3, ¶ 9].
- The Five Devices Warrant was overly broad. [*Id.*].

- Law enforcement impermissibly delayed obtaining the Five Devices Warrant. [*Id.*].

I will address these arguments in turn.

II. LEGAL STANDARDS

A. STANDARD FOR REVIEWING THE SUFFICIENCY OF A SEARCH WARRANT

The Eleventh Circuit has provided the following guidance for judges who are called upon to review the sufficiency and legitimacy of search warrants and their supporting affidavits:

[I]ssuing magistrates and reviewing courts alike must strike a delicate balance between constitutional guarantees against excessive intrusions into areas of individual freedom and the Government’s need to access and to secure relevant evidence in criminal prosecutions. In particular, issuing magistrates are given the unenviable task of making “firing line” decisions that attempt to encourage availment of the warrant process while simultaneously striving to protect citizens from unwarranted governmental interference. In recognition of the difficulty inherent in discharging this responsibility, reviewing courts lend substantial deference to an issuing magistrate’s probable cause determinations.

United States v. Miller, 24 F.3d 1357, 1363 (11th Cir. 1994). Further, “[c]ourts reviewing the legitimacy of search warrants should not interpret supporting affidavits in a hypertechnical manner.” *Id.* at 1361. Instead, “a realistic and commonsense approach should be employed so as to encourage recourse to the

warrant process and to promote the high level of deference traditionally given to magistrates in their probable cause determinations.” *Id.* (citation omitted).

B. PROBABLE CAUSE / NEXUS

“The Fourth Amendment requires that a search warrant be issued only when there is probable cause to believe that an offense has been committed and that evidence exists at the place for which the warrant is requested.” *United States v. Betancourt*, 734 F.2d 750, 754 (11th Cir. 1984) (citation omitted). Probable cause exists “when the totality of the circumstances allow a conclusion that there is a fair probability of finding contraband or evidence at a particular location.” *United States v. Brundidge*, 170 F.3d 1350, 1352 (11th Cir. 1999) (per curiam). This requires a connection, or nexus, between the defendant and the thing to be searched as well as a link between the thing to be searched and the alleged criminal activity. *United States v. Martin*, 297 F.3d 1308, 1314 (11th Cir. 2002).

C. PARTICULARITY / OVERBREADTH

The Fourth Amendment requires that a warrant particularly describe both “the place to be searched[] and the persons or things to be seized.” U.S. CONST. amend. IV; *United States v. Travers*, 233 F.3d 1327, 1329 (11th Cir. 2000). The particularity requirement protects against “the use of general warrants as instruments of oppression.” *Stanford v. Texas*, 379 U.S. 476, 482 (1965). “The requirement that

warrants particularly describe the place to be searched and the things to be seized makes general searches under them impossible.” *Travers*, 233 F.3d at 1329. The Eleventh Circuit instructs that the particularity requirement “be applied with a practical margin of flexibility, depending on the type of property to be seized, and that a description of property will be acceptable if it is as specific as the circumstances and nature of activity under investigation permit.” *United States v. Wuagneux*, 683 F.2d 1343, 1349 (11th Cir. 1982) (citations omitted).

D. DELAY IN SEARCHING DEVICES

A seizure that may be lawful at its inception can still violate the Fourth Amendment if its manner of execution unreasonably infringes possessory interests protected by the Fourth Amendment’s prohibition on unreasonable searches. *United States v. Jacobsen*, 466 U.S. 109, 124 (1984). Thus, an initially lawful seizure may become unconstitutional if law enforcement unreasonably delays in securing a warrant. *United States v. Mitchell*, 565 F.3d 1347, 1350 (11th Cir. 2009) (per curiam). “The reasonableness of the delay is determined in light of all the facts and circumstances, and on a case-by-case basis.” *Id.* at 1351 (internal quotation marks and citation omitted). The Eleventh Circuit has identified several factors relevant to this inquiry, including the significance of the interference with the person’s possessory interest, the duration of the delay, whether the person consented to the

seizure, and the Government's legitimate interest in holding the property as evidence. *United States v. Laist*, 702 F.3d 608, 613–14 (11th Cir. 2012). When balancing these interests to determine the reasonableness of the Government's actions, courts should also examine whether law enforcement acted diligently to pursue their investigation. *Id.* at 614.

E. RELIABILITY OF CONFIDENTIAL INFORMANTS

Generally speaking, if an informant is mentioned in a search warrant application, the affiant must provide facts showing the informant's veracity and basis of knowledge. *Illinois v. Gates*, 462 U.S. 213, 238 (1983). Where there is sufficient independent corroboration of an informant's information, however, there is no need to establish the veracity of the informant. *United States v. Danhauer*, 229 F.3d 1002, 1006 (10th Cir. 2000).

III. DISCUSSION

A. THE STATE CELL PHONE WARRANT

i. Probable Cause / Nexus

Miller first argues that the affidavit in support of the State Cell Phone Warrant is not supported by probable cause and fails to provide a nexus between the investigation and the phone. [Doc. 48 at 11, 13]. In the affidavit in support of the State Cell Phone Warrant, TFO Israel provided the following facts:

On January 15, 2021 agents with HSI Atlanta received information that a drug courier was operating in the area of George Busbee Pkwy in Kennesaw, Georgia. This location is located within jurisdictional boundaries of Cobb County, Georgia. TFO Israel, along with TFO Schweizer traveled to the area of Busbee Pkwy and Big Shanty Rd to begin our investigation.

Upon our arrival TFO Israel and TFO Schweizer began both stationary surveillance and mobile surveillance. TFO Israel and TFO Schweizer quickly observed a blue Mazda SUV bearing Marlyand (sic) tag 5EL3021 conduct hand to hand drug transactions in the parking lot of the Bruster's Ice Cream place. Our suspicion of drug transactions is supported by training, knowledge and experience and coupled with short-stay visits with multiple different vehicles. During each one of these short-stay encounters, no occupants from the vehicle frequented the business and on one occasion the driver of the blue Mazda (Hispanic male) pulled into the parking lot, exited the blue Mazda and entered the backseat of a white SUV. The Hispanic male was not in the backseat for over 15 seconds, exited the backseat of the white SUV, entered back into the driver's seat of the blue Mazda and both vehicles' (sic) quickly left the parking lot.

TFO Israel decided to request uniform support from Cobb County Police Department at which time TFO Israel began speaking with Sgt. B Abernathy from the Cobb Policed (sic) K-9 unit. Once in the area, another suspected drug transaction was viewed by TFO Israel and TFO Schweizer. This meet involved the blue Mazda and a Camaro. Sgt Abernathy was provided information concerning this transaction and subsequently was able to establish probable cause for a traffic stop on the Camaro on Chastain Rd. The blue Mazda continued to operate within the parking lot of the Suburban Lodge (2900 Busbee Pkwy). TFO Schweizer observed the blue Mazda leave the parking lot of Suburban Lodge, out onto Busbee Pkwy without headlights. Officer C. Thompson was patrolling the area and was able to initiate a traffic stop on the blue Mazda for traffic violations.

Officer C. Thompson contacted the driver of the blue Mazda at ther (sic) driver's door of the Mazda after the Mazda came to a stop on

Barrett Pkwy. The male was the male (sic) observed during surveillance, and Officer Thompson positively identified him as Eriberto Patino with Georgia driver's license 061419554. During this traffic stop, information was obtained that showed Patino as a resident of Suburban Lodge, room 135. During an interview with Patino, post Miranda, Patino shakes his head "yes" that there would be "kilos" of methamphetamine inside of the room. Patino advised me and Officer Thompson that he sold the "5 kilograms" of methamphetamine to the white male (Daniel MILLER) in the Camaro and this process required his cell phone to designate vehicle descriptions and confirm locations. MILLER's cellular phone is currently in his property at the Cobb County Adult Detention Facility.

[Doc. 51-1 at 4]. In addition to this information, TFO Israel also provided oral testimony to Judge Chesbro in support of the warrant application. According to a transcript of that testimony, TFO Israel testified that on the date of Miller's arrest, he was found with five kilograms of methamphetamine. He also testified that Miller had been in custody at the Cobb County Adult Detention Facility since his arrest, and the subject telephone was located with Miller at the jail. [Doc. 112-1 at 2–3]. TFO Israel averred that based on these facts, there was probable cause to believe that a violation of O.C.G.A. § 16-13-31 (trafficking in methamphetamine) had occurred and that a forensic examination of Miller's phone was necessary for the investigation into that crime. [Doc. 51-1 at 1, 2].

The Supreme Court has recognized that "it takes no special expertise for a judge to infer that information related to an active criminal enterprise may be contained on a cell phone." *United States v. Kendricks*, No. 1:15-cr-400-MHC-AJB,

2016 WL 5952743, at *7 (N.D. Ga. Oct. 13, 2016) (citing *Riley v. California*, 573 U.S. 373, 401 (2014)), *aff'd*, 723 F. App'x 950 (11th Cir. 2018) (per curiam). “Cell phones have become important tools in facilitating coordination and communication among members of criminal enterprises, and can provide valuable incriminating information about dangerous criminals.” *Riley*, 573 U.S. at 401. The Eleventh Circuit recognizes that cell phones are “a known tool of the drug trade.” *United States v. Nixon*, 918 F.2d 895, 900 (11th Cir. 1990).

Here, TFO Israel’s affidavit provides information about the background of his investigation and what led him to the Bruster’s Ice Cream store on January 15, 2021. He explains that based on his training and experience, he believed that he observed that day a drug transaction between the occupants of the blue Mazda and the Camaro. The affidavit states that law enforcement conducted traffic stops on both vehicles. [Doc. 51-1 at 4]. In his oral testimony to the judge, TFO Israel advised that Miller was found with approximately five kilograms of methamphetamine at that time. [Doc. 112-1 at 2]. According to the affidavit supporting the warrant, the Mazda’s driver, Patino, gave a Mirandized interview during which he stated that he had just sold five kilograms of methamphetamine to the white male in the Camaro (presumably Miller) and that they had used phones to conduct the transaction. [Doc. 51-1 at 4]. And TFO Israel orally told the judge that both Miller and his phone had

been at the Cobb County Adult Detention Facility since that time. [Doc. 112-1 at 2–3].

There is a clear nexus between the phone and the investigation given Patino’s Mirandized statement that he and Miller had used cell phones to facilitate the sale of the five kilograms of methamphetamine. [Doc. 51-1 at 4]. This information is sufficient to establish probable cause to believe that evidence of drug trafficking activity would be on Miller’s phone. Between both the affidavit and the oral testimony, there was substantial evidence in the record to support Judge Chesbro’s decision to issue the warrant. *United States v. Bushay*, 859 F. Supp. 2d 1335, 1379 (N.D. Ga. 2012).

ii. Overbreadth

Next, Miller argues that the State Cell Phone Warrant is an improper general warrant because it authorized a search of the entire contents of the phone, including GPS data, without a time limit on the data to be examined. He also complains that the warrant did not identify “any particular items” within the cell phone to be seized. [Doc. 48 at 12].

Although the warrant broadly authorized a search through the entire contents of the phone, the warrant did, in fact, contain limits on what law enforcement could seize; it authorized seizure only of items that could be evidence of violations of

O.C.G.A. § 16-13-31 (trafficking of methamphetamine). [Doc. 51-1 at 6]. In fact, Judge Chesbro removed a category of items that TFO had requested permission to seize. [Doc. 112-1 at 2 (removing the category “contraband” from the items to be seized pursuant to the warrant)]. Thus, the State Cell Phone Warrant did not permit a general exploratory search, as Miller claims. *See United States v. Brooks*, No. 3:13-cr-58-J-34JRK, 2014 WL 292194, at *11 (M.D. Fla. Jan. 27, 2014) (concluding that a warrant was not overly broad where its scope was restricted to a search for evidence of specific crimes and “did not permit a free-ranging search”), *aff’d*, 648 F. App’x 791 (11th Cir. 2016) (per curiam).

Miller relies on *Carpenter v. United States*, 585 U.S. 296 (2018) for his argument that the inclusion of GPS information renders the State Cell Phone Warrant a general warrant. [Doc. 48 at 11–12]. The Government responds, and I agree, that *Carpenter* does not support this proposition. *Carpenter* held that a warrant is required to obtain cell-site location information. *Id.* at 320. Nothing in that opinion restricts law enforcement’s ability to access such data pursuant to a search warrant. *See id.* Moreover, the *Carpenter* opinion addressed the bulk acquisition of information from cell towers, whereas the warrant here is limited to the use of one phone’s GPS information that is related to methamphetamine trafficking. *Id.*; *see generally* [Doc. 51-1].

Finally, Miller challenges the “open-ended and unlimited timespan for the search,” claiming that it is a “per se unreasonable intrusion into his privacy.” [Doc. 48 at 12]. Miller, however, has not cited to any caselaw holding that a time limitation is mandatory for a cell phone warrant. On the contrary, a time limitation is simply one of many factors relevant to the inquiry. *United States v. Wheat*, No. 1:17-cr-229-AT-CMS, 2020 WL 13596203, at *10 (N.D. Ga., May 28, 2020), *adopted by* 2022 WL 16851663 (N.D. Ga. Nov. 10, 2022). I conclude that the State Cell Phone Warrant was adequately particularized based on its subject matter limitations, and, therefore, the lack of a temporal limitation does not render it unconstitutional.

iii. Ten-Day Delay

Miller next argues that law enforcement’s ten-day delay in obtaining the State Cell Phone Warrant was unjustified. [Doc. 48 at 13–14]. In support of this argument, Miller cites *United States v. Mitchell*, 565 F.3d 1347 (11th Cir. 2009) (*per curiam*), a case in which the Eleventh Circuit held that law enforcement’s twenty-one-day delay in obtaining a search warrant after the seizure of a defendant’s hard drive was unreasonable, and the motion to suppress should have been granted. *Id.* at 1353.

In *Mitchell*, agents suspected that the defendant possessed child pornography, and they conducted a “knock and talk” at the defendant’s residence. 565 F.3d at

1349. The defendant agreed to speak with the agents and later admitted that his desktop computer “probably” contained child pornography. *Id.* The defendant refused, however, to consent to a search of the computer. *Id.* Despite the lack of consent, the agent opened the computer, removed its hard drive, and took it with him when he left. *Id.* The agent, however, did not immediately seek a warrant, and instead went out of town on a planned work trip. *Id.* Ultimately, the agent waited three weeks before he applied for a search warrant for the hard drive. *Id.* At the suppression hearing, the agent testified that he felt no sense of urgency to request a warrant because the defendant had admitted that the hard drive “probably” contained child pornography. *Id.* at 1351.

The defendant moved to suppress based on a Fourth Amendment violation, and the district court denied the motion. *Mitchell*, 565 F.3d at 1350. On appeal, the Eleventh Circuit disagreed, noting that citizens rely heavily upon their computers for personal and business use; they store their personal letters, emails, financial information, passwords, family photos, and countless other personal items on the computer hard drive. *Id.* at 1351. The court found that the detention of the defendant’s hard drive for more than three weeks before a warrant was sought constituted “a significant interference with [the defendant’s] possessory interest” in the hard drive. *Id.* The court found “no compelling justification for the delay” and

no basis for undermining the significant Fourth Amendment interests at stake. *Id.* The court ruled that the motion to suppress should have been granted, and it reversed the judgment of conviction and remanded the case to the district court. *Id.* at 1353. In its opinion, however, the court took pains to note that the question of the reasonableness of the delay must be decided “in light of all the facts and circumstances, and on a case-by-case basis.” *Id.* at 1351 (internal quotation marks and citation omitted).

Here, Miller argues that it was unreasonable for law enforcement to wait ten days to request a warrant to search his phone. [Doc. 48 at 13–14]. I disagree. This case is distinguishable from *Mitchell*. Unlike the defendant in *Mitchell*, who was not in custody and could have been using his computer for the three weeks while the agent went on his trip, Miller was incarcerated during the ten-day delay period and could not have physically possessed his phone during that time.² Moreover, the defendant in *Mitchell* had not yet been charged with a crime when his hard drive was seized, whereas Miller’s phone was seized incident to his arrest. Under the particular circumstances of this case, Miller has not shown either that there was a significant

² It is not clear when Miller bonded out on his state charges, but the Government represents that “[d]uring the ten day delay, the Defendant was in custody and could not have accessed the phones.” [Doc. 51 at 19].

interference with his possessory interest that would trigger a Fourth Amendment violation or that the ten-day delay was unreasonable. *See United States v. Shaw*, 531 F. App'x 946, 949 (11th Cir. 2013) (per curiam) (reversing the suppression of evidence obtained from the search of a cell phone and holding that a three-month delay was not unreasonable where the defendant was in custody during the delay period and where the phones were seized pursuant to the defendant's arrest on drug charges).

B. THE RESIDENCE WARRANT

On March 18, 2021, Homeland Security Administration Special Agent Bennie Bryant submitted an application and affidavit for a federal warrant to search Miller's apartment at 3720 Walton Riverwood Lane, Apartment 1018, Atlanta, Georgia. [Doc. 52-2 at 1–19]. Special Agent Bryant averred that there was probable cause to believe that the apartment would contain evidence of violations of Title 21, United States Code, Sections 841 and 846, laws addressing the unlawful possession of controlled substances. [*Id.* at 1, 2]. He sought authorization to seize:

Any and all evidence and instrumentalities of violations of Title 21, United States Code, Sections 841(a)(1), and 846 occurring after January 1, 2021 in any form, including:

1. Methamphetamine, and/or other controlled substances;
2. Drug paraphernalia, chemicals, and equipment to make, store, process, or distribute methamphetamine, and other drugs, including

bags, scales, stamps, cutting agents, binding compounds, and containers;

3. Any documents related to shipments, orders, possession or transportation of packages of controlled substances or packages;
4. Any books and records that include the names, addresses, telephone numbers, email addresses of narcotics purchasers or suppliers, which would reveal the identities of confederates and narcotics trafficking locations;
5. Bulk currency, which may be proceeds of controlled substances sales or possessed for the purpose of purchasing controlled substances;
6. Financial records, such as bank records, deposit slips, vehicle and property titles and mortgages/leases, including indicia of occupancy or ownership;
7. Firearms, ammunition, and firearm accessories; and
8. Cellular phones, tablets, computers, electronic storage devices, Subscriber Identity Module (“SIM”) cards, money counters, and chargers associated with the seized device(s)

[*Id.* at 18–19]. In support of this request, Special Agent Bryant provided an affidavit that contained the following facts to establish probable cause. [*Id.* at 2–14 (“Apt. Aff.”)].

Special Agent Bryant opened his affidavit by stating that Miller has an extensive criminal history, with multiple felony convictions for possession, manufacturing, distributing and trafficking methamphetamine, as well as probation violations and misdemeanor convictions. [Apt. Aff. ¶ 15].

Special Agent Bryant averred that on January 15, 2021, Cobb County Police were alerted to potential drug activity involving a Chevrolet Camaro, and law enforcement conducted a traffic stop of the Camaro. [Apt. Aff. ¶ 15³]. Miller was driving the Camaro, and he had a female passenger. [*Id.* ¶ 16]. During the traffic stop, officers deployed a narcotics K-9, which alerted on the vehicle. [*Id.* ¶ 17]. A search of the vehicle, Miller's pockets, and the passenger's purse revealed five kilograms of methamphetamine, more than \$20,000 cash, and two firearms. [*Id.*]. According to Special Agent Bryant, both Miller and the passenger are convicted felons, and they were both arrested on state charges. [*Id.*]. At some point later, Miller received a bond on his state charges and was placed on an ankle monitor as a condition of his bond. [*Id.* ¶ 19].

On January 28, 2021, HSI Task Force Officers interviewed Miller, who was Mirandized and agreed to speak with agents. [Apt. Aff. ¶ 18]. Miller admitted that he had purchased the five kilograms of methamphetamine found in his car shortly before his arrest, and he said he had gotten them from someone named Carlos. [*Id.*].

Special Agent Bryant averred that investigators had previously obtained and executed a state search warrant for Miller's phone, and forensic analysts retrieved

³ The affidavit contains two paragraphs numbered 15. They are both located on page 10 of Document Number 52-2.

video footage stored on it. [Apt. Aff. ¶ 20]. One video retrieved from Miller's phone showed Miller committing a sexual assault on a woman with a flower tattoo on her upper arm. [Id.]. The woman was later positively identified and interviewed by law enforcement, and she stated that she wanted Miller to be prosecuted for rape. [Id.]. According to Special Agent Bryant, Miller is currently facing state charges in DeKalb County, Georgia, for that sexual assault. [Id.].

Special Agent Bryant averred further that on March 16, 2021, a woman described in the affidavit as "SOI-1" was stopped and arrested in Tennessee after being found in possession of a pound of methamphetamine. [Apt. Aff. ¶ 21]. After her arrest and while on bond for methamphetamine charges, SOI-1 was interviewed. [Id. at 12 n.1]. According to Special Agent Bryant, "SOI-1 was not promised anything in return for their statement. SOI-1 provided facts that agents were able to corroborate, and agents believe that the information provided by SOI-1 is reliable." [Id.].

Special Agent Bryant's affidavit states that after being Mirandized and agreeing to speak, SOI-1 admitted that she was transporting methamphetamine, and she identified Miller as her source of supply. [Apt. Aff. ¶ 21]. SOI-1 stated that she had purchased the drugs at Miller's apartment the day before. [Id.]. She advised that she had also purchased a second kilogram of methamphetamine from Miller at

his apartment the week before. [*Id.*]. According to SOI-1, at the time of that earlier transaction, Miller had given her a date-rape drug and then sexually assaulted her. [*Id.* ¶ 22]. She told agents that both purchases occurred at Miller's apartment because he was on house arrest. [*Id.* ¶¶ 21, 22]. Agents later contacted Miller's probation monitoring company and confirmed that Miller was on house arrest with an ankle monitor at that time and was not allowed to leave his apartment complex without permission. [*Id.* at 13 n.2].

Based on these facts, Special Agent Bryant stated that there was probable cause to believe that Miller's apartment would contain evidence of controlled-substance crimes. [Apt. Aff. at 1, 2]. After considering the information in the affidavit, United States Magistrate Judge Justin S. Anand signed the warrant on the day it was presented, March 18, 2021. [Doc. 52-2 (Residence Warrant)].

In his Motion to Suppress, Miller argues—in very general terms—that the Residence Warrant (1) contained information from a confidential informant that was not proven reliable and (2) was overly broad and non-particularized. [Doc. 48 at 14–16]. Both these arguments lack merit.

i. Reliability of Confidential Informant

Miller argues that the affidavit in support of the Residence Warrant “contained information from a confidential informant that was not proven to be reliable or

corroborated with any additional information.” [Doc. 48 at 14–15]. This argument ignores the multiple ways that law enforcement corroborated the information from SOI-1. First, SOI-1 knew that Miller was a methamphetamine supplier—a fact of which law enforcement already had ample evidence. Second, SOI-1 told investigators that she had gone to Miller’s apartment to buy the methamphetamine because Miller was on house arrest with an ankle monitor. This information was corroborated when Special Agent Bryant verified with the probation monitoring company that Miller, in fact, was on an ankle monitor and was not allowed to leave his residence. And third, SOI-1’s description of how Miller sexually assaulted her was similar to the assault captured on Miller’s cell phone of the woman with the flower tattoo. Because the agents were able to corroborate multiple pieces of information provided by SOI-1, it was appropriate for that information to be included in the affidavit and for the magistrate judge to rely on it in determining probable cause.

ii. Overbreadth

Miller next argues that the Residence Warrant “failed to provide any specific guidelines for identifying and separating items sought from those outside the scope,”

which “encouraged a wholesale seizure of items.” [Doc. 48 at 15–16]. He specifically takes issue with the following two categories of items to be seized:

6. Financial records, such as bank records, deposit slips, vehicle and property titles and mortgages/leases, including indicia of occupancy or ownership;
8. Cellular phones, tablets, computers, electronic storage devices, Subscriber Identity Module (“SIM”) cards, money counters, and chargers associated with the seized device(s)

[*Id.*].

I note initially that the warrant authorized the seizure of only those items that amounted to evidence of violations of specific statutes, 21 U.S.C. § 841(a)(1) and § 846, that occurred after January 1, 2021. [Doc. 42-2 at 26–27]. By explicitly limiting the scope of what could be seized to evidence of the specific crimes under investigation and by limiting the time period, the Residence Warrant was sufficiently particular to enable the searcher to reasonably ascertain and identify the property authorized to be seized. *See United States v. Harvey*, No. 1:15-cr-53-TWT-RGV, 2015 WL 9685908, at *13 (N.D. Ga. Nov. 30, 2015), *adopted by* 2016 WL 109984 (N.D. Ga. Jan. 8, 2016).

Moreover, the items in category 6 involve financial information, which Special Agent Bryant avers is important to investigations of drug trafficking conspiracies—like the one Miller is suspected of engaging in—that involve large

amounts of money. [Apt. Aff. ¶¶ 7–8]. Further, there was evidence that Miller was engaged in long-term narcotics trafficking due to (1) his arrest with five kilograms of methamphetamine, bulk currency, and firearms, and (2) the information obtained from SOI-1 about the methamphetamine that she claimed to have purchased from Miller after he was released on bond. [*Id.* ¶¶ 16, 21, 22].

And with respect to the items in category 8, the warrant authorized the seizure of electronic items and money counters, and Special Agent Bryant stated that such items are often used in drug trafficking. [Apt. Aff. ¶ 10]. The affidavit also showed that SOI-1 informed investigators in Tennessee that Miller communicated with her using Signal, an encrypted mobile application, which supports the inclusion of electronic devices as items to be seized. [*Id.* ¶ 13]. Finally, the Residence Warrant did not permit the search of those items; it expressly authorized only their seizure. [Doc. 52-2 at 27 n.1].

The Residence Warrant, therefore, did not permit a “general exploratory seizure” of items in Miller’s apartment. *See Signature Pharmacy, Inc. v. Wright*, 438 F. App’x 741, 746 (11th Cir. 2011) (per curiam) (holding that the items to be seized were described with sufficient particularity where the items were limited by the specific crimes under investigation and stating “[b]ecause the descriptions in the warrants refer to items that are evidence of a violation of certain statutes relating to

the sale of controlled substances, the items were described with sufficient particularity to allow Wright, a seasoned law enforcement officer, to identify the things to be seized”). I, therefore, conclude that the Residence Warrant satisfied the Fourth Amendment’s particularity requirement.

C. THE FEDERAL CELL PHONE WARRANT & THE FIVE DEVICES WARRANT

On April 16, 2021, Special Agent Bryant submitted applications and affidavits for two federal search warrants—one to search the forensic image of the same phone that had previously been searched pursuant to Judge Chesbro’s warrant [Doc. 51-3 at 1–24] and one to search five electronic devices that had been seized during the search of Miller’s apartment on March 18, 2021 [Doc. 105-2]. Special Agent Bryant averred that there was probable cause to believe that the forensic image of the phone and the five devices contained evidence of federal drug crimes, including those involving sexual assault (violations of 21 U.S.C. §§ 841(a)(1), 841(b)(7), and 846), federal gun crimes (violations of 18 U.S.C. §§ 922(g) and 924(c)), and money laundering (violations of 18 U.S.C. §§ 1956 and 1957). [Doc. 51-3 at 1, 2–3; Doc. 105-2 at 1, 2]. He sought authorization to examine the forensic image of the phone⁴

⁴ Special Agent Bryant states that the agents were seeking to revisit the content of the phone because they had expanded their investigation into Miller’s suspected distribution of narcotics with an intent to commit a crime of violence in violation of

and the five devices for the purpose of identifying and seizing all records related to violations of those statutes. [Doc. 51-3 at 23–24; Doc. 105-2 at 25–26]. In both applications, Special Agent Bryant included the following list of the information to be seized:

- lists of customers and related identifying information;
- types, amounts, and prices of controlled substances trafficked as well as dates, places, and amounts of specific transactions;
- any information related to sources of drugs (including names, addresses, phone numbers, or any other identifying information);
- photographs or videos of controlled substances, controlled substances use, or controlled substances distribution;
- photographs or videos of sexual assaults involving victims under the influence of controlled substances; and
- all bank records, checks, credit card bills, account information, and other financial records.

[Doc. 51-3 at 24; Doc. 105-2 at 26].⁵ He also requested authority to seize “[e]vidence of user attribution showing who used or owned the Device at the time the things

21 U.S.C. § 841(a)(1) and 841(b)(7), as well as additional federal firearms and money laundering crimes. [Doc. 51-3 at 10 n.2].

⁵ There are a few minor differences in the applications. The cell phone application contains a date restriction—January 1, 2021 through January 15, 2021—which the five-devices application does not have. [Doc. 51-3 at 23–24]. And the five-devices

described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.” [Doc. 51-3 at 24; Doc. 105-2 at 26].

Special Agent Bryant provided nearly identical affidavits in support of the two applications. [Doc. 51-3 at 2–22 (“Phone Aff.”); Doc. 105-2 at 2–23 (“Devices Aff.”)]. Special Agent Bryant averred that on January 15, 2021, Cobb County Police were alerted to potential drug activity involving a Chevrolet Camaro, and law enforcement conducted a traffic stop of the Camaro. [Phone Aff. ¶ 12; Devices Aff. ¶ 12]. Miller was driving the Camaro and had a female passenger. [Phone Aff. ¶ 13; Devices Aff. ¶ 13]. During the traffic stop, officers deployed a narcotics K-9, which alerted on the vehicle. [Phone Aff. ¶ 14; Devices Aff. ¶ 14]. A search of the vehicle, the passenger’s purse, and Miller’s pockets revealed five kilograms of methamphetamine, more than \$20,000 cash, and two firearms. [Phone Aff. ¶ 14; Devices Aff. ¶ 14]. According to Special Agent Bryant, both Miller and the passenger are convicted felons, and they were arrested on state charges. [Phone Aff. ¶ 14; Devices Aff. ¶ 14].

application adds one extra category of items to search for, i.e., communications, photographs, and videos related to firearms. [Doc. 105-2 at 26].

The affidavits relate that after Miller's arrest, law enforcement executed a state search warrant for the cell phone seized from Miller at the time of his arrest on January 15, 2021. [Phone Aff. ¶¶ 1, 17; Devices Aff. ¶ 15]. That warrant authorized law enforcement to search Miller's phone for evidence of violations of the Georgia Controlled Substances Act. The phone search revealed a number of videos showing Miller and a woman later identified as Breisha Bell. [Phone Aff. ¶ 17; Devices Aff. ¶ 15]. In some of the videos, Bell appears to be using methamphetamine and also preparing to inject an unknown drug. [Phone Aff. ¶ 17; Devices Aff. ¶ 15].

An additional video retrieved from the subject telephone showed a sexual assault of a white female who had a flower tattoo on her upper arm. [Phone Aff. ¶ 18; Devices Aff. ¶ 16]⁶. The woman was later positively identified and interviewed by law enforcement. She stated that she had consumed GHB at Miller's residence in Dekalb County before the rape, that Miller provided her with the GHB, and that she awoke the next morning wearing only a shirt and did not remember what had happened to her. [Phone Aff. ¶ 18; Devices Aff. ¶ 16]. She stated that Miller told her that she had passed out, peed on herself, and fallen and hit her head and that Miller claimed he removed her pants to clean her up. [Phone Aff. ¶ 18; Devices Aff.

⁶ The Phone Affidavit has paragraph numbering mistakes. It does not have a Paragraph 15 or 16, and it has two Paragraphs 18. [Phone Aff. at 9–12].

¶ 16]. The woman also told agents that she had viewed a portion of the video on Breisha Bell's phone. [Phone Aff. ¶ 18; Devices Aff. ¶ 16]. Miller is currently under investigation in DeKalb County for sexual assault. [Phone Aff. ¶ 18; Devices Aff. ¶ 16]. Special Agent Bryant averred that based on his review of the video, he believed that Miller reclothed the woman after the assault and lied to her about the events of that day and that Miller distributed the video of the assault to Breisha Bell using his cell phone or another electronic device. [Phone Aff. ¶ 18; Devices Aff. ¶ 17]. The woman stated that she wanted Miller to be prosecuted for the sexual assault. [Phone Aff. ¶ 18; Devices Aff. ¶ 16].

Special Agent Bryant averred that on March 16, 2021, two months after the traffic stop discussed above, an individual, "SOI-1" was stopped in Tennessee, and a pound of methamphetamine was recovered. [Phone Aff. ¶ 19; Devices Aff. ¶ 18]. After being Mirandized and agreeing to speak, SOI-1 admitted that she was transporting methamphetamine and identified Miller as her source of supply, stating that she had purchased the drugs at Miller's apartment the day before. [Phone Aff. ¶ 19; Devices Aff. ¶ 18]. She advised that she had also purchased a second kilogram of methamphetamine from Miller at his apartment the week before. According to SOI-1, at the time of that transaction, Miller provided her with a date rape drug and then sexually assaulted her. [Phone Aff. ¶¶ 19–20, p. 13 n.6; Devices Aff. ¶¶ 18–

19, p. 13 n.5]. She told agents that both purchases occurred in Miller's residence because he was on house arrest and that she communicated with him using Signal, an encrypted messaging application on her cellular phone. [Phone Aff. ¶ 19; Devices Aff. ¶ 18].

The affidavit relates that two days later, on March 18, 2021, law enforcement executed a federal arrest warrant and a federal search warrant for Miller's apartment; he was arrested at that time. [Phone Aff. ¶ 21; Devices Aff. ¶ 21]. The search revealed more than \$11,000 in cash, suspected narcotics, a .45 caliber pistol magazine, and multiple electronic devices. [Phone Aff. ¶ 21; Devices Aff. ¶ 21]. Miller was arrested and charged in a federal criminal complaint. [Phone Aff. ¶ 21; Devices Aff. ¶ 21]. He has remained in custody since that time. [Phone Aff. ¶ 21; Devices Aff. ¶ 12]. Miller was indicted on April 13, 2021, for violations of 21 U.S.C. §§ 846 and 841, 18 U.S.C. § 924(c), and 18 U.S.C. § 922(g). [Phone Aff. ¶ 21; Devices Aff. ¶ 21].

United States Magistrate Judge Alan J. Baverman signed the two warrants on the day they were presented, April 16, 2021. [Doc. 51-3 at 25–28 (Federal Cell Phone Warrant); Doc. 105-2 at 27–30 (Five Devices Warrant)].

In his Second Motion to Suppress, Miller challenges both warrants, arguing that they lack sufficient probable cause; are unreasonably overbroad, amounting to

illegal general warrants; and fail to provide a nexus between the devices and the illegal activity. He also argues that there was an impermissible delay in law enforcement obtaining the warrants. [Doc. 53 at 2, 3, ¶¶ 6, 9].

i. Probable Cause / Nexus

In support of his probable cause argument, Miller complains that the information relied on to establish probable cause for the Federal Cell Phone Warrant and the Five Devices Warrant included allegations that “were not substantially corroborated prior to his illegal traffic stop on January 15, 2021 by law enforcement. The informers relied upon by the government were not proven to be truthful and reliable.” [Doc. 53 at 4]. It is not clear exactly which allegations or informers Miller seeks to challenge with this argument. The agents obtained information from SOI-1 in March 2021—months *after* the January 15th arrest—and as discussed above, her information was corroborated in multiple ways.

In the absence of a specific argument about probable cause and lack of a nexus, I have reviewed the facts set forth in the affidavits and find that the Government has easily met the legal standards. The affidavits contain evidence of Miller’s drug trafficking and illegal possession of firearms, including facts about the traffic stop (where five kilograms of methamphetamine, a large amount of cash, and two firearms were found in his car) and about him having sold methamphetamine to

SOI-1 on other occasions. [Phone Aff. ¶¶ 12–14, 19–20; Devices Aff. ¶¶ 12–14, 18–19]. And the affidavits tie these illegal activities to digital devices by providing evidence that Miller communicated with SOI-1 through a digital app, that he possessed a video on his phone showing him committing a sexual assault, and that he shared that video with at least one other person. [Phone Aff. ¶¶ 17–19; Devices Aff. ¶¶ 15–18]. Moreover, with respect to the five devices recovered from Miller’s apartment, Special Agent Bryant avers that based on his training and experience, that “cellular phones can be backed up onto laptops and that laptops can therefore contain copies of communications and other data from cellular phones” [Devices Aff. ¶ 8], which ties probable cause to the devices located in Miller’s apartment.

Based on the above facts, I conclude that the affidavits included facts sufficient to justify a conclusion that evidence or contraband would probably be found on the phone and the other electronic devices. *Martin*, 297 F.3d at 1314. The “totality of the circumstances” described in the affidavits established probable cause to believe that such evidence of the scheme would be found on the phone and on other electronic devices found in Miller’s residence. That is all the law requires. *Brundidge*, 170 F.3d at 1352.

ii. *Overbreadth*

Miller takes issue with the fact that the Federal Cell Phone Warrant and the Five Devices Warrant permit the search of “the entirety of the contents of each device to capture potentially all the information available in the devices limited only by the date it was manufactured.” [Doc. 53 at 6]. He states that the warrants “fail to articulate any probable cause for the open-ended and unlimited timespan as well as the breadth and depth of data,” creating “per se unreasonable intrusions” into Miller’s privacy. [*Id.* at 7]. I disagree.

Here, the warrants explicitly limit the scope of what could be seized to evidence of the crimes under investigation—drug trafficking, money laundering, firearms, and sexual assault. [Doc. 51-3 at 28; Doc. 105-2 at 30]. Thus, the warrants are sufficiently particular to enable the searcher to reasonably ascertain and identify the property authorized to be seized. *See Signature Pharmacy*, 438 F. App’x at 745–46; *Harvey*, 2015 WL 9685908, at *13.

And contrary to Miller’s assertions, both warrants have time restrictions. The Federal Cell Phone Warrant is restricted to the period between January 1, 2021, through January 15, 2021. [Doc. 51-3 at 28]. The Five Devices Warrant is restricted to the period between August 1, 2020, and March 18, 2021. [Doc. 105-2 at 30].

iii. *Twenty-Nine-Day Delay in Obtaining the Five Devices Warrant*

Finally, Miller again relies on *Mitchell* to argue that evidence obtained from the Five Devices Warrant should be suppressed because there was an impermissible twenty-nine-day delay between the time the devices were seized—March 18, 2021, and the day the Five Devices Warrant was issued—April 16, 2021.⁷ [Doc. 53 at 8–9]. Miller provides no specifics, making only the conclusory assertion that the delay was “unjustified and unreasonable” and affected his “substantial possessory interest in the items.” [*Id.* at 9].

As noted above, whether this delay is reasonable is determined “in light of all the facts and circumstances, and on a case-by-case-basis.” *Mitchell*, 565 F.3d. at 1351 (internal quotation marks and citation omitted). There is no bright-line rule about how long of a delay is unreasonable. *See Laist*, 702 F.3d at 613–14 (listing factors to consider in evaluating whether a delay was unreasonable).

⁷ It is unclear whether Miller intended to make this argument with respect to the Federal Cell Phone Warrant as well. Any such argument would be frivolous. The Federal Cell Phone Warrant authorized agents to search the forensic image of the phone—an image that law enforcement had previously obtained—not the phone itself. Therefore, none of the concerns raised by the Court in *Mitchell* are implicated because any possessory interest Miller might have had was in the phone, not in the electronic copy of the phone that is the subject of this warrant. In the absence of a substantial possessory interest, *Mitchell* is inapplicable.

Miller was arrested on the day that the five devices were seized, and he has not been released from custody since that time. Nothing in his filings indicates that he (or his attorney) asked that the devices be returned to him during the twenty-nine-day period, nor has Miller indicated that he needed any of the devices or could have used them during that time while he was in custody. In short, he has made no showing that his possessory interest in the devices was either substantial or impermissibly interfered with. This factor weakens any claim that Miller's Fourth Amendment rights were illegally impacted by the delay. *See, e.g., United States v. Brantley*, No. 1:17-cr-77-WSD, 2017 WL 5988833, at *2–3 (N.D. Ga. Dec. 4, 2017) (finding the interference with the defendant's privacy interests was minimal because, among other things, the defendant was in custody and likely unable to use his phone even if he had it, and the defendant did not request that the phone be returned).

The Government has also provided a reasonable explanation for the delay, indicating that the investigation was somewhat complex. It involved a multi-state drug trafficking scheme and the sexual assault of multiple women using a date-rape drug. During the twenty-nine-day period, Special Agent Bryant was involved in securing the continued detention of Miller and was getting the case indicted. The agents were on a tight timeline because Miller had been arrested on a complaint, and speedy trial deadlines were running. Indeed, Special Agent Bryant presented the

warrant just two days after the grand jury returned the indictment against Miller. I find this explanation to be reasonable, and easily distinguishable from the explanation given in *Mitchell* where that the agent went on a two-week trip after seizing the defendant's hard drive and told the court that he felt no urgency to seek a warrant. *Mitchell*, 565 F.3d at 1351; *see also Laist*, 702 F.3d at 617 (finding no constitutional violation where there was a twenty-five-day delay and the case involved a complex investigation).

IV. CONCLUSION

I have previously recommended that the portion of the First Motion to Suppress (dealing with the legality of the traffic stop) be denied. [Doc. 103]. Now, for all the reasons stated above, I **RECOMMEND** that the remainder of Miller's First Motion to Suppress [Doc. 48] be **DENIED** and that his Second Motion to Suppress [Doc. 53] also be **DENIED**.

I have now addressed all referred pretrial matters and have not been advised of any impediments to the scheduling of a trial. Accordingly, this case is **CERTIFIED READY FOR TRIAL**.

SO REPORTED AND RECOMMENDED, this 15th day of December,
2025.



CATHERINE M. SALINAS
UNITED STATES MAGISTRATE JUDGE