

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

UNITED STATES OF AMERICA	::	
	::	CRIMINAL CASE NO.
v.	::	1:23-cr-00125-MHC-RGV-7
	::	
BRODRICK DEMOND WILLIAMS,	::	
<i>also known as B-Will</i>	::	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Defendant Brodrick Demond Williams (“Williams”) is named along with eleven other co-defendants in a twenty-four-count superseding criminal indictment that charges Williams with conspiring to possess with intent to distribute controlled substances, in violation of 21 U.S.C. § 846, one count of knowingly possessing with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and two counts of knowingly possessing a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i). [Doc. 528].¹ While represented by counsel, Williams filed a preliminary motion to suppress evidence seized from a vehicle following a traffic stop on June 29, 2021, [Doc. 372], and following briefing on the issue of standing,

¹ The listed document and page numbers in citations to the record refer to the document and page numbers shown on the Adobe file reader linked to the Court’s electronic filing database, CM/ECF.

see [Docs. 410 & 440], the Court scheduled an evidentiary hearing, where standing would preliminarily be addressed, that was twice continued upon motions of counsel, see [Docs. 471 & 483].² Williams subsequently elected to represent himself, [Doc. 570], and following a Faretta³ hearing, [id.], the evidentiary hearing was rescheduled for April 29, 2024, “for the purpose of allowing defendant to present evidence to establish that he had a reasonable expectation of privacy in the vehicle searched on June 23, 2021, such that he has standing to challenge the search,” [Doc. 572 at 1]. At the evidentiary hearing,⁴ Williams questioned the Court’s jurisdiction, repeating baseless grounds that he had asserted at the Faretta hearing, but he did not present any evidence to establish his standing. [Doc. 585]. For the reasons that follow, it is **RECOMMENDED** that Williams’ motion to suppress, [Doc. 372], be **DENIED**.

² Williams also filed a motion to adopt a co-defendant’s motion to suppress pole camera surveillance, [Doc. 390], but he failed to perfect that motion, as Ordered by the Court at the pretrial conference, [Doc. 406], conceding that he could not establish standing, [Doc. 440 at 2]. Accordingly, the adopted motion to suppress pole camera surveillance, [Doc. 390], is deemed to have been abandoned, United States v. Rodriguez-Alejandro, 664 F. Supp. 2d 1320, 1327 n.3 (N.D. Ga. 2009) (“Defendant has not perfected the motion [to suppress], and it is deemed abandoned and withdrawn.”), adopted at 1326.

³ See Faretta v. California, 422 U.S. 806 (1975); see also [Doc. 725] for a transcript of the Faretta hearing.

⁴ See [Doc. 726] for a transcript of the evidentiary hearing held on April 29, 2024, which will be referred to as “(Tr. at __)” and cited according to the page number located in the top right corner of the transcript.

I. INTRODUCTION

In 2019, the Drug Enforcement Administration began investigating suspected drug trafficking activities of an organization known as the Paper Gang Family (“PGF”), [Doc. 440 at 1], and numerous alleged PGF members and associates, including Williams, were identified during the investigation, see [Docs. 1 & 528].⁵ During the investigation, a traffic stop of a Toyota Camry being driven by Williams was made for an alleged window tint violation. [Doc. 410 at 1-2; Doc. 440 at 1]. After a positive K-9 alert on the Toyota Camry, the vehicle was searched, and officers located over \$14,000 in cash as well as a firearm. [Doc. 440 at 1]. After Williams filed a preliminary motion to suppress the search of the vehicle, [Doc. 372], the government challenged his standing to bring the motion at the pretrial conference, [Doc. 406; Doc. 440 at 2], and the Court ordered Williams to perfect his motion to establish his standing and to particularize the grounds on which he asserted evidence should be suppressed, [Doc. 406].

In a supplemental memorandum in support of the preliminary motion to suppress, Williams’ counsel asserted that “Williams was driving his girlfriend’s vehicle” at the time of the traffic stop, and “[t]he vehicle was registered to her and at the time, she was living with [] Williams and sharing the vehicle,” and “[h]e

⁵ The summary of facts set forth in this section are drawn from the indictment, [Doc. 1], the superseding indictment, [Doc. 528], and the parties’ briefs, see [Docs. 410 & 440], and do not represent findings of fact by the Court.

often drove it and transported his belongings in that vehicle.” [Doc. 410 at 2]. The government responded that the “unsworn statement/proffer provided by counsel does not establish standing,” and “even if the statement had been sworn, it is vague, conclusionary, and offers no proof of the facts it strives to establish.” [Doc. 440 at 11-13]. The government argued that the motion should be denied since Williams failed to establish standing, or alternatively, that Williams be required to provide proof of his standing “before the government is required to call any witnesses or provide any evidence, as standing is, and remains, a threshold matter for the [d]efendant to prove.” [Id. at 13].⁶ The Court scheduled an evidentiary hearing to afford Williams the opportunity to present evidence to establish his standing, see [Docs. 406]; see also [Docs. 471 & 483], and later continued the hearing until April 29, 2024, after Williams elected to represent himself following the Faretta hearing, [Doc. 570], and specifically informed Williams that the purpose of the hearing was to allow him “to present evidence to establish that he had a reasonable expectation of privacy in the vehicle searched on June 23, 2021, such that he has standing to challenge the search,” [Doc. 572 at 1].

At the outset of the evidentiary hearing on April 29, 2024, the Court recited the procedural history of the case and the purpose of the hearing and afforded

⁶ The government also argued that Williams failed to particularize his motion because he did not identify any grounds for suppression of the evidence seized from the vehicle. [Doc. 440 at 13-14].

Williams the opportunity to present evidence to establish that he had a reasonable expectation of privacy in the vehicle searched on June 23, 2021. (Tr. at 2-4). Williams proceeded to question the Court's jurisdiction, repeating contentions he had previously made at the Faretta hearing. See (Tr. at 5-13). The Court allowed Williams to state his grounds for objecting to the Court's jurisdiction to perfect the record but found his arguments to be without merit and afforded Williams multiple opportunities to present evidence to establish his standing to suppress evidence seized from the vehicle he was driving on June 23, 2021. See (id.). However, Williams did not offer any evidence and stood on his objection to the Court's jurisdiction. See (id.). The Court concluded that Williams abandoned his motion to suppress by failing to present evidence to establish his standing to challenge the stop and search of the vehicle and granted him an opportunity to file any motions in writing that he wished to present to the Court, (Tr. at 13-14), advised him of his right to file motions, (Tr. at 14), and subsequently set a deadline of May 20, 2024, for the filing of pretrial motions, [Doc. 597], following the return of the superseding indictment, [Doc. 528]. At the pretrial conference on May 22, 2024, the government provided supplemental discovery to Williams, and the Court granted Williams until July 8, 2024, to file any pretrial motions. [Doc. 616]. Williams did not file any further motions.

II. DISCUSSION

The Fourth Amendment of the United States Constitution guarantees “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV. However, “‘Fourth Amendment rights are personal rights which . . . may not be vicariously asserted.’” Rakas v. Illinois, 439 U.S. 128, 133-34 (1978) (citations omitted) (quoting Alderman v. United States, 394 U.S. 165, 174 (1969)). “Fourth Amendment jurisprudence requires that one challenging as unreasonable a search or seizure must have ‘standing,’ i.e., a legitimate expectation of privacy in the premises searched.” United States v. McCray, CRIMINAL ACTION FILE NO. 1:15-cr-212-WSD/AJB, 2017 WL 9472888, at *6 (N.D. Ga. June 15, 2017) (citing United States v. Gonzalez, 940 F.2d 1413, 1420 n.8 (11th Cir. 1991)), adopted by 2017 WL 3141172, at *14 (N.D. Ga. July 25, 2017). Consequently, to prevail on a claim that the government conducted an unconstitutional search under the Fourth Amendment, Williams must first establish that he had a legitimate expectation of privacy in the place searched or evidence seized that society is prepared to recognize as reasonable. Rakas, 439 U.S. at 133-134; see also California v. Ciraolo, 476 U.S. 207, 211 (1986) (citation omitted) (standing to challenge search requires a subjective expectation of privacy that society would recognize as legitimate); United States v. Baron-Mantilla, 743 F.2d 868, 870 (11th Cir. 1984) (per curiam) (citation omitted). That is,

Williams may challenge a search on Fourth Amendment grounds if “(1) he has a subjective expectation of privacy, and (2) society is prepared to recognize that expectation as objectively reasonable.” United States v. Bushay, 859 F. Supp. 2d 1335, 1361 (N.D. Ga. 2012) (quoting United States v. Harris, 526 F.3d 1334, 1338 (11th Cir. 2008) (per curiam)), adopted at 1354. Thus, Williams “must establish both a subjective and an objective expectation of privacy,”⁷ and he “bears the burden of showing a legitimate expectation of privacy in the area searched.” United States v. Suarez-Blanca, Criminal Indictment No. 1:07-CR-0023-MHS/AJB, 2008 WL 4200156, at *6 (N.D. Ga. Apr. 21, 2008) (citations omitted); see also United States v. Jefferson, Criminal Case No. 1:09-CR-324-WSD-RGV, 2010 WL 3928049, at *4 (N.D. Ga. May 25, 2010) (citation omitted) (“In other words, [defendant] has the burden to establish that he has standing to challenge the search or seizure.”), adopted by 2010 WL 3927874, at *9 (N.D. Ga. Oct. 4, 2010), aff’d, 451 F. App’x 833 (11th Cir. 2011) (per curiam) (unpublished).

⁷ “The subjective prong is a factual inquiry, and requires that a person exhibit an actual expectation of privacy,” while the “objective prong is a question of law, and requires that the privacy expectation be one that society is prepared to recognize as reasonable.” Bushay, 859 F. Supp. 2d at 1362 (citations and internal marks omitted); see also United States v. Durdley, 436 F. App’x 966, 968 (11th Cir. 2011) (per curiam) (unpublished). “An expectation of privacy is reasonable if it has a source outside of the Fourth Amendment, either by reference to concepts of real or personal property law or to understandings that are recognized and permitted by society.” United States v. Dixon, 901 F.3d 1322, 1338 (11th Cir. 2018) (citation and internal marks omitted).

In his preliminary motion to suppress evidence, Williams did not identify any facts to support that he had a reasonable expectation of privacy in the vehicle that was stopped and searched on June 29, 2021, nor did he articulate any constitutional violation that had occurred to support suppression of items seized from the vehicle. See [Doc. 372]. Williams simply asserted that “[d]uring the course of law enforcement’s investigation, a warrantless search of his vehicle was conducted on June 29, 2021 in Henry County, Georgia,” and “[p]ursuant to that search, evidence was seized.” [Id. at 1]. After the government challenged Williams’ standing and the absence of an adequate showing to merit an evidentiary hearing on his motion, [Doc. 406], the Court ordered Williams to perfect his motion to establish his standing and to particularize the grounds of his motion, [id.].

Williams filed a supplemental memorandum in support of the preliminary motion to suppress in which his counsel asserted that “Williams was driving his girlfriend’s vehicle” at the time of the traffic stop, and “[t]he vehicle was registered to her and at the time, she was living with [] Williams and sharing the vehicle,” and “[h]e often drove it and transported his belongings in that vehicle.” [Doc. 410 at 2]. The government responded that the “unsworn statement/proffer provided by counsel does not establish standing,” and “even if the statement had been sworn, it is vague, conclusionary, and offers no proof of the facts it strives to

establish.” [Doc. 440 at 11-13]. The government argued that the motion should be denied since Williams failed to establish standing, but alternatively, if “given further opportunities to establish standing such as at a suppression hearing, rather than deny the motion at this point, [Williams] should be required to provide such proof before the government is required to call any witnesses or provide any evidence, as standing is, and remains, a threshold matter for the [d]efendant to prove.” [Id. at 13]. The government also asserted that Williams failed to perfect his preliminary motion because he did not “articulate[] a basis for his claim that the traffic stop and search of the vehicle was unconstitutional.” [Id.].

The Court scheduled a hearing to afford Williams the opportunity “to present evidence to establish that he had a reasonable expectation of privacy in the vehicle searched on June 23, 2021, such that he has standing to challenge the search,” [Doc. 572 at 1]. Williams represented himself at the hearing on April 29, 2024, but did not present any evidence to establish his standing, despite being afforded multiple opportunities to do so, see (Tr. at 4-14), and he did not file any further motions although he was granted an extension of time until July 8, 2024, to do so, see [Doc. 616]. For the reasons that follow, Williams’ motion to suppress, [Doc. 372], is due to be denied.

Williams was afforded multiple opportunities to perfect his preliminary motion to suppress to establish his standing with respect to the vehicle that was

stopped and searched, both while represented by counsel, see [Doc. 406], and after he elected to represent himself, see [Docs. 572 & 585], but he has presented no evidence to establish that he had a reasonable expectation of privacy in the vehicle, as previously discussed, and his “failure to present any evidence indicating an expectation of privacy in the [vehicle] means that he has not met his baseline burden to show standing to contest the search,” United States v. Jenkins, 743 F. App’x 636, 648 (6th Cir. 2018) (unpublished) (footnote and citation omitted); see also United States v. Caymen, 404 F.3d 1196, 1200 (9th Cir. 2005) (finding defendant failed to “carr[y] his burden of proof to establish an ‘acceptable’ expectation of privacy in the laptop” where he “did not submit an affidavit or other evidence supporting his claim that he had honestly purchased and owned the laptop” and while he “did make such a claim to the police during their search of his room, that claim was, of course, unsworn”); McCray, 2017 WL 9472888, at *10 (noting that defendant “has the burden and did not provide sufficient information about his relationship to the vehicle” that was searched and seized). The unsworn statements of counsel in the supplemental memorandum in support of his motion that “Williams was driving his girlfriend’s vehicle” at the time of the traffic stop, and “[t]he vehicle was registered to her and at the time, she was living with [] Williams and sharing the vehicle,” and “[h]e often drove it and transported his belongings in that vehicle,” [Doc. 410 at 2], merited an evidentiary hearing

where Williams could present evidence to establish his standing, but he did not avail himself of that opportunity, and he cannot establish standing by relying on the unsworn representations of his counsel or the government's allegations; instead, he must affirmatively "allege facts that, if proved, would require the grant of relief," United States v. Lewis, Criminal No. 07-00266-CG, 2007 WL 2996347, at *1 (S.D. Ala. Oct. 12, 2007) (citations and internal marks omitted); see also United States v. Thompson, 171 F. App'x 823, 828 (11th Cir. 2006) (per curiam) (unpublished) (internal marks omitted) (finding that where the only fact the defendant alleged in his motion to suppress relating to standing was that the "government contend[ed]" he was renting the room that was searched was not sufficient to establish standing); United States v. Singleton, 987 F.2d 1444, 1449 (9th Cir. 1993) (concluding that "the district court erred by relying solely on the government's theory of the case in finding that [defendant] had standing to contest the search"). It was Williams' burden to demonstrate standing, but he failed to do so by not presenting any evidence and thereby abandoning the motion. See United States v. Starks, CRIMINAL CASE NO. 3:18-cr-00005-TCB-RGV, 2018 WL 7918058, at *3 (N.D. Ga. Dec. 4, 2018) (citations and internal marks omitted) (defendant's "failure to present any evidence indicating an expectation of privacy in the [vehicle] means that he has not met his baseline burden to show standing to contest the search"), adopted by 2019 WL 410472, at *3 (N.D. Ga. Feb. 1, 2019); United

States v. Flournoy, CRIMINAL INDICTMENT NO.: 1:15-CR-005-SCJ-JSA, 2015 WL 13736234, at *2 (N.D. Ga. Aug. 3, 2015) (citation omitted) (stating that “a defendant contesting a search of a borrowed car must establish with at least circumstantial evidence that he had the permission of the owner”), adopted by 2016 WL 4764823, at *2 (N.D. Ga. September 12, 2016); Rodriguez-Alejandro, 664 F. Supp. 2d at 1327 n.3 (“Defendant has not perfected the motion [to suppress], and it is deemed abandoned and withdrawn.”); see also [Doc. 164 at 19-20 (“When a party fails to supplement or perfect a motion within the time afforded after having requested or been given an opportunity to supplement or perfect said motion, the Court may deem the original motion abandoned or withdrawn.”)].⁸

⁸ Instead of presenting evidence to establish his standing when afforded the opportunity to do so at the evidentiary hearing on April 29, 2024, Williams questioned the Court’s jurisdiction, repeating baseless claims about admiralty and maritime jurisdiction and the common law that the Court had previously rejected, and he did not present any evidence after the Court allowed him to assert his objections on the record. See (Tr. at 4-14). Williams’ objections to the Court’s jurisdiction are without merit, see United States v. Wilson, 979 F.3d 889, 902-03 (11th Cir. 2020) (rejecting similar arguments about “admiralty jurisdiction” as “frivolous”); United States v. Reed, Case No. 4:12CR373 AGF (DDN), 2013 WL 11762139, at *4-5 (E.D. Mo. May 2, 2013) (citations omitted) (dismissing defendant’s argument that he could be subject to the court’s jurisdiction only if he had a contract with the United States as “lacking in merit”); Gilbert v. United States, Civil Action No. 12-cv-01637-BNB, 2012 WL 3264278, at *2 (D. Colo. Aug. 10, 2012) (citation and internal marks omitted) (dismissing defendant’s “challenge to his criminal conviction based upon admiralty jurisdiction” as “an indisputably meritless legal theory”), and, as the Court explained to Williams when he made the same arguments at the Faretta hearing, see [Doc. 725 at 7, 28-29, 45-48], “so long as the indictment charges the defendant with violating a valid federal statute as enacted in the United States Code, it alleges ‘an offense against the laws of the

In addition to failing to establish standing to contest the search of the vehicle, Williams failed to perfect his preliminary motion to suppress by articulating any alleged constitutional violation requiring an evidentiary hearing on the merits of his motion. See [Doc. 410]. His preliminary motion merely alleged that “[d]uring the course of law enforcement’s investigation, a warrantless search of his vehicle was conducted on June 29, 2021 in Henry County, Georgia,” and “[p]ursuant to that search, evidence was seized.” [Doc. 372 at 1]. The Court ordered Williams to perfect his motion by identifying the grounds to support suppression of the evidence seized, [Doc. 406], but as the government correctly contends, [Doc. 440 at 13-14], Williams did not articulate any basis for finding a constitutional violation in his supplemental memorandum in support of his preliminary motion to suppress, see [Doc. 410], and therefore did not make an adequate showing to merit an evidentiary hearing on his motion to suppress because he failed to allege facts that are “sufficiently definite, specific, detailed, and nonconjectural to enable the court to conclude that a substantial claim is

United States,’ and, thereby, invokes the district court’s subject-matter jurisdiction,” United States v. Grimon, 923 F.3d 1302, 1305 (11th Cir. 2019) (alteration, citations, and internal marks omitted). “Federal courts have jurisdiction over federal firearms and drug offenses, and the government need not prove ‘special maritime and territorial jurisdiction.’” United States v. Flowers, Case No. 1:08-CR-88, 2013 WL 12342280, at *3 (W.D. Mich. Nov. 7, 2013) (citation omitted) (quoting United States v. Russell, Nos. 99-2497, 99-2498, 99-2499, 99-2505, 2000 WL 1871700, at *1 (6th Cir. Dec. 13, 2000)).

presented,” United States v. Richardson, 764 F.2d 1514, 1527 (11th Cir. 1985) (citations omitted), and therefore, his motion is due to be denied on this basis as well because “[a] court need not act upon general or conclusory assertions founded on mere suspicion or conjecture,” id. (citation omitted); see also United States v. Brown, 441 F.3d 1330, 1349-50 (11th Cir. 2006) (finding no abuse of discretion in declining to hold an evidentiary hearing where motion to suppress presented neither argument nor facts that supported the relief requested).⁹

III. CONCLUSION

For the foregoing reasons, it is **RECOMMENDED** that Williams’ motion to suppress, [Doc. 372], be **DENIED**.

⁹ It appears to be undisputed that the vehicle Williams was driving was stopped based on an alleged window tint violation, see [Doc. 410 at 1-2; Doc. 440 at 1], which would provide at least reasonable suspicion, if not probable cause, to support the stop, see United States v. Garcia, 284 F. App’x 791, 793 (11th Cir. 2008) (per curiam) (unpublished) (citations omitted) (probable cause existed for the stop “regardless of whether the tinting was actually illegal”); United States v. Johnson, No. CR05-4063-MWB, 2005 WL 2704892, at *7 (N.D. Iowa Oct. 20, 2005) (citations omitted) (officer’s “observation of the darkly tinted windows on the [vehicle] provided him with at most probable cause and no less than reasonable suspicion to believe that the [vehicle’s] windows had an excessive tint, in violation of [state] law, justifying stop of the vehicle”), and Williams has not argued otherwise. Moreover, Williams has not contested the government’s assertion that the vehicle was searched after a K-9 alerted to the odor of narcotics in the vehicle, which provided probable cause for the search, see United States v. Larche, No. 21-12352, 2024 WL 1508509, at *4 (11th Cir. Apr. 8, 2024) (per curiam) (footnote omitted) (citing United States v. Tamari, 454 F.3d 1259, 1264-65 (11th Cir. 2006)) (finding that upon K-9 alerting to contraband in the vehicle, “the officers had probable cause to search the vehicle”), nor has he articulated any basis for suppressing the items seized from the vehicle, see [Docs. 372 & 410].

There are no other pending matters before the Magistrate Judge regarding Williams, and the undersigned is aware of no problems relating to the scheduling of his case. However, motions filed by other co-defendants in this case will be addressed in a separate Report and Recommendation, and once all the pretrial motions have been addressed, the case will be certified as Ready for Trial.

IT IS SO RECOMMENDED, this 6th day of February, 2025.


RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE