

**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-15
	::	
KORY KEON SOLOMON	::	

MAGISTRATE JUDGE’S REPORT, RECOMMENDATION, AND ORDER

Defendant Kory Keon Solomon (“Solomon”) is named along with eleven other co-defendants in a twenty-four-count superseding criminal indictment that charges Solomon 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 one count 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 Solomon has filed motions to suppress evidence seized during a search of his vehicle following a traffic stop on February 24, 2022. [Docs. 590, 591, & 592]. After establishing his standing to challenge the search of the vehicle, see [Doc. 654; Doc. 676 at 4], an evidentiary hearing on the motions to suppress was held on August

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.

14, 2024,² and the parties filed post-hearing briefs, see [Docs. 702 & 712]. For the reasons that follow, it is **RECOMMENDED** that Solomon's motions to suppress, [Docs. 590, 591, & 592], be **DENIED**.

I. INTRODUCTION

The Drug Enforcement Administration ("DEA") began investigating suspected drug trafficking activities of an organization known as the Paper Gang Family ("PGF") in or about June of 2019. (Tr. at 6, 40). The investigation revealed that individuals affiliated with the PGF were distributing several different types of narcotics in multiple kilogram amounts in the Northern District of Georgia and several PGF members and associates were identified during the investigation. (Tr. at 6, 8-9). DEA agents identified a neighborhood on Stanford Drive in Ellenwood, Georgia, where PGF members were suspected of conducting drug trafficking activities, and agents installed a remote-operated pole camera in that area. (Tr. at 10). Among other things, the pole camera's field of view covered two residences on Stanford Drive. (Id.). DEA agents also learned that there was a related investigation in the Middle District of Georgia (the "Macon investigation"), and the DEA case agent for the Macon investigation, Special Agent Michael Stanton

² See [Doc. 676] for a transcript of the evidentiary hearing held on August 14, 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. In addition, the government submitted exhibits at the evidentiary hearing, see [Docs. 663 & 664], which will be referred to as "(Gov't Ex. ___)."

("Agent Stanton"), informed DEA Special Agent Bryan Tice ("Agent Tice"), the lead DEA case agent for the Atlanta investigation, that Solomon was identified as a person of interest in the Macon investigation and involved in narcotics transactions with co-defendant Brodrick Williams ("Williams"). (Tr. at 4-9, 24-25, 40-41, 46). After the DEA took the Macon investigation down, Agent Stanton continued to communicate with the DEA agents in the Atlanta investigation, including Agent Tice, and assist with the investigation into Solomon. (Tr. at 7-8, 25).

On February 24, 2022, Agent Tice was monitoring the pole camera, and he observed a gold Camry driven by Solomon arrive and park in the street in front of 2555 Stanford Drive. (Tr. at 4, 14-15, 18, 42); see also (Gov't Ex. 2 at 00:00-00:10). Shortly thereafter, a white Camry with a black roof, a vehicle that co-defendant Williams had previously been observed driving, arrived and parked in front of the gold Camry. (Tr. at 16-17, 42); see also (Gov't Ex. 2 at 00:12-00:20). After a gap in the pole camera's transmission, see (Tr. at 17-18); see also (Gov't Ex. 2 at 01:50-02:00, 03:02-03:11), agents observed Williams exit the gold Camry with what appeared to be "something concealed in the front pocket of his hoodie" that agents believed to be bulk currency and then return to the white Camry, (Tr. at 18-20, 42); see also (Gov't Ex. 2 at 03:50-04:05). A few minutes later, Solomon drove away from the Stanford Drive area in the gold Camry, but he eventually came back and

again parked in front of the white Camry, which had not moved. (Tr. at 20-21, 42-43); see also (Gov't Ex. 2 at 05:18-06:17). The two vehicles remained stationary for about forty minutes before Solomon left in the gold Camry without exiting the vehicle or meeting again with Williams, who had exited his vehicle to speak with the driver of a white Honda Accord parked in the driveway of 2555 Stanford Drive. (Tr. at 27, 42-43); see also (Gov't Ex. 2 at 06:17-18:50; Gov't Ex. 4 at 1). Williams was then observed walking back to the white Camry and getting into the passenger seat, and the white Camry drove away. (Tr. at 27); see also (Gov't Ex. 2 at 20:15-21:10).

Around this time, DEA agents, including Agent Tice, decided to conduct physical surveillance, and the agents used radios and created a WhatsApp chat to communicate with each other. (Tr. at 21-22, 24-25). Specifically, the agents decided to conduct physical surveillance of the white Camry, and Agent Tice observed the vehicle arrive at another residence that agents believed was one of the cocaine suppliers for the PGF based on their investigation. (Tr. at 27-28). Agent Tice testified that the agents "lost visual on physical surveillance of the vehicle at this time but ultimately [] reestablished surveillance in the area of the neighborhood in Stanford Drive." (Tr. at 28). Around this time, agents observed via pole camera multiple people standing in front of 2555 Stanford Drive that were under investigation, including four co-defendants, see (Tr. at 29-30); see also

(Gov't Ex. 3 at 10:35-11:20), and both Solomon, in the gold Camry, and Williams, in the white Camry, arrived and parked in the street near the residence, (Tr. at 30); see also (Gov't Ex. 3 at 14:50-15:18; Gov't Ex. 4 at 1). Agents observed Williams exit the white Camry with a backpack, walk over to the gold Camry and enter the passenger side of the vehicle. (Tr. at 30-32, 38). Williams exited the gold Camry shortly thereafter with the backpack, which Agent Tice testified "seem[ed] to be thinner than it was when [he] initially got into the vehicle," and returned it to the backseat of the white Camry as Solomon drove away in the gold Camry. (Tr. at 30-32, 38); see also (Gov't Ex. 3 at 15:22-17:10; Gov't Ex. 4 at 1-2).

Agents followed Solomon's vehicle, and observed Solomon remove a bag from the trunk of the gold Camry and place it in the passenger seat while stopped at a gas station. (Tr. at 33); see also (Gov't Ex. 4 at 2). After returning the bag to the trunk, Solomon drove to the interstate and began traveling south on I-75. (Tr. at 34); see also (Gov't Ex. 4 at 2). Because Agent Stanton was assisting with the Atlanta investigation of Solomon, Agent Tice informed the other law enforcement officers that "[w]hen Solomon gets into the [M]iddle [D]istrict of Georgia, Macon will have Solomon traffic stopped," (Gov't Ex. 4 at 1); see also (Tr. at 25, 56), and Agent Stanton contacted Deputy Anthony Thompson ("Deputy Thompson") of the Monroe County Sherriff's Office to conduct the traffic stop, though he requested Deputy Thompson to attempt to develop independent probable cause

for the traffic stop, (Tr. at 56-58). Deputy Thompson testified that Agent Stanton also informed him that narcotics would be in a green bag in the trunk of the gold Camry. (Tr. at 88-90, 105, 117).

Less than an hour later, Deputy Thompson conducted a traffic stop on Solomon's vehicle. (Tr. at 35, 52, 99); see also (Gov't Ex. 1; Gov't Ex. 4 at 2). Deputy Thompson testified that after he observed the gold Camry "cross over the solid yellow line located on the outside of the roadway" more than once in violation of Georgia law, he followed the vehicle for a short period of time before activating his emergency equipment to initiate the traffic stop. (Tr. at 64-66, 69, 104). After Solomon proceeded to the right shoulder and came to a complete stop, Deputy Thompson approached the vehicle on the passenger side, and he observed "blunt spray, several cell phones in the passenger seat, [and] a cell phone located in [Solomon's] lap next to his right hand" and "could smell an odor of burnt marijuana coming from inside the vehicle." (Tr. at 66, 69, 71-73, 105, 114); see also (Gov't Ex. 1 at 00:55-01:30).

After Solomon produced his license and the vehicle's registration, Deputy Thompson asked Solomon to exit the vehicle and conducted a pat down search for weapons before having Solomon move to the front seat of his cruiser while he prepared to write Solomon a warning for failure to maintain his lane. (Tr. at 73, 75-78, 86); see also (Gov't Ex. 1 at 01:49-04:40). Deputy Thompson asked Solomon

about his travel plans, including his travel to and from an auto auction that Solomon had referenced earlier in their conversation, and based on the appointment time and travel time Solomon provided, his travel plans did not seem plausible to Deputy Thompson. (Tr. at 76-77, 80, 82); see also (Gov't Ex. 1 at 03:59-08:57). After Solomon confirmed that there was nothing illegal in the vehicle, that he was responsible for everything in the vehicle, and that he had been in possession of the vehicle for the preceding 48 hours, Deputy Thompson asked Solomon for consent to search the gold Camry, which Solomon granted. (Tr. at 83-84, 105, 118); see also (Gov't Ex. 1 at 05:50-05:57, 09:19-10:00).³

Around this time, Sergeant Luther Kevin Williams ("Sgt. Williams") of the Monroe County Sheriff's Office arrived to assist Deputy Thompson with the traffic stop, and Sgt. Williams stood with Solomon at the front of Deputy Thompson's patrol car while Deputy Thompson searched the gold Camry. (Tr. at 63, 85-86, 110, 118-19, 121); see also (Gov't Ex. 1 at 12:15-12:45). Deputy Thompson initially discovered a magazine for a handgun in a black bag in the front passenger seat of the vehicle, and after asking Solomon if there was a firearm in the vehicle, Deputy Thompson located the handgun between the driver's seat and the center console.

³ Deputy Thompson testified that he had probable cause to search the gold Camry based on the odor of marijuana he smelled when he first approached the vehicle, but he asked for Solomon's consent to search the vehicle regardless because he "typically ask[ed] for consent." (Tr. at 84, 110, 113, 117-18); see also (Gov't Ex. 1 at 10:05-10:40).

(Tr. at 87-88); see also (Gov't Ex. 1 at 12:45-13:40). Deputy Thompson then opened the trunk of the vehicle, saw a green bag, and asked Solomon if the contents of the trunk belonged to him, and Solomon said the contents were his mother's. (Tr. at 88-80); see also (Gov't Ex. 1 at 13:40-13:53). Solomon stated that he was going to call his lawyer, but Deputy Thompson asked him to "stay off the phone a minute," and when Solomon appeared to place a call, Deputy Thompson told him he "had to hang up the phone," and he took Solomon's phone and placed it in the gold Camry. (Tr. 90-92, 101-02); see also (Gov't Ex. 1 at 13:59-14:46). Deputy Thompson then searched the green bag in the trunk of the vehicle and found two kilograms of cocaine. (Tr. at 35); see also (Gov't Ex. 1 at 14:45-14:53). Solomon was placed under arrest and restrained, and Sgt. Williams transported Solomon to the Monroe County detention center. (Tr. at 47, 92-94, 112, 123); see also (Gov't Ex. 1 at 14:52-15:52). Deputy Thompson took photographs of the cocaine, firearm, and multiple cell phones that were in the vehicle, and he contacted Agent Stanton to come to the scene and take possession of the narcotics. (Tr. at 35-36, 93; Gov't Ex. 4 at 9; Gov't Ex. 6 at 1).

Solomon was indicted on April 19, 2023, along with others for conspiracy to possess with intent to distribute controlled substances. [Doc. 1]. Solomon has filed three motions to suppress, challenging the legality of the traffic stop and subsequent search of the gold Camry. [Docs. 590, 591, & 592]; see also [Doc. 702].

The government opposes these motions, arguing that Deputy Thompson lawfully stopped the gold Camry based on probable cause and reasonable suspicion and did not unlawfully prolong the traffic stop, and that the search of the vehicle was supported by probable cause and Solomon's consent. [Doc. 712]. For the reasons that follow, it is **RECOMMENDED** that Solomon's motions to suppress, [Docs. 590, 591, & 592], be **DENIED**.

II. DISCUSSION

A. Traffic Stop

Solomon moves to suppress all items seized during a search of his vehicle following a traffic stop on February 24, 2022. [Docs. 590 & 591]; see also [Doc. 702]. Specifically, Solomon contends that he was unlawfully seized because there was no traffic violation and no reasonable suspicion to stop his vehicle, and Deputy Thompson impermissibly extended the seizure. [Doc. 590 at 2; Doc. 591 at 2-3]; see also [Doc. 592 at 1; Doc. 702 at 7-9, 11-12].⁴ In response, the government contends that Solomon's Fourth Amendment rights were not violated by the traffic stop because reasonable suspicion existed for the stop based on the collective knowledge of law enforcement, [Doc. 712 at 8-10], and because probable cause

⁴ Although Solomon filed three separate motions challenging different aspects of the stop and search of his vehicle, see [Docs. 590, 591, & 592], the arguments advanced in his separate motions will be addressed together in this Report and Recommendation.

existed for the stop based on Solomon's violation of Georgia motor vehicle law, [id. at 10-12]. The government also asserts that Deputy Thompson did not unlawfully prolong the traffic stop. [Id. at 16-19].

"The Fourth Amendment protects individuals from unreasonable search and seizure." United States v. Rowls, 402 F. App'x 467, 468 (11th Cir. 2010) (per curiam) (unpublished) (citation and internal marks omitted). The "[t]emporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a 'seizure' of 'persons' within the meaning of [the Fourth Amendment]." Whren v. United States, 517 U.S. 806, 809-10 (1996) (citations omitted); see also United States v. Purcell, 236 F.3d 1274, 1277 (11th Cir. 2001); United States v. Edenilson-Reyes, Criminal Action File No. 1:09-CR-00361-RWS-AJB, 2010 WL 5620439, at *9 (N.D. Ga. Oct. 26, 2010), adopted by 2011 WL 195679, at *1 (N.D. Ga. Jan. 20, 2011).

A traffic stop is reasonable if the officer had probable cause to believe that a traffic violation has occurred, or if the traffic stop is justified by reasonable suspicion in compliance with Terry v. Ohio, 392 U.S. 1 (1968). Edenilson-Reyes, 2010 WL 5620439, at *9 (citing United States v. Spoerke, 568 F.3d 1236, 1248 (11th Cir. 2009); Purcell, 236 F.3d at 1277); see also United States v. Monzon-Gomez, 244 F. App'x 954, 959 (11th Cir. 2007) (per curiam) (unpublished); United States v. Simmons, 172 F.3d 775, 778 (11th Cir. 1999); United States v. Sierra, Cr. No.

2:10cr183–MEF, 2011 WL 1675217, at *2 (M.D. Ala. Apr. 19, 2011), adopted by 2011 WL 1675180, at *1 (M.D. Ala. May 4, 2011), aff'd, 501 F. App'x 900 (11th Cir. 2012) (per curiam) (unpublished). Thus, “[a] traffic stop . . . is constitutional if it is either based upon probable cause to believe a traffic violation has occurred or justified by reasonable suspicion. . . .”⁵ Edenilson-Reyes, 2010 WL 5620439, at *9 (alterations in original) (citations and internal marks omitted); see also United States v. Boyd, 388 F. App'x 943, 947 (11th Cir. 2010) (per curiam) (unpublished); United States v. Woods, 385 F. App'x 914, 915 (11th Cir. 2010) (per curiam) (unpublished). The government bears the burden of presenting facts to establish that the traffic stop is supported by reasonable suspicion or probable cause. See Welsh v. Wisconsin, 466 U.S. 740, 749-50 (1984); see also United States v. Kelly, No. 1:13-cr-108-WSD-JSA, 2014 WL 1153375, at *8 (N.D. Ga. Mar. 21, 2014) (citations omitted), adopted at *4.

An officer's subjective intentions and motives are irrelevant where the officer has probable cause for the stop. See United States v. Mwangi, Criminal File No. 1:09-CR-107-TWT, 2010 WL 520793, at *3 n.9 (N.D. Ga. Feb. 5, 2010) (citations

⁵ Probable cause must be supported by more than a mere suspicion, but does not require the same “‘standard of conclusiveness and probability as the facts necessary to support a conviction.’” United States v. Dunn, 345 F.3d 1285, 1290 (11th Cir. 2003) (quoting Wood v. Kesler, 323 F.3d 872, 878 (11th Cir. 2003)). Reasonable suspicion is a less demanding standard than probable cause and requires only a fair probability that illegal activity has occurred. United States v. Sokolow, 490 U.S. 1, 7 (1989).

omitted), adopted at *1; see also United States v. Arango, 396 F. App'x 631, 632-33 (11th Cir. 2010) (per curiam) (unpublished) (citation and internal marks omitted) (“Where objectively reasonable conditions permit a stop, the officer’s motive in making the traffic stop does not invalidate what is otherwise objectively justifiable behavior under the Fourth Amendment.”); Miller v. Harget, 458 F.3d 1251, 1260 (11th Cir. 2006) (citations omitted) (“It is well-settled that an officer’s subjective motivations do not affect whether probable cause existed”); United States v. Jimenez, No. 2:06-cr-74-FtM-29DNF, 2006 WL 2927477, at *2 (M.D. Fla. Oct. 11, 2006) (holding that “an officer’s belief that he has probable cause or does not have probable cause is simply not a pertinent factor” in determining whether an arrest is lawful). That is, “if the driver of a car has broken a traffic law, no matter how relatively minor, a motion to suppress evidence cannot be based on the argument that the stop was pretextual.” United States v. Wright, No. CR210-022, 2010 WL 4967468, at *1 (S.D. Ga. Nov. 5, 2010) (citation omitted), adopted by 2010 WL 4967838, at *1 (S.D. Ga. Dec. 1, 2010). Moreover, “[t]he propriety of the traffic stop [] does not depend on whether the defendant is actually guilty of committing a traffic offense.” United States v. Sicairos-Sicairos, Criminal Action File No. 4:10-CR-054-HLM, 2011 WL 2710031, at *5 (N.D. Ga. July 11, 2011) (citation omitted). “Instead, the relevant question is whether it was reasonable for the officer to believe that a traffic offense had been committed.” Id. (citation omitted).

1. Probable Cause for the Traffic Stop

Solomon argues that Deputy Thompson did not have probable cause to stop the gold Camry he was driving because he “was not violating any traffic laws when Deputy Thompson stopped him” and “was operating the gold Camry lawfully at all times relevant.” [Doc. 590 at 2]; see also [Doc. 702 at 7-8]. The government asserts that probable cause to stop the gold Camry was established by the traffic infractions that Deputy Thompson observed, namely a failure to maintain lane by “weav[ing] outside of his lane of travel—over the exterior fog line—on more than two occasions prior to [Deputy Thompson] initiating the traffic stop.” [Doc. 712 at 10-11 (citation omitted)]. The Court agrees with the government.

First, contrary to Solomon’s contention, the Court finds that Deputy Thompson had probable cause to believe that Solomon violated O.C.G.A. § 40-6-48 by failing to maintain his lane while traveling south on I-75 when he observed the vehicle cross over the exterior fog line on multiple occasions. O.C.G.A. § 40-6-48 provides in relevant part:

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this Code section, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety[.]

O.C.G.A. § 40-6-48(1). The evidence presented at the hearing demonstrates that Deputy Thompson initiated a traffic stop of the vehicle after he observed it fail to maintain its lane more than once, in violation of O.C.G.A. § 40-6-48. (Tr. at 64-65, 78, 104-05). Specifically, Deputy Thompson credibly testified that he observed the gold Camry traveling in the far left lane of the interstate as it passed his location, and he “observed it cross over the sold yellow line located on the outside of the roadway[and] the fog line.” (Tr. at 64). Deputy Thompson explained that “after observing [Solomon] cross over [the line] the first time, [he] began merging out into traffic to catch up to [him],” and “[w]hile doing so, [Solomon] had crossed over that solid line several more times.” (Tr. at 65). Deputy Thompson further testified that he followed the vehicle for a short period of time before activating his emergency equipment to conduct the traffic stop. (Tr. at 65-66).

Solomon’s argument that he “was not violating any traffic laws when Deputy Thompson stopped him,” [Doc. 590 at 2], is “unpersuasive, as it appears to confuse the standards for probable cause with those for a violation,” United States v. Reyes, Criminal Case Nos. 1:11-cr-00009-ODE-RGV, 1:11-cr-00060-ODE-RGV, 2011 WL 7070980, at *6 (N.D. Ga. Aug. 29, 2011) (quoting United States v. Alvarado, No. 8:10-CR-348-T-30TGW, 2010 WL 5262736, at *4 (M.D. Fla. Nov. 17, 2010), adopted by 2010 WL 5262735, at *1 (M.D. Fla. Dec. 17, 2010)), adopted by 2012 WL 176488, at *6 (N.D. Ga. Jan. 19, 2012). Specifically, “the propriety of the

traffic stop does not depend on whether the defendant is actually guilty of committing a traffic offense,” but instead, “the pertinent question is whether it was reasonable for the officer to believe that a traffic offense had been committed.” United States v. Crump, Criminal Action File No. 4:10-CR-032-HLM-WEJ, 2011 WL 6153106, at *5 (N.D. Ga. Nov. 21, 2011) (citation omitted), adopted by 2011 WL 6179211, at *8 (N.D. Ga. Dec. 12, 2011). Deputy Thompson credibly testified that he believed a traffic offense had been committed, since he observed Solomon’s vehicle fail to maintain its lane on more than one occasion by crossing over the fog line. See United States v. Thomas, CRIMINAL INDICTMENT NO.: 2:17-CR-00028-RWS-JCF, 2018 WL 7283634, at *6 (N.D. Ga. Nov. 8, 2018) (citation omitted) (finding that the deputy “had probable cause to stop [d]efendant’s vehicle based on his observation of the vehicle failing to maintain its lane in violation of O.C.G.A. § 40-6-48”), adopted by 2019 WL 168672, at *2 (N.D. Ga. Jan. 11, 2019), aff’d, 817 F. App’x 902 (11th Cir. 2020) (per curiam) (unpublished); see also United States v. Robinson, 272 F. App’x 774, 778 (11th Cir. 2008) (per curiam) (unpublished) (“[Defendant’s] weaving between lanes gave [law enforcement] probable cause to believe that [O.C.G.A. § 40-6-48(1)] . . . was being violated, and therefore the traffic stop was not unreasonable.”); United States v. Richardson, No. CR 108-151, 2009 WL 668706, at *2 (S.D. Ga. Mar. 12, 2009) (citations omitted) (finding officer had probable cause to believe that defendant had failed to maintain his lane in

violation of O.C.G.A. § 40-6-48 where the officer “heard tires of the vehicle driven by [d]efendant hit the ruts in the emergency lane and no other cars were near the vehicle at that time” and therefore concluding that the officer “did not act improperly in stopping the vehicle driven by [d]efendant”), adopted at *1. “Moreover, . . . once [Deputy Thompson] witnessed a violation of the state’s traffic laws, [his] stop of [Solomon’s] vehicle was appropriate regardless of any ‘pretextual’ motivations.” Crump, 2011 WL 6153106, at *5 (citation omitted); see also United States v. Johnson, No. CR407-164, 2007 WL 2874303, at *3 (S.D. Ga. Sept. 26, 2007) (citation omitted) (“The stop of defendant’s vehicle to enforce the Georgia traffic laws was entirely proper, and the fact that the officer had another reason for the stop . . . is simply irrelevant to the Fourth Amendment inquiry.”), adopted at *1, aff’d, 307 F. App’x 372 (11th Cir. 2009) (per curiam) (unpublished). In short, Deputy Thompson’s testimony established that he had probable cause to believe that Solomon had violated Georgia law, which is “all that is necessary to conduct a traffic stop.” United States v. Alvarado, No. 8:10-CR-348-T-30TGW, 2010 WL 5262736, at *5 (M.D. Fla. Nov. 17, 2010) (citation omitted), adopted by 2010 WL 5262735, at *1 (M.D. Fla. Dec. 17, 2010).

2. Reasonable Suspicion for the Traffic Stop

The government argues that Deputy Thompson also had reasonable suspicion to stop the gold Camry that Solomon was driving based on the collective

knowledge of law enforcement officers who were investigating the PGF and communicating with Deputy Thompson prior to the stop about Solomon's participation in the suspected narcotics transaction observed via the pole camera earlier that day. [Doc. 712 at 8-10]. Solomon disputes the government's contention, arguing that "[t]he facts show only that the defendant met with [] Williams and nothing more," which "is not a reasonable suspicion allowing to stop . . . [Solomon] or to search his car." [Doc. 702 at 12]. Specifically, Solomon asserts that "[l]aw enforcement [did] not know what [] Williams had in [the] pocket" of his hoodie when he exited the gold Camry, nor did they have "knowledge of what, if anything, was in the backpack" when Williams re-entered the gold Camry. [*Id.* at 3-4 (citation omitted)]. Even if Deputy Thompson had lacked probable cause to stop Solomon for a traffic offense, the Court finds that "the stop of his vehicle was justified by reasonable suspicion based on information obtained through the agents' collective investigation and surveillance." United States v. Goldenshtein, Criminal Case No. 1:10-CR-00323-TCB-RGV, 2011 WL 1321573, at *10 (N.D. Ga. Feb. 22, 2011), adopted by 2011 WL 1257147, at *1 (N.D. Ga. Apr. 1, 2011).

When an investigative stop is performed by an officer at the direction of other officers, the Court must examine the collective knowledge of all the officers in determining whether there existed reasonable suspicion. Whiteley v. Warden, Wyo. State Penitentiary, 401 U.S. 560, 568 (1971); see also United States v. Mikell,

102 F.3d 470, 474-75 (11th Cir. 1996). It is the government's burden to demonstrate that the officer had such a basis before initiating the stop. See Welsh v. Wisconsin, 466 U.S. 740, 749-50 (1984); see also United States v. Agarwal, CIVIL ACTION FILE NUMBER 1:17-cr-043-TCB, 2018 WL 2181620, at *3 (N.D. Ga. May 11, 2018) (citation omitted). As previously stated, "[p]robable cause is not required to justify an investigative stop; reasonable suspicion is sufficient." United States v. Pineda-Zuniga, CRIMINAL CASE NUMBER: 1:16-CR-00323-2-LMM-JSA, 2017 WL 9477640, at *5 (N.D. Ga. Aug. 18, 2017) (footnote and citations omitted), adopted by 2017 WL 4074785, at *3 (N.D. Ga. Sept. 14, 2017). "In deciding whether there is reasonable suspicion, the Court is to consider the collective knowledge of all law enforcement officers working together, to the extent they maintained at least a minimal level of communication during their investigation." Id. (citing United States v. Willis, 759 F.2d 1486, 1494 (11th Cir. 1985)).

In this case, agents conducting surveillance observed what they reasonably believed to be a narcotics transaction involving the gold Camry based on their training, experience, and investigation of the PGF and prior knowledge of Solomon and Williams' relationship. See (Tr. at 18-20, 27-28, 30-32, 36-40, 42-44, 49-50). Deputy Thompson had been briefed on the PGF investigation and the observations from surveillance via the pole camera earlier in the day, and he was in communication with the agents conducting the surveillance, see (Tr. at 22-25,

33-34, 40, 44, 56-59); see also [Gov't Ex. 5], and these "facts provided a specific, concrete, and quite strong basis to conclude that criminal activity was afoot, and that [Solomon's vehicle] was transporting evidence," Pineda-Zuniga, 2017 WL 9477640, at *5; see also Goldenshtein, 2011 WL 1321573, at *11. Thus, the "stop was justified at least by reasonable suspicion." Pineda-Zuniga, 2017 WL 9477640, at *5 (footnote and citations omitted); see also United States v. Bully, 729 F. App'x 671, 675 (11th Cir. 2018) (per curiam) (unpublished) (finding agents had reasonable suspicion to initiate a traffic stop after defendant accepted a package containing sham drugs and later exited the residence); United States v. Nunez, 455 F.3d 1223, 1226 (11th Cir. 2006) (per curiam) (finding stop was based on reasonable suspicion since defendant was seen entering a house known to contain a marijuana growing operation and subsequently left with a garbage bag); United States v. Khan, CRIMINAL CASE NO. 1:17-CR-0040-SCJ, 2018 WL 2214813, at *7 (N.D. Ga. May 15, 2018) (finding officers had probable cause to stop vehicle where "prior to the traffic stop of [d]efendant's car, [the] [t]rooper [] had been contacted by the DEA and was told that someone would be bringing Spice (synthetic marijuana); that on the date in question, [he] was on stand-by at the DEA's request; that [he] had a DEA radio mounted in his car; that the DEA was communicating with [him] by radio on the day of the [d]efendant's traffic stop; and that [he] knew what was happening via the updates over the DEA radio"). Accordingly, Deputy Thompson

had probable cause to stop Solomon for the traffic violation, and the stop was also justified by reasonable suspicion that the vehicle contained evidence of drug trafficking.

3. Scope and Duration of the Traffic Stop

Solomon next argues that the items seized from the gold Camry should be suppressed because Deputy Thompson unreasonably prolonged the traffic stop. [Doc. 591]; see also [Doc. 702 at 8-9]. Specifically, Solomon contends that Deputy Thompson “delayed writing the warning ticket and continued questioning [him],” even after the ticket was substantially completed, and this delay “went beyond what was necessary to write a warning ticket.” [Doc. 591 at 2; Doc. 702 at 9]. The government responds that “Deputy Thompson did not prolong the stop, and, even if he did, he had reasonable suspicion of unrelated criminal activity that justified doing so.” [Doc. 712 at 16]. Specifically, the government argues that “Deputy Thompson’s actions investigating potential narcotics possession were not unrelated to the purpose of the stop, and therefore did not unlawfully prolong that stop or exceed a reasonable scope.” [*Id.* at 17 (footnote and citation omitted)]. Further, the government contends that “[e]ven taking the traffic violation as the purpose of the stop, it is not clear that Deputy Thompson’s actions actually added time to that stop,” since “[w]hile conducting activities necessary to effectuate the purpose of that traffic stop – writing the warning citation, checking on Solomon’s

travel plans, license, and registration, and assessing whether Solomon was intoxicated—he developed sufficient facts to justify a search of the Camry,” and “even if Deputy Thompson’s actions investigating criminal activity other than the traffic infraction did add time to the stop, he had an independent sufficient basis to extend the stop—his detection of the odor of marijuana and other indicia of narcotics use in the Camry.” [*Id.* at 18 (citations omitted)].

Although an officer may have justification to initiate a traffic stop, the ensuing detention of a vehicle’s occupant must not be excessively intrusive in that the officer’s actions “must be ‘reasonably related in scope to the circumstances which justified the interference in the first place.’” United States v. Boyce, 351 F.3d 1102, 1106 (11th Cir. 2003) (quoting Terry, 392 U.S. at 20); see also United States v. Cantu, 227 F. App’x 783, 785 (11th Cir. 2007) (per curiam) (unpublished). The stop must be of limited duration and “the stop may not last any longer than necessary to process the traffic violation unless there is articulable suspicion of other illegal activity.” United States v. Garcia, 284 F. App’x 791, 794 (11th Cir. 2008) (per curiam) (unpublished) (citation and internal marks omitted). The duration of the traffic stop “must be limited to the time necessary to effectuate the purpose of the stop.” Purcell, 236 F.3d at 1277 (quoting United States v. Holloman, 113 F.3d 192, 196 (11th Cir. 1997) (per curiam)).

“Asking questions while in the process of writing out a citation or awaiting the response of a computer check, however, does not extend the duration or scope of a valid initial seizure.” Garcia, 284 F. App’x at 794 (citing Purcell, 236 F.3d at 1279-80); see also United States v. Acosta, 807 F. Supp. 2d 1154, 1196-97 (N.D. Ga. 2011) (footnote and citations omitted) (“The duration of a traffic stop may be prolonged to investigate, by the use of computer checks, the driver’s license and the vehicle registration and, for officer’s safety, the criminal history of the driver.”), adopted at 1169. In fact, “[t]he officer can lawfully ask questions, even questions not strictly related to the traffic stop, while waiting for a computer check of registration or examining a driver’s license so long as it does not prolong beyond the time reasonably required to complete that mission.” Cantu, 227 F. App’x at 785 (alteration, citation, and internal marks omitted).⁶ “Ordinarily, when a citation or warning has been issued and all record checks have been completed and come back clean, the legitimate investigative purpose of the traffic stop is fulfilled.” Edenilson-Reyes, 2010 WL 5620439, at *10 (citation and internal marks omitted).

⁶ That is, “[a]n officer’s inquiries into matters unrelated to the justification for the traffic stop . . . do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop.” Arizona v. Johnson, 555 U.S. 323, 333 (2009) (citation omitted).

“However, a traffic stop may last longer than the purpose of the stop would ordinarily permit if an officer, based on specific facts and rational inferences drawn from those facts in light of his training and experience, has an objectively reasonable and articulable suspicion that illegal activity has occurred or is occurring.” United States v. DeJesus, 435 F. App’x 895, 900 (11th Cir. 2011) (per curiam) (unpublished) (citations omitted). That is, “[a]n investigative stop can grow out of a traffic stop so long as the officer has reasonable suspicion of criminal activity to expand his investigation, even if his suspicions were unrelated to the traffic offense that served as the basis of the stop.” United States v. Gomez Serena, 368 F.3d 1037, 1041 (8th Cir. 2004) (citation omitted). As the Supreme Court has held, “[a] seizure justified only by a police-observed traffic violation . . . become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission of issuing a ticket for the violation,” absent either reasonable suspicion or consent. Rodriguez v. United States, 575 U.S. 348, 350-51 (2015) (third and fourth alteration in original) (citation and internal marks omitted). Finally, “an individual’s consent to the search of a vehicle provides a lawful basis for extending a stop, even in the absence of reasonable suspicion.” United States v. Moton, Case No. 2:18-cr-00534-KOB-SGC, 2021 WL 5936984, at *4 (N.D. Ala. Nov. 10, 2021) (citing Purcell, 236 F.3d at 1279 n.8), adopted by 2021 WL 5927515, at *1 (N.D. Ala. Dec. 15, 2021).

“[I]f the initial stop was legal, the [officer] had the duty to investigate suspicious circumstances that then came to his attention.” Simmons, 172 F.3d at 779 (second alteration in original) (citation and internal marks omitted). As previously discussed, the evidence presented at the hearing supports application of the collective knowledge doctrine, and the collective knowledge of Deputy Thompson and the agents investigating the PGF provided reasonable suspicion to prolong the stop and investigation of whether Solomon was transporting narcotics or proceeds of drug trafficking in the gold Camry. United States v. Armstrong, No. CR 315-001, 2015 WL 2452901, at *5-6 (S.D. Ga. May 21, 2015) (finding decision to initially hold defendant for six minutes after he was issued a traffic warning in order to conduct a free air sniff was reasonable at its inception based on the collective knowledge of all officers, which was imputable to the officer conducting the traffic stop and that included information provided by confidential informants that the defendant was a drug courier), adopted at *1. Moreover, as the government correctly contends, even aside from the collective knowledge doctrine, Deputy Thompson had at least reasonable suspicion to investigate whether Solomon had marijuana in the vehicle since Deputy Thompson detected the odor of marijuana coming from the gold Camry after making the stop, and he also observed “blunt spray, several cell phones in the passenger seat, [and] a cell

phone located in [Solomon's] lap next to his right hand."⁷ (Tr. at 71); see United States v. Salley, 341 F. App'x 498, 500-01 (11th Cir. 2009) (per curiam) (unpublished) (odor of marijuana justified additional detention); United States v. Key, CRIMINAL ACTION FILE NO. 1:18-cr-0416-SCJ-AJB, 2019 WL 3099606, at *6 (N.D. Ga. June 25, 2019) (citations omitted) ("After the vehicle was stopped, the officers detected the odor of marijuana coming from inside the vehicle. As a result,

⁷ Solomon asserts that Deputy Thompson's "credibility regarding an odor of marijuana is 'weak' at best," [Doc. 702 at 8], and that although he and Sgt. Williams both had a drug detection K-9 in their patrol cars, neither "of the drug dogs on the scene alerted to marijuana," [*id.* (citation omitted)]. Credibility findings are "within the province of the factfinder," United States v. Pineiro, 389 F.3d 1359, 1366 (11th Cir. 2004) (citing United States v. Ramirez-Chilel, 289 F.3d 744, 749 (11th Cir. 2002)), and Deputy Thompson credibly testified that he was trained in the detection of the odor of burnt and raw marijuana and also had experience in identifying marijuana by smell based on having seized over a thousand pounds of marijuana, (Tr. at 54-55), and he smelled burnt marijuana coming from inside the vehicle when Solomon lowered the passenger window as he approached the vehicle during the traffic stop, (Tr. at 71-73), and his bodycam recording demonstrates that he discussed with Solomon smelling the odor of marijuana in the vehicle during the stop, (Gov. Ex. 1 at 09:59-10:32). Deputy Thompson also observed a bottle of "blunt spray" on the front passenger seat, which he testified, based on his training and experience, typically is only used "to mask the odor of marijuana." (Tr. at 71-72). As for Solomon's argument that neither drug detection dog on the scene alerted to the odor of marijuana, Deputy Thompson testified that no K-9s were deployed during the stop, (Tr. at 55-56), and that a drug detection dog does not alert unless it has been given the search command, (Tr. at 108), "which was not appropriate in this situation," (*id.*), as Deputy Thompson testified that he obtained Solomon's consent to search the vehicle, (Tr. at 83-84), and since he had smelled the odor of marijuana, he had "probable cause to search his vehicle regardless," (Tr. at 110).

the officers were entitled to further investigate the vehicle's driver and occupants based on a reasonable suspicion of criminal activity."), adopted by 2019 WL 3075931, at *1 (N.D. Ga. July 15, 2019).

Solomon complains about the length of the traffic stop. "[T]he length of the delay consumed in the conduct of the investigative detention must have been 'sufficiently limited in scope and duration to remain within the bounds' permitted by *Terry*." Simmons, 172 F.3d at 780 (quoting United States v. Hardy, 855 F.2d 753, 758 (11th Cir. 1988)). "Several issues and circumstances are relevant to this analysis, including 'the law enforcement purposes served by the detention, the diligence with which the police pursue the investigation, the scope and intrusiveness of the detention, and the duration of the detention.'" Id. (quoting Hardy, 855 F.3d at 758); see also United States v. Hernandez, Criminal Case No. 1:12-CR-00322-AT-JFK, 2013 WL 7035606, at *7 (N.D. Ga. Aug. 12, 2013), adopted as modified by 2014 WL 111211, at *1 (N.D. Ga. Jan. 13, 2014), supplemented by, 17 F. Supp. 3d 1255 (N.D. Ga. 2014). As to the first factor, the law enforcement purpose served by prolonging the stop beyond the initial traffic offense was to confirm or dispel the reasonable suspicion that Solomon may be transporting narcotics or proceeds of drug trafficking in the vehicle. Deputy Thompson pursued his investigation diligently as he conversed with Solomon about the purpose of the stop, and after Solomon produced his license and the vehicle's

registration, Deputy Thompson promptly had Solomon relocated to the front seat of his patrol car while he prepared to write Solomon a written warning for failure to maintain lane after he detected the odor of marijuana coming from inside the vehicle. (Tr. at 66, 69, 71-73, 75-78, 86, 105, 114); see also (Gov't Ex. 1 at 00:55-01:30, 01:49-04:40). While preparing the written warning, Deputy Thompson asked Solomon about his travel plans and based on the timing of his travel plans, Deputy Thompson did not find his explanation to be plausible. (Tr. at 76-77, 80, 82); see also (Gov't Ex. 1 at 03:59-08:57). Shortly thereafter, and while he continued to prepare the written warning, Deputy Thompson asked Solomon for consent to search the gold Camry, which Solomon granted, and Deputy Thompson promptly began a search of the vehicle, which revealed a firearm, multiple cell phones, and a green bag containing two kilograms of cocaine. (Tr. at 35, 63, 76-77, 80, 82-88, 105, 110, 118-19, 121); see also (Gov't Ex. 1 at 03:59-08:57, 09:19-10:00, 12:15-13:53, 14:45-14:53; Gov't Ex. 4 at 9; Gov't Ex. 6 at 1). After Solomon was arrested and placed in handcuffs, he was put in the backseat of Sgt. Williams' patrol car and transported to the Monroe County detention center. (Tr. at 47, 92-94, 112, 123); see also (Gov't Ex. 1 at 14:52-15:52).

The total duration of the stop until Solomon was arrested was less than

thirty minutes,⁸ and although “[t]here is no rigid time limitation or bright line rule regarding the permissible duration of a *Terry* stop,” United States v. Nuckles, Criminal Case No. 1:14-CR-218-ODE-AJB, 2015 WL 1600687, at *17 (N.D. Ga. Apr. 7, 2015) (citation and internal marks omitted), adopted at *9, aff’d, 649 F. App’x 834 (11th Cir. 2016) (per curiam) (unpublished), “detentions of less than one hour have been repeatedly upheld as reasonable,” id. (collecting cases). Thus, the duration of the stop in this case was reasonable, and the Court concludes that the purpose of the detention, Deputy Thompson’s diligence in completing the stop to confirm or dispel his reasonable suspicion of illegal activity, “the limited scope of the continued detention beyond that warranted for a ‘normal traffic stop,’ and the overall length of the total detention, all place [Solomon’s] detention well within the bounds permitted by *Terry v. Ohio* and its progeny.” Simmons, 172 F.3d at 781;

⁸ Solomon asserts that “the incident report states that the incident began at 5:35 P.M. and ended at 6:44 P.M.,” and “when confronted with the ‘time’ on the incident report,” Deputy Thompson “disputed its accuracy,” so Solomon argues that Deputy Thompson’s “credibility is suspect and his testimony should not be treated with greater credibility just because he is a law enforcement officer.” [Doc. 702 at 9 (citation omitted)]. However, Deputy Thompson’s bodycam footage reflects that he initiated the traffic stop of Solomon’s vehicle around 5:35 p.m., Solomon was placed in handcuffs at 5:50 p.m., and Solomon was placed in the backseat of Sgt. Williams’ patrol car at 5:51 p.m., see (Gov’t Ex. 1), and Deputy Thompson explained that the later time listed in the incident report pertains to when the incident is finally completed, (Tr. at 98), such as the time he departed the scene of the stop after the evidence seized from the vehicle had been processed or even later, when he completed writing the report at the office, “but it’s not an accurate description of the actual time for the traffic stop,” (Tr. at 115).

see also United States v. Vargas, 848 F.3d 971, 974 (11th Cir. 2017) (per curiam) (stating that “[t]he problem for [defendant was] that [the officer] did not complete his duties between the time the stop was made and the time [the driver] consented to the search of the vehicle, or for that matter at any time during the search”).

B. Search of Vehicle

1. Probable Cause to Search the Vehicle

Solomon next argues that Deputy Thompson did not have probable cause to search the gold Camry. [Doc. 590 at 2; Doc. 702 at 10-12]. The government responds that under the totality of the circumstances, probable cause existed for the search of the Camry “based both on (1) the narcotics transaction witnessed by DEA and, separately and cumulatively, (2) the facts [Deputy Thompson] gathered during the traffic stop,” [Doc. 712 at 12], including his detection of marijuana odor coming from the vehicle, Solomon’s offer of implausible travel plans, and the collective knowledge of the agents investigating the PGF, who had observed the suspected narcotics transaction during their surveillance prior to the stop, [*id.* at 13-14 (citation omitted)].

“The legality of a warrantless automobile search is based on the existence of probable cause to believe that the automobile is carrying contraband subject to forfeiture under the law, and the difficulties of securing a moveable vehicle while a warrant is obtained.” United States v. Thomas, 536 F. Supp. 736, 742 (M.D. Ala.

1982); see also Chambers v. Maroney, 399 U.S. 42, 51-52 (1970); United States v. Alexander, 835 F.2d 1406, 1409 (11th Cir. 1988). Thus, a warrantless search of an automobile is authorized where probable cause coupled with exigent circumstances is present. Thomas, 536 F. Supp. at 742 (citing Coolidge v. New Hampshire, 403 U.S. 443, 458-64 (1971)). Probable cause to search exists “‘when the facts and circumstances would lead a reasonably prudent [person] to believe that the vehicle contains contraband.’” Alexander, 835 F.2d at 1409 (alteration in original) (citation omitted). Exigent circumstances exist by the mere potential mobility of the vehicle. United States v. Nixon, 918 F.2d 895, 903 (11th Cir. 1990) (the requirement of exigent circumstances is satisfied by the “ready mobility” inherent in all vehicles that reasonably appear to be capable of functioning). “If probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.” United States v. Ross, 456 U.S. 798, 825 (1982).

The warrantless search of Solomon’s vehicle was supported by probable cause to believe it contained contraband.⁹ As previously stated, Deputy Thompson, who had probable cause and reasonable suspicion to stop Solomon’s vehicle, testified that he smelled the odor of marijuana coming from inside the

⁹ The exigency requirement is satisfied as Solomon had just been observed driving the vehicle, demonstrating its mobility. See (Tr. at 64-66).

gold Camry when he approached the vehicle on the passenger side. (Tr. at 66, 69, 71-73, 105, 114). In this context, “it is clearly established that the recognizable smell of marijuana gives rise to probable cause supporting a warrantless search.” United States v. Kinloch, CR420-082, 2021 WL 3698899, *8 (S.D. Ga. July 27, 2021) (citation and internal marks omitted), adopted by 2021 WL 3700721, at *1 (S.D. Ga. Aug. 19, 2021); see also United States v. Cartwright, 183 F. Supp. 3d 1348, 1255 (M.D. Ga. 2016) (citation omitted); Corley v. United States, CRIMINAL ACTION FILE NO.: 4:8-CR-052-01-HLM, CIVIL ACTION FILE NO.: 4:12-CV-0228-HLM, 2012 WL 12951540, *14 (N.D. Ga. Nov. 19, 2012) (citation omitted). “At the point marijuana was smelled by [Deputy Thompson], probable cause to believe a crime had been committed, namely . . . possession of contraband, arose.” United States v. Portis, Case No.: 2:17-cr-00087-RDP-JHE, 2017 WL 2968601, at *3 (N.D. Ala. July 12, 2017) (citation and internal marks omitted). Deputy Thompson was “thus authorized under the automobile exception to the warrant requirement to conduct a more extensive search of the [vehicle] because ‘the [vehicle] was operational and [he had] probable cause to believe that the vehicle contained evidence of a crime.’” United States v. Anguiano, 791 F. App’x 841, 852 (11th Cir. 2019) (per curiam) (unpublished) (citation omitted).

2. Voluntary Consent to Search the Vehicle

Solomon also challenges the voluntariness of the consent he gave to search the gold Camry. See [Doc. 590 at 2-3; Doc. 591 at 2; Doc. 592 at 1-2]; see also [Doc. 702 at 9-10]. The government responds that, “[g]iven the quantity of probable cause that Deputy Thompson had to search the Camry, the issue of consent is mostly academic,” but “[n]evertheless, the record shows that Solomon voluntarily gave his consent to search the Camry[.]” [Doc. 712 at 14]. Specifically, the government contends that the “totality of the circumstances show that his consent was voluntarily: he was in the midst of the traffic stop, but no coercive force or threats had been used against him; he was not restrained; he was not intoxicated; and[] he was not deceived as to his rights.” [*Id.* at 15 (citation omitted)].

Voluntary consent “may provide a lawful basis for a warrantless search of a vehicle.” Moton, 2021 WL 5936984, at *5 (citing Purcell, 236 F.3d at 1281; United States v. Harris, 526 F.3d 1334, 1339 (11th Cir. 2008) (per curiam)); see also United States v. Benjamin, 958 F.3d 1124, 1134 (11th Cir. 2020) (citation omitted). An officer “conducting a routine traffic stop may request consent to search the vehicle.” United States v. Martinez, No. 22-12782, 2024 WL 3451867, at *7 (11th Cir. July 18, 2024) (per curiam) (internal marks omitted) (quoting Purcell, 236 F.3d at 1281); see also United States v. Lamela-Cardenas, Criminal Action No. 1:11-00122-KD-C, 2011 WL 3494562, at *5 (S.D. Ala. Aug. 10, 2011) (citations omitted).

For consent to be deemed voluntary, it must be “the product of an ‘essentially free and unconstrained choice.’” Benjamin, 958 F.3d at 1134 (citation and internal marks omitted); see also Moton, 2021 WL 5936984, at *5 (citation omitted). “Whether an individual voluntarily gave consent to a search is judged by the totality of the circumstances,” and the “district court may consider several factors when assessing the voluntariness of consent,” including: “(1) the use of coercive law enforcement procedures; (2) the extent of the individual’s cooperation with the officers; (3) the individual’s awareness of his right to refuse consent to search; (4) the individual’s education and intelligence; and (5) the individual’s belief that no incriminating evidence will be found.” Martinez, 2024 WL 3451867, at *7 (citations omitted); see also Benjamin, 958 F.3d at 1135 (citation omitted); Moton, 2021 WL 5936984, at *5 (citing United States v. Spivey, 861 F.3d 1207, 1213 (11th Cir. 2017)). The government “bears the burden of proving consent was freely given.” Benjamin, 958 F.3d at 1134 (citation omitted); see also Martinez, 2024 WL 3451867, at *7 (citation omitted).

“The facts here show that [Solomon] voluntarily consented to the vehicle search.” United States v. Alfred, 1:16-cr-245-WSD-JFK-1, 2017 WL 3575004, at *9 (N.D. Ga. Aug. 17, 2017). Only Deputy Thompson was present at the scene when he requested Solomon’s consent, and he did not draw his weapon, make any threats, or display or use any force, and in fact, he had no physical contact with

Solomon at all. See (Tr. at 83-84, 105, 118; Gov. Ex. 1). Deputy Thompson's bodycam footage "shows that [Deputy Thompson's] tone was pleasant, non-threatening, and non-coercive." Alfred, 2017 WL 3575004, at *9 (citation omitted); see also (Gov. Ex. 1). Solomon "was calm, cooperative and did not appear to be under stress," Alfred, 2017 WL 3575004, at *9 (citation omitted), and he "was not handcuffed or under arrest when he [agreed to the search]," Moton, 2021 WL 5936984, at *5 (citation omitted); see also (Gov. Ex. 1), or for the remainder of Deputy Thompson's search of the vehicle. "The Eleventh Circuit has found that a defendant's consent was voluntary in more extreme circumstances than those presented here." Alfred, 2017 WL 3575004, at *10 (collecting cases). Because it "is clear [Solomon's] consent was the product of an 'essentially free and unconstrained choice' and, therefore, voluntary," the "consent provided a lawful basis for the warrantless search of the [gold Camry]." Moton, 2021 WL 5936984, at *5.

3. Revocation of Consent to Search the Vehicle

Finally, Solomon contends that even if the Court finds that he voluntarily gave consent to search the gold Camry, he withdrew his consent, and he therefore "moves for the suppression of all items seized from the Camry after the alleged consent was revoked." [Doc. 592 at 2]; see also [Doc. 702 at 10]. Specifically, Solomon asserts that he, "in unambiguous terms[,] revoked the alleged consent

when he said ‘stop,’” but regardless, “if he only said he wanted a lawyer that would be sufficient to revoke the consent.” [Doc. 592 at 2]. The government responds that Solomon did not revoke his consent, as he “did not make a statement or take an action that objectively, unequivocally indicated that he wanted the search to stop,” nor does Solomon “identify a statement either recorded by Deputy Thompson’s bodycam or stated in testimony that consisted of a direct, explicit withdrawal of his prior consent to search the Camry.” [Doc. 712 at 14-16 (footnote and citations omitted)].

A defendant “can revoke [his] consent to a search through an ‘unequivocal act or statement’ that indicates the consent is being withdrawn.” United States v. Stallworth, Case No. 3:18-cr-11-MCR, 2018 WL 11309913, at *6 (N.D. Fla. Apr. 26, 2018) (citations omitted); see also United States v. Warnock, CRIMINAL CASE NO. 1:14-cr-00015-AT-RGV, 2016 WL 11521783, at *11 n.24 (N.D. Ga. Oct. 12, 2016) (citations omitted), adopted as modified by 2018 WL 4927722, at *7 (N.D. Ga. Oct. 11, 2018). However, Solomon’s “allegation that he revoked his consent to [the] search of the [vehicle is] not credible in light of the testimony of [Deputy Thompson] and [Sgt. Williams],” United States v. Pruitt, Criminal Action No. 2:08-CR-033-WCO-SSC, 2009 WL 10670273, at *11 (N.D. Ga. Apr. 22, 2009), adopted by 2009 WL 10676268, at *1 (N.D. Ga. June 5, 2009), in addition to Deputy Thompson’s bodycam footage, see (Gov’t Ex. 1 at 5:50-14:53). First, Deputy Thompson and Sgt.

Williams, who “were with [Solomon] when he allegedly revoked his consent, both independently and unequivocally testified that [Solomon] never revoked his consent . . . , and the [Court] finds their testimony credible.” Pruitt, 2009 WL 10670273, at *11 (citation omitted); see also (Tr. at 90-91, 101, 122). “Second, no other witness’s testimony and no other evidence corroborates [Solomon’s] allegations.” Pruitt, 2009 WL 10670273, at *11. Deputy Thompson’s bodycam footage does not reflect Solomon saying “stop,” and while the video does indicate that Solomon stated “let me call my lawyer” shortly after Deputy Thompson asked him whether everything in the trunk was his, see (Gov. Ex. 1 at 13:50-14:05), “this statement did not unequivocally revoke the consent to search that he had previously provided,” Warnock, 2016 WL 11521783, at *11 n.24 (citations omitted) (finding defendant’s statement that he “just wanted to be on his way” did not unequivocally revoke his consent); see also United States v. Alfaro, 935 F.2d 64, 67 (5th Cir. 1991) (citations omitted) (finding defendant’s conduct fell “far short of an unequivocal act or statement of withdrawal” where he only stated that he had to go outside and talk to the lieutenant and “never asked not to be searched, nor did he make any other protestations”); United States v. Maloch, Criminal Action No. 2:14-CR-00014-RWS, 2015 WL 1888450, at *9 (N.D. Ga. Apr. 14, 2015) (alterations, citation, and internal marks omitted) (citing case where “the defendant was physically present while the officer searched the car, and had ample opportunity

to limit the scope of the search, or request that it be discontinued but did not do so”), adopted at *1.

Further, regardless of whether Solomon revoked his consent through this statement, Deputy Thompson “provided uncontradicted testimony that he [smelled an odor of marijuana inside the gold Camry when he initially approached the vehicle],” and Deputy Thompson was “thus entitled to continue the search, with or without [Solomon’s] consent.” Stallworth, 2018 WL 11309913, at *7 (footnote and citations omitted); see also United States v. Dumas, No. 21-11341, 2023 WL 3302878, at *4 (11th Cir. May 8, 2023) (per curiam) (citations omitted) (“[W]hen an officer detects the odor of marijuana emanating from a vehicle, there is probable cause to support a warrantless search of the vehicle.”); United States v. Nixon, Cause No. 2:22-CR-065-PPS-JEM, 2024 WL 1635382, at *7 (N.D. Ind. Apr. 16, 2024) (citation omitted) (finding the government’s argument that “even assuming [defendant] revoked his consent, the evidence [was] still admissible because [the officer] had probable cause to search the vehicle before [defendant] withdrew consent” to be persuasive, since “a search of the glove box was supported by probable cause that marijuana would be located in the locked compartment of the vehicle); (Tr. at 110).¹⁰

¹⁰ The government also argues that the collective knowledge of the agents investigating the PGF that was communicated to Deputy Thompson prior to the stop supplied probable cause for the search of the vehicle, [Doc. 712 at 14], but the

III. CONCLUSION

For the foregoing reasons, it is **RECOMMENDED** that Solomon's motions to suppress, [Docs. 590, 591, & 592], be **DENIED**.

There are no other pending matters before the Magistrate Judge, and the undersigned is aware of no problems relating to the scheduling of this case.

IT IS THEREFORE ORDERED and **ADJUDGED** that this action be and the same is hereby, certified Ready for Trial as to all defendants.

IT IS SO ORDERED and **RECOMMENDED**, this 7th day of February, 2025.


RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE

Court need not reach this argument since the evidence presented at the evidentiary hearing established that Solomon voluntarily consented to the search of the vehicle and did not unequivocally revoke his consent and Deputy Thompson otherwise had probable cause to support the search of the vehicle for the reasons already discussed.