

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

UNITED STATES OF AMERICA, :
 :
v. : CRIMINAL INDICTMENT NO.:
 : 2:24-CR-00021-SCJ-AWH
DERRACE RESHAND DAMONS :

ORDER and REPORT AND RECOMMENDATION

This case is before the Court on Defendant's Motion To Disclose Confidential Informants, Doc. 21, and Motion To Suppress Evidence From Traffic Stop, Doc. 22.

Procedural History

An Indictment filed August 6, 2024 charges Defendant with possession of firearms by a convicted felon in violation of 18 U.S.C. § 922(g)(1). Defendant moved to disclose confidential informants, Doc. 21, and he also moved to suppress evidence seized from his vehicle and person during a traffic stop, Doc. 22.¹ The Court conducted a hearing on Defendant's motion to suppress on June 27, 2025, see Doc. 25, and the hearing transcript was filed on July 10, 2025, Doc. 33.²

¹ Defendant also moved to suppress his statements made to law enforcement officers, Doc. 23, and that motion has been deferred to the District Judge.

² References to the transcript will be designated as "Tr. ____."

Defendant filed a post-hearing brief, Doc. 37, the Government responded, Doc. 38, and Defendant filed a reply, Doc. 39.

By Order and Report and Recommendation (R&R) entered October 9, 2025, the undersigned denied Defendant's motion to disclose confidential informants, Doc. 21, recommended that Defendant's motion to suppress evidence from traffic stop, Doc. 22, be denied, and certified the case ready for trial. Doc. 40.

Defendant's attorney at that time, L. Burton Finlayson, filed objections to the R&R, Doc. 44, and Defendant then wrote a letter to the Court requesting "inquiry into counsel conflict and appointment of new counsel," Doc. 46. Mr. Finlayson moved to withdraw as counsel for Defendant. Doc. 47. By Order entered December 17, 2025, the District Judge decertified the case as ready for trial, returned the case to the undersigned for consideration of Defendant's request for inquiry into counsel conflict, appointment of new counsel, and Mr. Finlayson's motion to withdraw, and recommitted the matters in the October 9th R&R to the undersigned in light of Defendant's statements in his letter. Doc. 48.

By Order entered December 19, 2025, the undersigned granted Mr. Finlayson's motion to withdraw and appointed Graham McKinnon, IV, to represent Defendant. Doc. 49. The undersigned also directed substitute counsel to, within 45 days, "evaluate whether he believes Mr. Finlayson had a conflict at the time motions were filed, and if so, to file a motion to re-open the pretrial motion

period that outlines how or why a conflict existed during the initial representation.” Doc. 49 at 2. The Court granted Defendant’s requested extensions of that deadline, with the most recent deadline of March 31, 2026, see Docs. 50, 51, but Defendant did not file a motion to reopen the pretrial motion period based on an alleged conflict with Defendant’s prior attorney. Because Defendant has not shown that there was a conflict involving his prior attorney that warrants a re-opening of the pretrial motion period, the undersigned re-states the Order and Report and Recommendation originally entered October 9, 2026 on Defendant’s pretrial motions as follows.

Discussion

I. Motion To Disclose Confidential Informants

Defendant moves “for the production of the name and location and criminal records of the confidential informant(s) in this case.” Doc. 21 at 1. The Government contends that the Court should deny the motion as moot because “[t]here are no confidential informants involved in this case,” and Defendant has been provided with the identities of the witnesses involved in the incident leading to Defendant’s arrest. Doc. 38 at 1, 18–19. Defendant did not respond to those assertions and has not rebutted the Government’s representations. Defendant’s motion to disclose confidential informants, Doc. 21, is therefore **DENIED AS MOOT.**

II. Motion To Suppress Evidence

A. Facts³

On March 15, 2024, Andrew Ferguson, a Deputy Sheriff with the White County Sheriff's Office, responded to a "threats call" at a location on Post Road. Tr. 8, 27. According to the dispatch report, someone reported to dispatch on that date at around 7 p.m. that a man named "Shy" was "outside threatening to come in and shoot them," "he has a gun," he was "outside in his vehicle," a white SUV with Arizona plate number DFW3223, and he was "screaming and blowing the horn," but then he left. Def. Ex. 4 at 1–2. The dispatch report indicates that "the lady with the caller is the ex-girlfriend of the 'Shy' subject," and the ex-girlfriend's name is Ashley Hudson. *Id.* at 2. The caller also advised that "he broke in yesterday" and "stole things." *Id.* Dispatch wrote that the caller "seems possibly intoxicated."⁴ *Id.* The dispatch report also corrected the subject tag number to

³ These facts are taken from the hearing testimony of White County Sheriff's Office Deputy Andrew Jed Ferguson and White County Sheriff's Office Sergeant Douglas T. LeCompte, and hearing exhibits, including bodycam video of the events surrounding the traffic stop, Defendant's arrest, and searches at issue.

⁴ Defendant asserts that "[t]he dispatcher noted the caller, ASHLEY HUDSON, was 'possibly intoxicated,' " Doc. 37 at 3, but the dispatch report does not indicate that Hudson was the caller. Instead, it indicates that Hudson's unidentified friend or acquaintance was the caller as the report states that "the lady with the caller is

Arizona plate number CFW3223 (instead of DFW3223) and reported that it was a rental car, “white Cube.” Id. The caller also reported that there were multiple people who were armed but the only ones she knew were “Reno” and “Shy,” who “is Darius Damon,” and “they showed them multiple guns that they just stuck out the window.” Id.

When he arrived, Deputy Ferguson met with Ashley Hudson, who said that her ex-boyfriend, identified as Derrace Damons, had been at her house making threats towards her, that he was in possession of a firearm, and he made threats with the firearm as well. Tr. 8–9, 27–28. Hudson reported that Damons had also been there a couple of days prior and had shot some rounds off over the house towards a window. Tr. 8–9. Neither Defendant nor his vehicle were there when Ferguson was present. Tr. 28. Hudson said that Defendant is “normally armed with a handgun,” and she provided a vehicle description, i.e., a white rental car with Arizona plates. Tr. 10, 31. Hudson identified the vehicle as a Nissan Cube. Tr. 31, 46. Hudson also said that at one point she had been driving the vehicle. Tr. 46.

During the hearing on the motion to suppress, Ferguson was asked whether Hudson identified the car as a Kia Soul, and he responded, “I don’t recall, I may have got my vehicles mixed up,” but he was looking for a white vehicle with an

the ex-girlfriend” and the caller had to ask Hudson for her last name. See Def. Ex. 4 at 2.

Arizona plate. Tr. 31–32. Ferguson testified that he thinks that the Kia Soul and the Nissan Cube “are kind of the same vehicle.” Tr. 32. Hudson also “advised that [Damons] was possibly wanted” or he “may have warrants.” Tr. 10, 33. Another woman was present when Ferguson was talking with Hudson, who appeared to be a friend of Hudson’s, and she was “kind of co-witnessing to what Ms. Hudson was advising.” Tr. 10. She was also present when Damons “supposedly fired the round off towards them at the window.” Tr. 10. This woman said that Damons was making threats and “that she had knowledge of him making threats to her and that if this other female was a witness to anything that he did to Ms. Hudson, she would have repercussions as well.” Tr. 10–11. Ferguson took Damons’s name and date of birth and ran it in through GCIC (Georgia Crime Information Center) on his computer on the 15th, “and it came back with a positive warrant or active warrant out of Habersham County.” Tr. 18, 33–34.

Damons had a failure to appear bench warrant from the Superior Court of Habersham County for failing to appear before that court on a charge of possession of a firearm by a convicted felon, which Ferguson believes is the warrant that he verified. Tr. 18-19; Gov’t Ex. 2. That warrant was signed and filed on February 2, 2024. Gov’t Ex. 2. When asked whether the computer told him what kind of warrant it was, Ferguson responded that it did: “It gives you the actual warrant information. It was a bench warrant, and I clued in on—the possession of firearm by

convicted felon is what I kind of focused on.” Tr. 19, 34. Ferguson did not call Habersham County to confirm that that warrant was still active. Tr. 34–35. Ferguson agreed that the certified copy of the warrant presented at the hearing on Defendant’s motion to suppress was “reflective of the same information [he] viewed on the computer[.]” Tr. 19-20. Ferguson did not take out an arrest warrant because there was “insufficient probable cause.” Tr. 54. He did not flag Defendant’s vehicle through GCIC, and he did not check the boxes for wants or warrants on his incident report, but he passed along to the rest of his shift that Defendant was “possibly wanted.” Tr. 52–55.

Two days later, on March 17, 2024, Deputy Ferguson was patrolling the County from 6 p.m. to 6 a.m. Tr. 6–7. At approximately 3:00 a.m., Ferguson was sitting on the shoulder of Hulsey Road in White County when he saw “a white vehicle traveling southbound on Hulsey Road that was a vehicle of interest that I had taken a report a couple of days prior of a subject that may have had warrants or confirmed warrants out of Habersham County.” Tr. 7, 16, 35. The vehicle was a white Kia Soul. Tr. 7–8. Ferguson did not see that it was Defendant who was driving the vehicle. Tr. 36. Ferguson started following the vehicle. Tr. 7, 36–37. Once he was behind the vehicle, he observed that it “had an out-of-state plate that [he] had run previously.” Tr. 8. It was a rental vehicle from the prior incident that Ferguson had investigated a couple of nights prior. Tr. 8. Once Ferguson ran the

vehicle, he “confirmed that it was the same vehicle in question,” and he “knew the subject that was occupying the vehicle may have warrants or had warrants out of another agency.” Tr. 8. Ferguson “confirmed [from] the tag number that was the same vehicle that [he] was actually looking for.” Tr. 11.

He followed the vehicle for a couple of miles and “made contact with other deputies that were on the shift with [him] to prepare for a felony stop because we knew the gentleman was armed.” Tr. 11, 38. The warrants that they “found on file for him were active warrants for weapons possession,” so they were going to conduct a felony stop. Tr. 11.

Deputy Ferguson arrived at a location called Tommy Cowart on U.S. 129, and Deputy Poreda was set up on 129. Tr. 11. As Ferguson was following the vehicle, he did not observe any traffic infractions. Tr. 12, 38. He could not see who was driving the car. Tr. 38. Deputy Poreda joined behind Ferguson and was following as well. Tr. 12. Ferguson activated his blue lights and sirens, and Poreda did as well, but the vehicle they were following did not stop, i.e., the driver failed to yield to the blue lights. Tr. 12, 39–40. Sergeant LeCompte, who was then a deputy but was the supervisor or officer-in-charge (OIC) on shift that night, heard over the radio that deputies were engaged in a chase, joined the pursuit a couple of miles in, and took the primary position in front. Tr. 12, 38, 44, 59–60, 66.

LeCompte pulled up beside the Kia Soul and turned his spotlight on to see if there was anybody else in the vehicle. Tr. 12, 60. He observed Defendant “sitting in the driver’s seat operating the vehicle with nobody else in the vehicle.” Tr. 60. LeCompte also saw that the car had Arizona plates. Tr. 61. Prior to the pursuit, LeCompte had information that Deputy Ferguson had received a call “in reference to an individual operating a vehicle that has warrants as well as possibly shot up the house that he was located at the time.” Tr. 61. Although LeCompte had not seen Defendant before that encounter, LeCompte explained that Defendant “had warrants for his arrest and his driver’s license picture showed up on our computers in our vehicle” when Ferguson “ran the tag of the vehicle and then we have Mr. Damons’[s] information.” Tr. 70, 90. LeCompte isn’t sure if he saw Defendant’s driver’s license on his computer on the 15th, but he saw it on the 17th. Tr. 70–71. LeCompte was at the Sheriff’s Office when he heard Ferguson’s call that he was following a vehicle. Tr. 83. He remembers seeing Defendant’s picture and information come up on a computer prior to joining the chase, but he does not recall where he was or on what computer he saw that information that night. Tr. 84, 89. LeCompte also had information from the night before from Deputy Ferguson about “a lookout of a vehicle with Arizona plates. And known to carry guns and drugs was the information that [LeCompte] received.” Tr. 84–85.

After LeCompte confirmed that Defendant was the only person in the car, he decided to utilize a precision immobilization technique (“PIT”) maneuver to force the vehicle to stop, and he advised the other deputies via radio that he was going to perform the PIT maneuver. Tr. 13, 61–62. At that point, the deputies had been following the subject vehicle about 4 to 5 miles with their blue lights and sirens. Tr. 13, 43. There was little to no traffic at that time of night, and the weather was clear. Tr. 13, 61. The deputies were travelling no more than 60 to 65 miles per hour, on a highway with a speed limit of 55 miles per hour. Tr. 13–14. LeCompte testified that if the PIT maneuver is done properly, it is not dangerous. Tr. 62, 74–75. He is certified in performing PIT maneuvers, he has been a driving instructor since 2014, he is a PIT instructor, and he teaches other deputies, officers, and troopers in that technique. Tr. 62. Sheriff’s Office policy requires a supervisor to approve the use of a PIT maneuver, and on that night, LeCompte was the shift supervisor and approved its use. Tr. 44, 62–63, 67.

When Sergeant LeCompte performed the PIT maneuver, Defendant was travelling 57 miles per hour. Tr. 63. LeCompte considered the speeds of the vehicles involved in the chase to that point, 50 to 60 miles per hour, to be “pretty low speed.” Tr. 74. After the PIT maneuver, the vehicle spun counterclockwise, went up on a bank and over a curb, and hit a couple of road signs, including a mile marker, but the driver was able to recover, get back on the road, and continue south

on Highway 129 into Hall County. Tr. 14, 43, 63, 80. LeCompte explained that Defendant “pulled out of the PIT maneuver because it was done at a slow speed.” Tr. 63. The subject vehicle then began driving approximately 100 miles per hour, and Deputy Ferguson was travelling 95 to 100 miles per hour to try to keep up with the vehicle. Tr. 14, 42. The pursuit continued into Hall County,⁵ and after three to five miles, the front driver’s side tire came off the subject vehicle, causing the vehicle to leave the roadway and travel through a horse fence and stop, stuck on the fence. Tr. 14–16, 63–64. Defendant went out the passenger window and started running through a pasture. Tr. 15, 64. Sergeant LeCompte stopped and went to the left side of the vehicle, and Deputies Ferguson and Poreda pulled up. Tr. 15. Ferguson ran by the car and confirmed that nobody else was in it and then chased the driver through the pasture. Tr. 15–16. LeCompte followed Defendant in his vehicle, opened a gate, and then he continued pursuing Defendant in his patrol car “until he finally gave up and started listening to commands” and was taken into custody. Tr. 15–16, 64–65. LeCompte put Defendant in handcuffs. Tr. 78. The deputies were wearing bodycams during this encounter. Tr. 16–17.⁶

⁵ Sergeant LeCompte testified that they could continue the pursuit across county lines: “As supervisor, I could authorize that.” Tr. 61.

⁶ The parties submitted those recordings on a DVD and USB drives. See Gov’t Ex. 1; Def. Exs. 1, 3.

Once Defendant was arrested, he was placed in LeCompte's patrol vehicle, and the deputies returned to the scene of the crash, called for a wrecker to tow the vehicle, and they began inventorying the vehicle. Tr. 21, 77. The vehicle was a rental car, a Kia Soul. Tr. 45. During the inventory, the deputies found a handgun and suspected narcotics in the passenger's side floorboard. Tr. 21, 81. The deputies had the vehicle towed pursuant to Sheriff's Office policy because it was not operable and was on private property. Tr. 21–22. Sheriff's Office policy also requires the deputies to conduct an inventory search of a towed vehicle before it is towed. Tr. 22. The White County Sheriff's Office issued citations to Defendant for no proof of insurance, no driver's license on person, violation of safety restraint law, failure to maintain lane, and fleeing and attempting to elude. Gov't Ex. 5; Tr. 65–66.

B. Analysis

Defendant argues that the Court should suppress all evidence seized from his person and vehicle without a warrant because he was seized without a reasonable articulable suspicion that he had committed a crime when officers engaged their blue lights and then performed an unreasonable PIT maneuver in violation of the Fourth Amendment. Doc. 37.

The Fourth Amendment provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and

seizures, shall not be violated, and no Warrants shall issue, but upon probable cause” U.S. Const. amend. IV. “The ‘ultimate touchstone of the Fourth Amendment is reasonableness.’ ” United States v. Walker, 799 F.3d 1361, 1363 (11th Cir. 2015) (quoting Brigham City v. Stuart, 547 U.S. 398, 403 (2006)).

Where a seizure is made without a warrant, as in this case, the burden is on the government to “demonstrate that the challenged action falls within one of the recognized exceptions to the warrant requirement, thereby rendering it reasonable within the meaning of the fourth amendment.” United States v. Freire, 710 F.2d 1515, 1519 (11th Cir. 1983).

1. Investigative Stop

“The temporary 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].” United States v. Allen, 274 F. App’x 811, 817 (11th Cir. 2008) (citing Whren v. United States, 517 U.S. 806, 809–10 (1996)). “Such an automobile stop is reasonable and constitutional, however, if it is based on either probable cause to believe that a traffic violation has occurred or reasonable suspicion that a crime has been or will be committed.” Allen, 274 F. App’x at 817–18 (citing United States v. Chanthasouxat, 342 F.3d 1271, 1275 (11th Cir. 2003)); see also United States v. Purcell, 236 F.3d 1274, 1276, n.5 (11th Cir. 2001) (stating that “[a] law

enforcement officer may legally stop an automobile traveling on the highways if he has probable cause to believe that a traffic violation has occurred” and citing Whren, 517 U.S. at 810); United States v. Mikell, 102 F.3d 470, 474 (11th Cir. 1996) (“Even in the absence of probable cause, the police may stop a car and briefly detain it and its occupants in order to investigate a reasonable suspicion that such persons are involved in criminal activity.”).

In Mikell, the Eleventh Circuit explained that, “[i]n justifying such an intrusion, the ‘reasonableness’ standard requires that a police officer ‘be able to point to specific and articulable facts, which, when taken together with rational inferences from those facts, reasonably warrant that intrusion.’ ” 102 F.3d at 474–75 (quoting Terry v. Ohio, 392 U.S. 1, 21 (1968)). “ ‘Reasonable suspicion’ is determined from the totality of the circumstances, United States v. Sokolow, 490 U.S. 1, 109 S. Ct. 1581, 104 L. Ed. 2d 1 (1989), and from the collective knowledge of the officers involved in the stop. United States v. Williams, 876 F.2d 1521 (11th Cir. 1989).” Mikell, 102 F.3d at 475. “ ‘Such a level of suspicion is considerably less than proof of wrongdoing by a preponderance of the evidence . . . or even the implicit requirement of probable cause that a fair probability that evidence of a crime will be found.’ ” Id. (quoting United States v. Tapia, 912 F.2d 1367, 1370 (11th Cir. 1990)). “Nevertheless, the police are required to articulate some minimal, objective justification for the stop.” Id.

The undersigned finds that the deputies had reasonable suspicion to conduct an investigative stop of the vehicle Defendant was driving at the point that the deputies engaged their blue lights and sirens while following him. Deputy Ferguson testified credibly that he believed the white Kia Soul he observed at approximately 3:00 a.m. on March 17, 2024 was the same white vehicle that Ms. Hudson reported less than two days prior as the white rental car with Arizona plates that Defendant was driving when he came to her residence and threatened her with a firearm. Even if Ferguson's initial impression about the make of the car was mistaken due to the confusion about whether the car was a Kia Soul or a Nissan Cube, once Deputy Ferguson was behind the vehicle, he could see that the vehicle had an Arizona plate with a tag number that matched the tag number of the vehicle he had been looking for, i.e., the same tag number as the white rental car with Arizona plates that Defendant had been reported to be driving during the reported incidents with his ex-girlfriend in that same County.

Moreover, in addition to having information from Ms. Hudson and her friend that Defendant had threatened them and discharged a firearm at Ms. Hudson's residence just days before, Deputy Ferguson had received information that Defendant had a bench warrant issued by Habersham County for failure to appear in court on a charge of possession of a firearm by a convicted felon. Tr. 18–19, 33–34; see also Gov't Ex. 2. See United States v. Hogan, 684 F. App'x 904,

907 (11th Cir. 2017) (“If a flyer or bulletin stating a person is wanted in an investigation is issued based on reasonable suspicion the person committed a crime, then reliance on that flyer or bulletin justified a Terry stop to check identification, pose questions, or detain the person briefly while attempting to obtain further information.”).

The undersigned finds that, under the totality of the circumstances, Deputy Ferguson had a reasonable articulable suspicion to believe that Defendant was driving the vehicle used in the alleged threats on Ms. Hudson and her friend reported less than 48 hours before and therefore had authority to conduct an investigative stop of the vehicle in order to investigate whether Defendant was driving the vehicle, to investigate the allegations that Ms. Hudson and her friend made against Defendant, to investigate the involvement of that vehicle in the events reported by Hudson and her friend, and to investigate the issuance of the bench warrant by Habersham County. Thus, he and the other deputies were authorized to engage their blue lights and sirens in an effort to effectuate their investigative stop of Defendant, and they acted reasonably in doing so.

Defendant contends that “Ferguson and the White County deputies had no particularized or objective basis for suspecting the Kia driver of criminal activity” for several reasons. Doc. 37 at 19. First, Defendant asserts that “[t]he caller, Ms. Hudson, was not a known or reliable source of information for the police” and

“appeared intoxicated,” provided “two different tag numbers” and the wrong make of the car, i.e., a Nissan Cube.” Doc. 37 at 19. She also “stated multiple people were in the Cube armed with weapons,” and she “gave no physical or clothing description of Damons.” Doc. 37 at 19. The undersigned finds these assertions do not undermine the finding of reasonable suspicion. In the first place, it was Hudson’s friend who called dispatch and who, according to dispatch, seemed intoxicated. See Def. Ex. 4 at 2. When asked whether the women were intoxicated, Ferguson responded that he wasn’t “sure,” but the women were upset. Tr. 29. Not only did the caller report Defendant’s alleged threats and possession of weapons to dispatch, but both Hudson and her friend made similar reports to Ferguson and provided a description and tag number of the vehicle he was driving, a white rental vehicle with an Arizona plate. The fact that the caller had to correct one letter of that plate number does not undermine the finding of reasonable suspicion in the absence of evidence that the Arizona tag number of the white Kia Soul that Ferguson observed and followed on March 17, 2024 was not the tag number reported two days earlier. The confusion of the make and model of the car is not determinative as Ferguson believed the makes and models of the Nissan Cube and Kia Soul are similar, i.e., “kind of the same vehicle, if I’m not mistaken,” Tr. 31–32, and it is undisputed that the white Kia Soul the deputies pursued on March 17th had an Arizona plate matching the tag number that had been reported by Hudson

and her friend. Defendant complains that the deputies “developed no independent corroboration of Ms. Hudson’s allegations,” Doc. 37 at 20, but one way to corroborate, i.e., investigate, those allegations would be to look for the vehicle with the tag number reported by Hudson as being involved and investigate the vehicle and its occupants. That is what the deputies sought to do on March 17th.

Defendant points out other circumstances in an effort to undermine the finding of reasonable suspicion, including the fact that Defendant did not commit a traffic violation while being followed, the vehicle “was heading south, away from Cleveland, Georgia, nowhere near Ms. Hudson’s house on Post Road,” Ferguson “did not see the driver as the car went by” or identify the driver before he initiated his blue lights, he “saw only one person in the Kia, not multiple people as reported by Ms. Hudson,” and “[r]ental cars typically are returned and rented out to other drivers.” Doc. 37 at 20. The undersigned finds that these circumstances do not undermine the finding of reasonable suspicion based on the totality of the circumstances the undersigned discussed above.

In particular, Defendant’s assertions that the deputies did not have reasonable suspicion to stop the Kia Soul because they did not know that Defendant was driving it that night are unavailing. Defendant asserts that Ferguson never identified Damons as the driver that night, and he had to review his notes in his car following the crash to provide Damons’ name. Doc. 37 at 26–28. “As other

courts have noted, if there is reasonable suspicion to believe that a particular car was involved in a prior crime, ‘there is no need to have reasonable suspicion even that the occupants themselves had been involved in the [crime].’ United States v. Turk, No. 1:20-CR-253-TWT-CCB, 2024 U.S. Dist. LEXIS 242773, at *13 (N.D. Ga. Dec. 23, 2024) (quoting United States v. Jackson, 700 F. App’x 411, 416 (6th Cir. 2017) and citing United States v. Marxen, 410 F.3d 326, 332 (6th Cir. 2005) (finding reasonable suspicion where the officers had information connecting the car, but not the owner of the vehicle, to a prior robbery)), adopted by 2025 U.S. Dist. LEXIS 78737 (N.D. Ga. Apr. 25, 2025). In Turk, officers were looking for a vehicle—a rental car with a partial Florida tag that had been identified as being involved in a drive-by shooting on March 28, 2020, saw the vehicle on April 4, 2020 a couple miles from the shooting, and stopped the vehicle after it ran a stop sign. Id. at *2–4. The court found that the stop was authorized by the observation of the traffic violation, and it also found that “there was reasonable suspicion to stop the Terrain based on the recent drive-by shooting” as “officers had ample cause to believe that that the Terrain had been used in the shooting[.]” Id. at *11. The court rejected the defendant’s argument that there was no reasonable suspicion as to the shooting because the shooting occurred a week prior to the stop because “there is no absolute prohibition against investigatory stops related to a crime that has already been completed.” Id. at *12 (citing United States v. Hensley, 469 U.S.

221, 229 (1985) and United States v. Cabey, No. 1:09CR413-1, 2010 U.S. Dist. LEXIS 13517 at *10–11 (M.D.N.C. Feb. 17, 2010) (finding reasonable suspicion to stop a vehicle that matched the description of one used in a robbery six days prior)).

Here, Deputy Ferguson had information that only two days before, a white vehicle similar in appearance to a Kia Soul, identified as a Nissan Cube, with an Arizona plate and the same tag number as that of the Kia Soul Ferguson observed on March 17, 2024 was involved in criminal activity, when Defendant and others arrived at Hudson’s residence in that vehicle and Defendant threatened Hudson and another woman with firearms. Regardless of whether Ferguson did not know if Defendant was driving the Kia Soul on March 17, 2024, he and the other deputies had a reasonable suspicion to believe that the car was involved in a prior crime only two days earlier.

Defendant also contends that the White County deputies were not credible with respect to whether Deputy Ferguson checked the issuance of warrants prior to the stop and whether LeCompte actually identified Defendant as being the driver of the Kia Soul that night as he testified. Doc. 37 at 24–29. The undersigned finds that both Ferguson and LeCompte testified credibly concerning their involvement in the events of March 17, 2024, even if their memories might not have been perfect. Defendant contends that Ferguson “did not verify Ms. Hudson’s

information about possible outstanding warrants” in spite of Ferguson’s testimony that he did so on March 15, 2024—the day he met with Hudson—and learned that Defendant had an outstanding bench warrant from Habersham County Superior Court for failing to appear on a charge of possession of a firearm by a convicted felon, see Tr. 18–20, 33–34; Doc. 37 at 24–25.

Defendant points to the following as undermining that testimony: Ferguson did not confirm with Habersham County whether the warrant was active or correct, see Tr. 34–35; Ferguson did not check the boxes for wants or warrants on his incident report after meeting with Hudson, see Tr. 52–55; and footage from the deputies’ bodycams showed that after the highspeed chase, crash, and foot chase of Defendant, LeCompte asked him if Defendant was a convicted felon, and Ferguson responded, “I don’t know,” see Def. Ex. 6 at 13. Doc. 37 at 24–26. The undersigned does not find this evidence to undermine Ferguson’s testimony that he knew about the Habersham County bench warrant before the stop on March 17, 2024. In particular, Ferguson’s inability to respond immediately to LeCompte’s question about whether Defendant was a convicted felon right after the events of March 17th without reviewing the information in his car does not show that he was not already in possession of that information. Critically, Ferguson’s full response was, “I don’t know. He’s got possession charges. Yeah, there’s his front bumper over there. He drove through the fence over there and then come around here.”

Def. Ex. 6 at 13. That exchange indicates that Ferguson was already aware of Defendant's prior possession of a firearm charge, and it also shows that he was preoccupied with processing and discussing the chase, crash, and aftermath. The undersigned does not find that Ferguson's response to LeCompte on the scene undermines his credibility that he knew about the bench warrant prior to March 17, 2024.

The undersigned also finds that LeCompte testified credibly that he had seen a photo of Defendant from his driver's license prior to identifying him as the driver of the Kia Soul on March 17, 2024, Tr. 70–71, 83–84, 89. Defendant seeks to impeach this testimony because LeCompte testified that he saw the picture on his computer in his car that night, Tr. 70, but the bodycam footage does not show the driver's license was displayed on the computer in LeCompte's car. Doc. 37 at 28–29. But LeCompte testified that he was not sure if he saw Defendant's driver's license photo on the Sheriff's Office computer or on some other computer, but knows that he saw it prior to participating in the pursuit. Tr. 83–84, 89. The undersigned finds that testimony to be credible, especially in light of LeCompte's testimony that when any of "his guys" run information on a person, LeCompte receives that information—whether he is in the office or in the field. Tr. 83–84. Moreover, it is not disputed that prior to performing the PIT maneuver, LeCompte

pulled up next to Defendant's vehicle and was able to determine that Defendant was driving and that no one else was in the vehicle. Tr. 12, 60.

The undersigned finds that Ferguson and LeCompte testified credibly during the suppression hearing and the evidence Defendant cites to undermine their credibility fails to show that the deputies did not have reasonable suspicion to effectuate the traffic stop at issue.

2. PIT Maneuver

Once the deputies engaged their blue lights and sirens—actions the undersigned finds to be supported by reasonable suspicion—it is undisputed that Defendant did not then pull over. O.C.G.A. § 40-6-395(a) provides that “[i]t shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or police officer when given a visual or an audible signal to bring the vehicle to a stop.” Here, at least three deputies—Ferguson, Poreda, and LeCompte—pursued Defendant with their lights and/or sirens engaged. LeCompte even pulled up beside Defendant to verify that no one else was in the vehicle, but Defendant did not then pull over. At that point, the deputies had at least reasonable suspicion to stop Defendant to investigate his apparent violation of O.C.G.A. § 40-6-395(a) and

requirement that he pull over.⁷ It was after that additional reasonable suspicion was developed that the deputies were able to effectuate an actual seizure of Defendant.

Defendant contends that deputies seized him when LeCompte performed the PIT maneuver but that the seizure was unlawful because the PIT maneuver violated the Fourth Amendment in that it constituted excessive force in violation of the Fourth Amendment. Doc. 37 at 29. “The Fourth Amendment provides the right to be free from excessive force in the course of an investigatory stop or other seizure of the person.” Sharp v. Fisher, 532 F.3d 1180, 1183 (11th Cir. 2008). “Terminating a car chase by striking a fleeing vehicle constitutes a ‘seizure.’ ” Id. “Whether effecting a seizure violates the Constitution turns on the question of whether striking the vehicle was ‘objectively reasonable.’ ” Id. (quoting Scott v. Harris, 550 U.S. 372, 381 (2007)) “In determining whether [LeCompte’s] actions were ‘objectively reasonable,’ the court must consider the risk of bodily harm [his] actions in attempting the PIT maneuver posed to [Defendant] in light of the threat to the public that [LeCompte] was trying to eliminate, from the perspective of a ‘reasonable officer on the scene, rather than with 20/20 vision of hindsight.’ ” Id. (quoting Graham v. Connor, 490 U.S. 386, 396 (1989)). “Much like the factors [the

⁷ Defendant points to evidence that after he was finally stopped, he told the deputies he was just trying to get to a safer place to stop, see Def. Ex. 6 at 5, but that fact does not undermine the deputies’ reasonable belief that Defendant was failing to yield by continuing to drive and not pulling over for miles after the deputies engaged their blue lights and sirens.

courts] weigh when evaluating a use of deadly force, [the courts] consider these factors when evaluating any other use of force: (1) the severity of the suspect's crime, (2) whether the suspect poses an immediate threat of harm to others, (3) whether the suspect is actively resisting arrest or trying to flee, (4) the need for the use of force, (5) the relationship between the need for force and the amount of force used, and (6) how much injury was inflicted.” Wade v. Daniels, 36 F.4th 1318, 1325 (11th Cir. 2022).

Considering these factors, the undersigned finds that it was objectively reasonable for LeCompte to use the PIT maneuver to attempt to stop Defendant. Defendant had not complied with multiple deputies signaling to him to stop by their sirens and blue lights. The deputies had information that Defendant had a bench warrant from Habersham County for failing to appear in court for a felon in possession of a firearm charge, and they had information that his ex-girlfriend and another witness accused him of very recently threatening them and discharging a firearm, thus indicating that he continued to be armed and a threat to others. LeCompte, who was certified and trained in PIT maneuvers—and even taught other officers how to conduct them, attempted to perform the PIT maneuver at a low speed at a time when there was not a lot of traffic on the road, thus minimizing the risk of danger to Defendant, the other officers, and the travelling public.

Moreover, the force used to perform the maneuver was insufficient to actually stop, i.e., seize, Defendant as he was able to continue driving for miles thereafter, at speeds of approximately 100 miles per hour. The record does not contain any evidence of injury to Defendant, but Defendant asserts that “the Kia Soul was severely damaged by the PIT maneuver” as its “front tires were shredded when the car was forced to strike two curbs.” Doc. 37 at 32. The record does not show whether the tire damage was caused by the PIT maneuver, Defendant’s excessive speed following the PIT maneuver, or a combination, but the damage from the PIT maneuver was not so great that it prevented the vehicle from continuing to be mobile and capable of driving approximately 100 miles per hour. Under these circumstances, the undersigned finds that LeCompte’s use of the PIT maneuver to attempt to effectuate the stop of Defendant was objectively reasonable and did not violate the Fourth Amendment. Moreover, once Defendant continued driving and speeding at speeds of approximately 100 miles per hour, the deputies had probable cause to continue pursuing him to effectuate an arrest, which they did once they apprehended him after his vehicle went off the road and crashed into a fence and he ran from the vehicle.

Defendant refers to the PIT maneuver as using “deadly force,” see Doc. 37 at 29–30, and he asserts that LeCompte “admitted the PIT maneuver, by definition, constituted a use of deadly force.” Doc. 37 at 29. That was not LeCompte’s

testimony, however. See Tr. 75 (explaining that White County Sheriff's Office policy concerning PIT maneuvers is in different paragraph than policy referring to deadly force); Tr. 87–88 (testifying that the PIT maneuver at the speeds involved in this case was not deadly force). Defendant also asserts that LeCompte “conceded he would not have been authorized to shoot Damons, given the totality of the circumstances,” Doc. 37 at 29, but the fact that the circumstances would not have supported the deputies’ use of deadly force by shooting Defendant does not mean that they did not reasonably use the PIT maneuver to stop Defendant’s car. See Scott, 550 U.S. at 383 (rejecting reliance on factors involving use of force when shooting a person as set forth in Tennessee v. Garner, 471 U.S. 1 (1985) because “ ‘Garner had nothing to do with one car striking another or even with car chases in general A police car’s bumping a fleeing car is, in fact, *not much like a policeman’s shooting a gun so as to hit a person.*’ ” (quoting Adams v. St. Lucie Cnty Sheriff’s Dep’t, 962 F.2d 1563, 1577 (11th Cir. 1992) (Edmondson, J., dissenting)) (emphasis added)).

The undersigned finds that the deputies did not violate the Fourth Amendment in seeking to stop Defendant’s vehicle by following him and turning on their blue lights and sirens, seeking to stop his vehicle via a PIT maneuver when he would not pull over, and by continuing to pursue him and arresting him after his vehicle crashed and Defendant was apprehended after fleeing from the car.

3. Searches Of Defendant's Person And Vehicle

Although it is not clear from the parties' presentation if any evidence was seized from Defendant's person, once Defendant was lawfully arrested, the deputies were authorized to search Defendant incident to arrest. "If there is probable cause to arrest a person, then the person can be searched incident to the arrest." United States v. Touray, No. 2021 U.S. Dist. LEXIS 216233, at *4 (N.D. Ga. Nov. 8, 2021) (citing United States v. Robinson, 414 U.S. 218, 224 (1973) ("It is well settled that search incident to a lawful arrest is a traditional exception to the warrant requirement of the Fourth Amendment.")); see also United States v. Williams, 731 F.3d 1222, 1232 (11th Cir. 2013) ("Only after arresting Williams did Officer Delgado search Williams's person. Because Officer Delgado's search was incident to a lawful arrest, the Fourth Amendment was not violated."). It is therefore **RECOMMENDED** that Defendant's motion to suppress evidence seized from his person be **DENIED**.

Turning to the evidence seized from the Kia Soul that Defendant was driving, the undersigned agrees with the Government that Defendant does not have standing to challenge the search of that vehicle because he abandoned it when he fled following the crash.⁸ "Fourth Amendment claims do not lie when the

⁸ Defendant argues that the Government waived its abandonment argument by not raising it earlier that in its response to Defendant's post-hearing brief. Doc. 39 at 1–2. The undersigned disagrees. In United States v. Ross, 964 F.3d 1034 (11th Cir.

defendant has abandoned the searched property.” United States v. Sparks, 806 F.3d 1323, 1341 (11th Cir. 2015), overruled in part by United States v. Ross, 963 F.3d 1056 (11th Cir. 2020).⁹ “As our predecessor Court has explained, ‘[I]t is settled law that one has no standing to complain of a search or seizure of property he has voluntarily abandoned.’ ” Id. at 1342 (quoting United States v. Colbert, 474 F.2d 174, 176 (5th Cir. 1973) (en banc)); see also United States v. McKennon, 814 F.2d 1539, 1545 (11th Cir. 1987) (“Legitimate expectations of privacy can be abandoned.”). While a defendant “ha[s] the burden of establishing a legitimate expectation of privacy[,] the Government has the burden of proving abandonment.” United States v. Elkins, No. 1:16-CR-002406-ELR-JFK, 2017 U.S. Dist. LEXIS 86637, at *13 (N.D. Ga. Apr. 13, 2017), adopted by 2017 U.S. Dist. LEXIS 86542 (N.D. Ga. June 6, 2017). Courts “assess objectively whether

2020), the court found that the government waived the issue of abandonment “by failing to raise it in the district court,” and waiting to argue abandonment on appeal. Id. at 1040. But here, the Government argued that Defendant lacked standing to challenge the search of the Kia Soul in its first brief in response to Defendant’s motion to suppress. See, e.g., Gregg v. United States, No. 8:22-cv-1979-VMC-JSS, 2024 U.S. Dist. LEXIS 46841, at *13 (M.D. Fla. Mar. 18, 2024) (explaining that “the government waives the abandonment argument if it does not raise that argument before the district court in response to a motion to suppress,” but finding that “[u]nlike in Ross where the government waived the abandonment argument by not raising it before the district court, the government here raised Mr. Gregg’s abandonment of the phone in its response to his motion to suppress”).

⁹ In Ross, the court overruled Sparks to the extent that Sparks held that an argument asserting the suspect’s abandonment is jurisdictional and nonwaivable.

abandonment has occurred, based primarily on the prior possessor's intent, as discerned from statements, acts, and other facts.” Sparks, 806 F.3d at 1342. “The critical inquiry when determining whether an abandonment has occurred is ‘whether the person prejudiced . . . voluntarily discarded, left behind, or otherwise relinquished his interest in the property in question.’ ” Id. (quoting United States v. Ramos, 12 F.3d 1019, 1022 (11th Cir. 1994)).

In Sparks, the court noted that in applying the abandonment doctrine, the Eleventh Circuit has “determined, for example, that an individual who ditches property during a chase with law enforcement abandons that property and lacks standing to challenge the seizure of it” and has “similarly concluded that a person who makes a decision to leave his property containing contraband when law enforcement approaches or seeks to examine the property likewise abandons the property and loses standing to challenge its seizures.” 806 F.3d at 1342. “Indeed, we have found abandonment and consequently no standing even when a defendant chose to leave his property only because his life would have been endangered had he not done so.” Id. Here, the undersigned has found that the deputies acted reasonably in pursuing Defendant and in attempting the PIT maneuver to try to stop his vehicle and that their efforts did not violate the Fourth Amendment, including the prohibition on excessive use of force to effectuate their seizure of Defendant. It is undisputed that Defendant fled the Kia Soul through the passenger

window after crashing it and then ran away from the vehicle through a pasture, only stopping after law enforcement gave chase and apprehended him. Under those circumstances, the undersigned finds that Defendant voluntarily abandoned his reasonable expectation of privacy in the Kia Soul and its contents. See, e.g., United States v. Falsey, 566 F. App'x 864, 867–68 (11th Cir. 2014) (concluding that defendant abandoned the BMW before the police impounded it and inventoried its contents where defendant, “believing that he was being pursued by the police, sped into the parking lot of a business park and then sprinted into the woods, leaving his car unlocked with the key still inside of it”); United States v. Jefferson, 451 F. App'x 833, 834 (11th Cir. 2011) (finding no clear error in the district court’s finding that defendant “abandoned his vehicle voluntarily, and not as a result of a police officer’s excessive use of force”); Turk, 2025 U.S. Dist. LEXIS 78737, at *1 (denying motion to suppress evidence because “Defendant abandoned the vehicle, his gun, and his shoes in the course of fleeing from the police, meaning that he had no reasonable expectation of privacy in any of those discarded items”); United States v. Matthews, No. 1:19-cr-00221-TWT-RGV, 2020 U.S. Dist. LEXIS 58032, at *11-12 (N.D. Ga. Feb. 21, 2020) (“Courts repeatedly have held that when an individual flees from the police and in the process leaves behind an item inside a vehicle, he has abandoned any interest in that item for Fourth Amendment purposes.” (collecting cases)), adopted by 2020 U.S. Dist. LEXIS 56684 (N.D. Ga.

Mar. 27, 2020); United States v. Gibbs, No. 1:17-CR-00207-CAP-CMS-1, 2018 U.S. Dist. LEXIS 204505, at *14–15 (N.D. Ga. Dec. 4, 2018) (finding that the defendant lacked standing to challenge the search of a vehicle he abandoned after the officer executed a PIT maneuver, the vehicle spun out and blew a tire, and the defendant fled, leading police on a foot chase).

The undersigned also finds that the deputies properly searched the vehicle pursuant to an inventory search. “When analyzing the reasonableness of an inventory search, a court must determine (1) whether the police had the authority to impound the vehicle, and (2) whether the officers followed procedures governing inventory searches.” United States v. Foskey, 455 F. App’x 884, 888 (11th Cir. 2012). Here, the deputies had the authority to impound the vehicle because Defendant was under arrest and the vehicle was inoperable and located on private property. Deputy Ferguson testified that they had to call a wrecker for the car because it was inoperable on private property and that the Sheriff’s Office policy required them to conduct an inventory search and notate the inventory before the vehicle left with the wrecker. Tr. 21–22. The undersigned finds that the car was searched pursuant to that policy.

It is therefore **RECOMMENDED** that Defendant’s motion to suppress evidence seized from the Kia Soul on March 17, 2024 be **DENIED**.


Summary

IT IS ORDERED that Defendant's Motion To Disclose Confidential Informants, Doc. 21, is **DENIED AS MOOT**.

IT IS RECOMMENDED that Defendant's Motion To Suppress Evidence From Traffic Stop, Doc. 22, be **DENIED**.

IT IS ORDERED that, subject to a ruling by the District Judge on any objections to orders or recommendations of the undersigned Magistrate Judge, this case is **certified ready for trial**. After consultation with the District Judge, the parties may have until **April 17, 2026** to file objections to the R&R.

IT IS SO ORDERED, REPORTED AND RECOMMENDED this 2nd day of April, 2026.



Anna W. Howard
United States Magistrate Judge