

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-CR-160

RONALD VAN DEN HEUVEL,

Defendant.

UNITED STATES' POST HEARING BRIEF

The United States of America, by and through its undersigned attorneys, hereby submits this post hearing brief. For the reasons set forth below, the United States respectfully requests that the Court deny the Defendant's Motion to Suppress in its entirety.

The United States reiterates that while the search warrants were broad, the search warrants were facially valid because they sufficiently limited the scope of the search by identifying particular businesses, referencing the particular Green Box scheme laid out in the affidavit, and limiting the items to be seized to December 31, 2010 forward. Sergeant Mary Schartner testified that the officers understood the search warrant to carry those limitations.

Even with a broad search warrant, the seized items are still admissible at trial as law enforcement acted in good faith reliance on a facially valid warrant and did not flagrantly disregard the search warrant's limitations.¹

¹ The Seventh Circuit has not adopted blanket suppression as a doctrine, and the circuits that have recognized the doctrine have treated blanket suppression as an extraordinary remedy that applies "only when (1) [government agents] effect a 'widespread seizure of items that were not within the scope of the warrant,' and (2) do not act in good faith." *See, e.g., United States v. Shi Yan Liu*, 239 F.3d 138, 140 (2d Cir. 2000).

Van Den Heuvel's businesses were pervasively fraudulent, and law enforcement encountered voluminous records upon arrival. However, Sergeant Shartner testified that she witnessed officers searching boxes and cabinets during the executions of the search. While it was not possible to analyze each document, Sergeant Shartner testified about the good faith effort to attempt to only seize relevant documents.² Notably, Sergeant Shartner also testified that computers were forensically imaged, instead of being removed, at the one location that contained an operating business in order to avoid disrupting the business. Unintentional over-collection was reasonable in the circumstances. Officers did not act in such flagrant disregard of the search warrant's limits as to justify the draconian remedy of blanket suppression.

In addition, FBI Special Agent Ryan Austin testified to a meticulous search of the seized documents. SA Austin testified that 22 FBI personnel spent 3 days analyzing the material. He testified the FBI limited the scope of the collection, and that the FBI also implemented a process to separate privileged documents during the analysis. In contrast to the defendant's previous claims that personal laptops were seized, both of the defendant's witnesses that had computers seized during the search, T.W. and M.G., admitted during their testimony that they used the seized computers to do work for the defendant.

² In regards to the defendant's *Franks* motion, the United States respectfully submits Sergeant Shartner testified in a highly credible manner, and there was no evidence produced at the hearing to support an argument that she intentionally lied or acted with reckless disregard for the truth in the search warrant application. Sergeant Shartner testified that she truly believed the Perini building was for sale when she swore out the affidavit. She stated that she called multiple people to determine if the Perini building was for sale. The United States notes that the marketing materials related to the building produced by the defendant were undated. In addition, as the United States has previously argued, the affiant's statements that the business was not fully functioning as the defendant claimed to potential investors, is a factually correct statement. Sergeant Shartner testified that in multiple interviews, no one told her the technology and process was fully functioning.

The United States respectfully submits that Sergeant Shartner's and Special Agent Austin's testimony has proven that law enforcement acted in good faith during the search of the defendant's premises, and the FBI engaged in a meticulous and careful review of the seized documents in order to only keep material, relevant documents. The officers' search, seizure, and review of Green Box's voluminous records was reasonable. The defendant's motion to suppress should be denied in full.

Dated at Milwaukee, Wisconsin this 7th day of September, 2018.

Respectfully Submitted,

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