

**MICHIGAN STATE UNIVERSITY COLLEGE OF LAW
ADVOCACY
SPRING PROBLEM 2026
JOINT APPENDIX**

This document contains all the facts that students enrolled in Advocacy for the Spring Semester of 2026 at Michigan State University College of Law will use for the entire semester for the appellate briefs they will write and the oral arguments they will present.

These facts are contained in what is called a Joint Appendix, prepared in compliance with Federal Rule of Appellate Procedure 30. The Joint Appendix (to the parties' briefs) contains all the documents the two parties agree are relevant to the appeal. Once the parties have filed this Joint Appendix, agreeing that these documents contain the facts the appellate court should consider on appeal, the parties cannot use any facts in their briefs or oral arguments outside of those contained in the Joint Appendix.

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Hon. Beverly D. Angelo
CASE #: CR 25-0192

v.

LUCY MARINO

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

**Possession with the Intent to Manufacture or Deliver Methamphetamines
21 U.S.C. § 841(a)(1)**

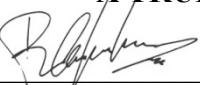
On or about December 3, 2024, in Rochester, New York, in the Western District of New York, Defendant

LUCY MARINO

knowingly and intentionally possessed with intent to manufacture, distribute, or dispense eleven grams or more of methamphetamines, a Schedule I controlled substance, an offense punishable under 21 U.S.C. § 841(b)(1)(B)(viii) by a term of not less than five years and not more than forty years, with a two-year-old child residing in the home, punishable under 21 U.S.C. § 860a by an additional consecutive sentence of not more than twenty years.

A TRUE BILL

Dated: January 27, 2025



Foreperson of the Grand Jury

James I. Ivey
United States Attorney

By: Leano Andros
Leano Andros
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Hon. Beverly D. Angelo
CASE #: CR 25-0192

v.

LUCY MARINO

Rochester, NY
June 30, 2025
3:00 p.m.

TRANSCRIPT OF EVIDENTIARY HEARING ON
DEFENDANT'S MOTION TO SUPPRESS EVIDENCE
BEFORE THE HONORABLE BEVERLY D. ANGELO

APPEARANCES:

For the UNITED STATES:	United States Attorney By: Leano Andros 200 Main St., Suite 300 Rochester, NY 14614 Telephone: (585) 263-6760
For MS. MARINO:	Federal Public Defender of Western New York By: Aleksandr Volkov 35 State St. Rochester, NY 14614 Telephone: (585) 263-6201
Court Reporter:	Jennie Butler, RPR Official Court Reporter 200 Main St. Rochester, NY 14614

Proceedings reported by machine shorthand; transcript produced by computer-aided transcription.

PROCEEDINGS

1 THE CLERK: Criminal 25-0192, United States of America versus Lucy Marino.
2 Mr. Andros for the government. Mr. Volkov for the defendant.
3
4 THE COURT: Good afternoon. You may be seated. We are here today on the
5 defendant's motion to suppress evidence. Counsel, your
6 appearances?
7
8 MR. ANDROS: Good afternoon, Your Honor. Leano Andros appearing on behalf
9 of the United States Attorney's Office.
10
11 THE COURT: Good afternoon, Mr. Andros.
12
13 MR. VOLKOV: Your Honor, Aleksandr Volkov, Federal Public Defender's Office,
14 Western District of New York, on behalf of Ms. Marino.
15
16 THE COURT: Good afternoon, Mr. Volkov. Mr. Andros, are you ready to
17 proceed?
18
19 MR. ANDROS: I am, Your Honor.
20
21 THE COURT: You may call your first witness.
22
23 MR. ANDROS: Thank you, Your Honor. The United States calls Sergeant Sage
24 Esposito to the stand.
25
26 Sergeant Sage Esposito, City of Rochester Police Department, Sworn
27 Direct Examination:
28
29 MR. ANDROS: Sergeant Esposito, who are you employed by?
30
31 SGT. ESPOSITO: The City of Rochester Police Department.
32
33 MR. ANDROS: What unit are you assigned to?
34
35 SGT. ESPOSITO: I am assigned to the Special Investigations Section.
36
37 MR. ANDROS: What is Special Investigations?
38
39 SGT. ESPOSITO: It is a team of officers assigned to investigate narcotics cases
40 throughout the City of Rochester.
41
42 MR. ANDROS: On Monday, December 3, 2024, were you assigned to the Special
43 Investigations Section?
44

1 SGT. ESPOSITO: Yes, I was.
2
3 MR. ANDROS: On that day, did you have occasion to go to 450 Edgewood
4 Boulevard in Rochester, New York?
5
6 SGT. ESPOSITO: Yes, I did.
7
8 MR. ANDROS: How did you end up going to 450 Edgewood Boulevard?
9
10 SGT. ESPOSITO: Well, I had received a tip on the Drug Hotline two days before that
11 someone was dealing crystal methamphetamines out of a residence
12 located at 450 Edgewood Boulevard.
13
14 MR. ANDROS: What is the Drug Hotline?
15
16 SGT. ESPOSITO: It is a telephone line that Rochester Police has installed and
17 advertised for the express purpose of receiving anonymous tips of
18 criminal activity from people in the community. It simply records
19 tips so that community members feel safe that they will remain
20 anonymous. Of course, community members can contact us any
21 time with information. But this line has been helpful with people
22 who might otherwise be scared to get involved.
23
24 MR. ANDROS: Sergeant Esposito, please continue to tell the court what the tipster
25 said on the tape.
26
27 SGT. ESPOSITO: All right. The tipster said that there was a lot of traffic coming and
28 going from the duplex at 450 Edgewood Boulevard. Additionally,
29 the tipster said that the duplex smelled of chemicals, like rotten
30 eggs, that there was a young child living in the duplex, and that the
31 tipster feared for the safety of the child. The tipster also indicated
32 that a man had recently been arrested outside of that location for
33 possession of methamphetamines.
34
35 MR. ANDROS: What, if anything, did you do as a result?
36
37 SGT. ESPOSITO: I assembled a team, and we decided to go to 450 Edgewood
38 Boulevard to perform a knock and talk.
39
40 MR. ANDROS: When did you perform this knock and talk procedure?
41
42 SGT. ESPOSITO: Tuesday, December 3, 2024, at about 1830.
43
44 MR. ANDROS: What happened when you arrived at 450 Edgewood Boulevard?
45

1 SGT. ESPOSITO: Officer Davis, Officer Rue, Detective Johnstone, and I went up
2 together to the front door of the residence, while Detective Perez
3 and Officer Capstone stood outside by the Tactical Unit's armored
4 vehicle.
5
6 MR. ANDROS: So, Perez and Capstone did not approach the suspect's house?
7
8 SGT. ESPOSITO: No, they did not.
9
10 MR. ANDROS: What happened after that?
11
12 SGT. ESPOSITO: We knocked on the door and announced we were the police and
13 wanted to ask a few questions. After a few minutes, the suspect
14 answered the door. It was snowing outside. After a little while, the
15 suspect stepped back from the door to get away from the snow and
16 allowed us to step into the vestibule area with her. At this point, I
17 immediately detected a strong chemical smell coming from inside
18 the house.
19
20 MR. ANDROS: You personally detected a chemical smell?
21
22 SGT. ESPOSITO: I did.
23
24 MR. ANDROS: Could you describe the smell?
25
26 SGT. ESPOSITO: Yes. It smelled of strong rotten eggs and ammonia, a strong
27 indicator of the production of crystal meth.
28
29 MR. ANDROS: Was the front door to the suspect's residence shut or open?
30
31 SGT. ESPOSITO: It was cracked open a few inches.
32
33 MR. ANDROS: What happened next?
34
35 SGT. ESPOSITO: I asked the suspect whether there were any drugs or other illegal
36 activity going on in the house, and she denied it. At that point,
37 Johnstone asked her if there were any other people in the house,
38 and she denied it. We asked if we could take a look around, and
39 she said we could not. However, a few minutes after we entered
40 the vestibule, we noticed movement from inside the house.
41 Johnstone and I drew our weapons and ordered the suspect to stand
42 to the side. We yelled for the unknown person to come out with
43 their hands up and identify themselves. At that time, the suspect
44 called for her son, and her son emerged from the house.
45

1 MR. ANDROS: How long after the son emerged did you leave your weapons
2 unholstered?

3

4 SGT. ESPOSITO: After we identified that there was no threat and it was just the boy,
5 we immediately reholstered our weapons.

6

7 MR. ANDROS: What happened next?

8

9 SGT. ESPOSITO: We asked the suspect why she had lied about others being in the
10 house, and she said she had told us her baby was sleeping.

11

12 MR. ANDROS: Her baby? How old was the boy who came out into the vestibule?

13

14 SGT. ESPOSITO: He looked to be about two or three, which we later confirmed. He
15 was two years old.

16

17 MR. ANDROS: When had the suspect said her baby was sleeping?

18

19 SGT. ESPOSITO: Just before we entered the vestibule, I asked if there was anyone
20 else in the house, and the suspect responded, just my baby, and
21 he's sleeping. We thought she meant a baby, as in a child under
22 one year of age, who would not have been able to walk.

23

24 MR. ANDROS: What happened after the child came out into the vestibule?

25

26 SGT. ESPOSITO: I informed the suspect that we had a tip that this was a drug house
27 and called her attention to the strong chemical odor and the fear we
28 had that illegal activity was going on with such a young child in
29 the house. We asked her one more time to let us search the house
30 in order to make sure the child was safe and there was no illegal
31 activity.

32

33 MR. ANDROS: How did the suspect respond?

34

35 SGT. ESPOSITO: She said that she did not know what I was talking about with the
36 chemical smell and that she did not do drugs.

37

38 MR. ANDROS: What happened next?

39

40 SGT. ESPOSITO: Johnstone, Officer Davis, and I stepped out of the vestibule back
41 onto the front porch to confer. Davis had been standing to the
42 suspect's right, and, as he began to walk out onto the front porch,
43 he stepped on a white crystal that got crushed under his foot. Davis
44 collected a sample of the crystal to field test for the presence of
45 methamphetamines. After we stepped out of the vestibule, Davis
46 went back to the tactical vehicle and field-tested the little bit of the

1 white, chunky substance and came back and informed Johnstone
2 and me that it had field-tested positive for methamphetamines.
3
4 MR. ANDROS: Where did Officer Davis step on this white, chunky substance?
5
6 SGT. ESPOSITO: About two feet from the door to the suspect's dwelling.
7
8 MR. ANDROS: Did you and the other officers exchange any other information on
9 the porch?
10
11 SGT. ESPOSITO: Yes. We discussed the presence of a large plastic storage container
12 with several plastic soda bottles in it.
13
14 MR. ANDROS: What significance, if any, did you attach to the container full of
15 soda bottles?
16
17 SGT. ESPOSITO: In our experience and expertise, we consider a large amount of
18 soda bottles to be associated with the production of crystal meth.
19 Subjects use soda bottles as a quick way to cook the
20 methamphetamines. They place all the chemicals into a bottle and
21 shake it until the chemical reaction occurs.
22
23 MR. ANDROS: Did you exchange any other information on the porch?
24
25 SGT. ESPOSITO: I told the others that I had detected a strong chemical smell coming
26 from inside the home. We decided that Davis would travel back to
27 the office at the Rochester Police Department and begin the
28 process of obtaining a search warrant. Once Officer Davis left,
29 Detective Johnstone and I went back into the vestibule where we
30 continued our investigation.
31
32 MR. ANDROS: What did your further investigation consist of?
33
34 SGT. ESPOSITO: We continued to ask the suspect some questions and attempted to
35 elicit further information from her.
36
37 MR. ANDROS: Were you able to gather any additional information about or
38 evidence of criminal activity at the residence?
39
40 SGT. ESPOSITO: Not until after the suspect consented to allow us to enter the
41 residence and search.
42
43 MR. ANDROS: So, at some point in time, the suspect agreed to let you search the
44 residence and signed the consent form?
45
46 SGT. ESPOSITO: Yes, sir.

1
2 MR. ANDROS: Your Honor, I would like an exhibit marked Exhibit A.
3
4 (Clerk marks exhibit.)
5
6 MR. ANDROS: Thank you. Your Honor, may I approach the witness?
7
8 THE COURT: You may.
9
10 MR. ANDROS: Sergeant Esposito, is Exhibit A the Consent to Search that the
11 suspect signed, and you witnessed?
12
13 SGT. ESPOSITO: Yes, it is.
14
15 MR. ANDROS: What did you uncover when you searched the house?
16
17 SGT. ESPOSITO: In the living room, we recovered a pipe containing a white residue,
18 a camera, and a laptop. In the bedroom in a drawer, we found
19 roughly \$4,900 in cash and a small plastic container with eleven
20 grams of methamphetamine crystals portioned into one-by-one-
21 inch baggies each containing a quarter gram. In the kitchen, we
22 uncovered a forty-five-caliber handgun hidden in a cereal box. At
23 that point, we placed the suspect under arrest and called Social
24 Services to take the child.
25
26 MR. ANDROS: Thank you for your time.
27
28 Cross Examination:
29
30 MR. VOLKOV: Sergeant Esposito, when you decided to go to 450 Edgewood
31 Boulevard and perform a knock and talk, you did so because you
32 suspected illegal activity at that location, correct?
33
34 SGT. ESPOSITO: Yes, sir.
35
36 MR. VOLKOV: And the totality of the information you had that led you to suspect
37 illegal activity at 450 Edgewood Boulevard was an anonymous tip
38 left on a hotline tape, correct?
39
40 SGT. ESPOSITO: Yes, and that we were able to confirm that, in 2023, a male had
41 been arrested outside of the home for possession of crystal meth.
42
43 MR. VOLKOV: All right, but the sum total of information that led you to believe
44 that there was illegal activity at 450 Edgewood Boulevard in the
45 year 2024 was an anonymous caller, correct?
46

1 SGT. ESPOSITO: Yes.
2
3 MR. VOLKOV: Was the caller anonymous, or do you know who the caller was?
4
5 SGT. ESPOSITO: The caller was anonymous. We do not trace their calls. As I said,
6 they can simply leave a message, and our message when they reach
7 the tip line assures them that their call is not being traced and that
8 they can choose to remain entirely anonymous. This line, as I said,
9 is for people who are afraid to just make a report to the police.
10
11 MR. VOLKOV: Armed with just that anonymous tip, Officer Esposito, there is no
12 way that you could have obtained a warrant to search 450A
13 Edgewood Boulevard, correct?
14
15 SGT. ESPOSITO: That's true.
16
17 MR. VOLKOV: Officer Esposito, was this the anonymous tip you referred to in
18 your testimony?
19
20 [Tape Recording Playing] Hello? Police? I live on Edgewood
21 Boulevard in Rochester. There are drug dealers living at 450
22 Edgewood Boulevard, down the street from me. All the neighbors
23 know that there is crystal meth being sold out of that house. There's
24 a woman, really just a teenager, lives there with her kid. I don't think
25 kids should live in a house like that. Also, about a year ago, a guy
26 was arrested outside of the house for possession of crystal meth.
27 There is a lot of traffic going in and out of that house buying meth.
28 I think they are even cooking it. Their neighbors at 450B are good
29 people—older folks who've lived there a long time. They shouldn't
30 have to live like that, scared of all the riff-raff coming and going
31 from that place. I hope you can do something about it. There are still
32 decent people living in this neighborhood.
33
34 SGT. ESPOSITO: Yes, sir. That is a tape recording of the tip.
35
36 MR. VOLKOV: What's the tipster talking about when he says 450B?
37
38 SGT. ESPOSITO: 450 Edgewood Boulevard is a duplex.
39
40 MR. VOLKOV: Oh, I see. So the address you got the tip about consisted of two
41 separate residences.
42
43 SGT. ESPOSITO: Yes.
44
45 MR. VOLKOV: Sergeant Esposito, you are a trained member of the Special
46 Investigations Section, correct?

1
2 SGT. ESPOSITO: Yes, sir.
3
4 MR. VOLKOV: And that includes training in investigative techniques in narcotics
5 cases, yes?
6
7 SGT. ESPOSITO: Yes.
8
9 MR. VOLKOV: One of those investigative techniques you are trained to use is
10 surveillance, correct?
11
12 SGT. ESPOSITO: Yes, sir.
13
14 MR. VOLKOV: But in this case, you decided not to employ any surveillance,
15 correct?
16
17 SGT. ESPOSITO: Correct.
18
19 MR. VOLKOV: The Special Investigations Section spent no time monitoring the
20 comings and goings of individuals in and out of the residence to
21 confirm whether there was a high volume of traffic, correct?
22
23 SGT. ESPOSITO: That's correct.
24
25 MR. VOLKOV: Another investigative technique you use commonly would be to
26 perform a trash pull to discover evidence of the manufacture or
27 sale of drugs, right?
28
29 SGT. ESPOSITO: Yes.
30
31 MR. VOLKOV: But in this case, you also decided not to perform any trash pulls?
32
33 SGT. ESPOSITO: Right.
34
35 MR. VOLKOV: Another investigative technique in which you have received
36 training is the use of a confidential informant to attempt to
37 purchase drugs, correct?
38
39 SGT. ESPOSITO: Yes.
40
41 MR. VOLKOV: But you decided not to use a CI to attempt to buy
42 methamphetamines from the residence?
43
44 SGT. ESPOSITO: No, sir, we did not send in a CI to purchase drugs.
45

1 MR. VOLKOV: Another investigative technique available to you would have been
2 to have an undercover officer attempt to purchase drugs from the
3 suspect, correct?
4
5 SGT. ESPOSITO: Yes.
6
7 MR. VOLKOV: But you decided not to send an undercover officer to attempt to
8 buy methamphetamines from the suspect?
9
10 SGT. ESPOSITO: That's correct.
11
12 MR. VOLKOV: You simply decided to proceed directly to the residence to talk to
13 its inhabitants and see what kind of information they might reveal,
14 right?
15
16 SGT. ESPOSITO: Yes, and to make visual observations of the premises and those
17 living in it.
18
19 MR. VOLKOV: What size of a team did you assemble?
20
21 SGT. ESPOSITO: Six officers.
22
23 MR. VOLKOV: Six officers. Did you have any indication that someone in the
24 residence was armed and dangerous?
25
26 SGT. ESPOSITO: We have to assume the worst, especially with the information
27 given by the tipster.
28
29 MR. VOLKOV: Okay, but you had no specific information that there were firearms
30 in the home?
31
32 SGT. ESPOSITO: No. But, as I told you, the tipster indicated it was a drug house and
33 guns are commonly found inside drug houses.
34
35 MR. VOLKOV: In what type of vehicles did you arrive at the scene?
36
37 SGT. ESPOSITO: Detective Johnstone and I were in a Rochester Police Department
38 marked vehicle, and the other four officers were in the tactical
39 vehicle.
40
41 MR. VOLKOV: What does that vehicle look like?
42
43 SGT. ESPOSITO: It is an armored vehicle, all black. I suppose a civilian would say it
44 looks like a Humvee. It has the word police in large, block letters
45 stamped onto each side.
46

1 MR. VOLKOV: This vehicle is used in drug raids, correct?
2
3 SGT. ESPOSITO: Yes, sir.
4
5 MR. VOLKOV: When you arrived at 450 Edgewood Boulevard, where did you
6 park your squad car?
7
8 SGT. ESPOSITO: Directly in front of the residence.
9
10 MR. VOLKOV: And where did the other officers park the tactical vehicle?
11
12 SGT. ESPOSITO: Just behind the squad car.
13
14 MR. VOLKOV: Also directly in front of 450 Edgewood Boulevard?
15
16 SGT. ESPOSITO: Yes.
17
18 MR. VOLKOV: Your report says you arrived at 450 Edgewood Boulevard at 1830.
19 That's 6:30 p.m., correct?
20
21 SGT. ESPOSITO: Yes, sir.
22
23 MR. VOLKOV: Was it dark out?
24
25 SGT. ESPOSITO: Yes.
26
27 MR. VOLKOV: When you arrived at 450 Edgewood Boulevard, four officers
28 approached the door?
29
30 SGT. ESPOSITO: Yes.
31
32 MR. VOLKOV: What were they each wearing?
33
34 SGT. ESPOSITO: I was wearing my police department uniform. Detective Johnstone,
35 Officer Rue, and Officer Davis were wearing all black with black
36 bulletproof vests with the word police in large block letters across
37 the front.
38
39 MR. VOLKOV: In other words, Detective Johnstone, Officer Rue, and Officer
40 Davis were wearing raid gear, correct?
41
42 SGT. ESPOSITO: I guess you could call it that. They were not wearing the helmets
43 we wear for raids.
44
45 MR. VOLKOV: What about the two officers who stayed back at the tactical
46 vehicle. What were they wearing?

1
2 SGT. ESPOSITO: They were also wearing all black with the bulletproof vests
3 stamped police.
4
5 MR. VOLKOV: Were the officers in all black also wearing black combat boots?
6
7 SGT. ESPOSITO: Yes, sir.
8
9 MR. VOLKOV: Where were Detective Perez and Officer Capstone located while
10 you, Detective Johnstone, Officer Rue, and Officer Davis
11 approached the door?
12
13 SGT. ESPOSITO: They were standing outside the tactical vehicle at the street.
14
15 MR. VOLKOV: Could you see them from the door if and when you turned to look?
16
17 SGT. ESPOSITO: Yes, sir.
18
19 MR. VOLKOV: Even though it was dark?
20
21 SGT. ESPOSITO: Yes, sir. There are streetlights at that location.
22
23 MR. VOLKOV: What type of weapons did Detective Perez and Officer Capstone
24 have displayed?
25
26 SGT. ESPOSITO: Well, sir, they were not displaying any weapons. However, they
27 had rifles down at their sides.
28
29 MR. VOLKOV: So, they had rifles, that is, long guns, which they were holding
30 down to their sides.
31
32 SGT. ESPOSITO: Yes, sir. Perimeter officers for the Special Investigations Section
33 have long guns for long-range shooting if necessary.
34
35 MR. VOLKOV: And, from the front porch, you could see the officers and the rifles
36 down at their sides, correct?
37
38 SGT. ESPOSITO: Yes, sir.
39
40 MR. VOLKOV: Sergeant, what types of weapons were visible on your person?
41
42 SGT. ESPOSITO: Well, I suppose I have holsters visible to the public containing, on
43 my right side, my firearm, and on the left side, my taser, although
44 the taser may appear to the public to be a firearm as well.
45

1 MR. VOLKOV: What types of weapons did Detective Johnstone, Officer Rue, and
2 Officer Davis have on their persons?
3
4 SGT. ESPOSITO: Do you want to know what they had on their person or what
5 someone could see on their person?
6
7 MR. VOLKOV: What weapons did they have that were visible to an observer?
8
9 SGT. ESPOSITO: They would have had a sidearm in a black net holster on their side
10 that I do not think an observer would have noticed. The black net
11 holsters blend into the black pants, which have many pockets.
12
13 MR. VOLKOV: What other weapons did they have?
14
15 SGT. ESPOSITO: Well, at a minimum, they had two side arms and a taser, none of
16 which were likely visible to the public. I have an additional side
17 arm as well not visible to the public in a holster around one leg.
18
19 MR. VOLKOV: On drug raids, do these officers carry additional weapons?
20
21 SGT. ESPOSITO: Yes. Officers on the entry team on a drug raid carry sub-machine
22 guns in their hands.
23
24 MR. VOLKOV: Were these weapons available to Detective Johnstone, Officer Rue,
25 and Officer Davis on December 3, 2024?
26
27 SGT. ESPOSITO: Yes. They left them hanging in the tactical vehicle.
28
29 MR. VOLKOV: Are City of Rochester police officers provided body cameras?
30
31 SGT. ESPOSITO: Yes. But policy provides that officers do not activate body cameras
32 when conducting a knock and talk, which is a community
33 caretaking function.
34
35 MR. VOLKOV: So there is no body camera footage of this event?
36
37 SGT. ESPOSITO: That is correct. I was performing a community caretaking function,
38 and the other officers were borrowed from the Tactical Unit, using
39 their gear and their vehicle. The Tactical Unit does not use body
40 cameras.
41
42 MR. VOLKOV: Why not?
43
44 SGT. ESPOSITO: For a number of reasons. As a matter of policy, the Tactical Unit
45 does not use body cameras because the release of footage would
46 impact officer safety by alerting criminals to tactical operations.

1 There is also the matter of where to mount cameras on tactical
2 gear, funding issues especially if equipment would have to be
3 redesigned and replaced to accommodate a camera, things like
4 that.

5
6 MR VOLKOV: Could the officers have decided on this day to wear body cameras
7 and record?

8
9 SGT. ESPOSITO: No. It is not part of their equipment. There are no body cameras in
10 the Tactical Unit vehicle.

11
12 MR. VOLKOV: Sergeant, you said that you, Detective Johnstone, Officer Davis,
13 and Officer Rue approached the door. Are you talking about the
14 door shared by 450A and B?

15
16 SGT. ESPOSITO: Yes.

17
18 MR. VOLKOV: To reach that door, you walked up three cement steps onto a small
19 cement porch, correct?

20
21 SGT. ESPOSITO: Yes.

22
23 MR. VOLKOV: Did you notice anything odd about the dwelling as you
24 approached?

25
26 SGT. ESPOSITO: We noticed that there were crystals crunching under our feet.

27
28 MR. VOLKOV: Like salt used after a snowstorm?

29
30 SGT. ESPOSITO: Would have been consistent with any kind of crystal. Salt, crystal
31 meth—

32
33 MR VOLKOV: But Rochester had a snowstorm the day before, yes?

34
35 SGT. ESPOSITO: Yes, that's true.

36
37 MR. VOLKOV: So, say at the police station you work out of. On December 3,
38 2024, was there salt crunching under your feet as you approached
39 the entrance?

40
41 SGT. ESPOSITO: Yes.

42
43 MR. VOLKOV: So, you get to the door of 450, and you open the screen door,
44 correct?

45
46 SGT. ESPOSITO: Yes.

1
2 MR. VOLKOV: Could you tell that you were knocking on a solid door shared by
3 the two separate residences, A and B?
4
5 SGT. ESPOSITO: Yes. There were two long, narrow windows, one on each side of
6 the door, so we could see that there was a vestibule shared by A
7 and B. Both residences then had solid doors with addresses
8 identifying which was A and which was B.
9
10 MR. VOLKOV: Didn't you testify earlier that it was dark out?
11
12 SGT. ESPOSITO: Yes, but there was a light on in the vestibule. There was a single,
13 pretty dim bulb, but there was enough light to see the solid doors
14 inside the vestibule and the addresses on them.
15
16 MR. VOLKOV: So, it was this solid door shared by 450 A and B that you knocked
17 on, yes?
18
19 SGT. ESPOSITO: Yes, sir.
20
21 MR. VOLKOV: While you held the screen door open?
22
23 SGT. ESPOSITO: Yes.
24
25 MR. VOLKOV: Why did you think my client would answer the door, and not her
26 neighbors?
27
28 SGT. ESPOSITO: We didn't know that, necessarily. But the lights were on inside her
29 side of the house and not in the other side of the house, so I would
30 say that given the hour, our assumption was that her neighbors
31 were not in their residence at that particular point in time.
32
33 MR. VOLKOV: Sergeant, it says in your police report that you knocked on the door
34 for three minutes before someone came to the door. Were you
35 knocking continuously for that entire time?
36
37 SGT. ESPOSITO: Well, no sir. I would knock, wait for a response, then knock again.
38
39 MR. VOLKOV: About how many times would you say you knocked again?
40
41 SGT. ESPOSITO: I really don't recall.
42
43 MR. VOLKOV: Well, three minutes is a long time. Would you say maybe ten?
44
45 SGT. ESPOSITO: Maybe, but I wouldn't want to guess.
46

1 MR. VOLKOV: During that time, Sergeant, isn't it true that you and your fellow
2 officers were yelling open up the door?
3
4 SGT. ESPOSITO: Yes, we announced we were police and said open up the door.
5
6 MR. VOLKOV: Well, but you didn't merely say it, did you? You yelled open up
7 the door more than once, correct?
8
9 SGT. ESPOSITO: Yes, that sounds accurate.
10
11 MR. VOLKOV: Sergeant Esposito, at some point in time, did you also yell at my
12 client to hang up the fucking phone and answer the door?
13
14 SGT. ESPOSITO: After a time, we could see the suspect inside 450A looking out the
15 windows, and then we could see her talking on her cell phone. We
16 demanded several times that she hang up the phone and answer the
17 door.
18
19 MR. VOLKOV: So, is that yes, you yelled at my client to, quote, hang up the
20 fucking phone, unquote?
21
22 SGT. ESPOSITO: Sir, I know that we asked several times for her to get off of the
23 telephone and answer the door. I know that we were very
24 concerned that she was talking to someone who would help her
25 destroy evidence or who would arrive armed and posing a danger
26 to the officers. I cannot dispute that one of us may have sworn at
27 the suspect to get off the phone, as she did not seem to be listening
28 to us, and we take very seriously the threat posed to our lives and
29 to the evidence had she been contacting someone to let them know
30 the police were there.
31
32 MR. VOLKOV: After banging on the door for three minutes and yelling at my
33 client to get off the phone and answer the door, Ms. Marino opened
34 the solid door shared by 450A and B, correct?
35
36 SGT. ESPOSITO: Yes.
37
38 MR. VOLKOV: Did you see my client come out of her door and travel across the
39 vestibule toward the door shared by the duplexes?
40
41 SGT. ESPOSITO: Yes.
42
43 MR. VOLKOV: My client opened the shared solid door and stood holding open that
44 door, correct?
45
46 SGT. ESPOSITO: Yes, sir.

1
2 MR. VOLKOV: Did you know my client?
3
4 SGT. ESPOSITO: No.
5
6 MR. VOLKOV: It looks to me from your police report that one of the first things
7 you asked was whether you could come in to talk. Is that correct?
8
9 SGT. ESPOSITO: Yes.
10
11 MR. VOLKOV: And she said no.
12
13 SGT. ESPOSITO: Right.
14
15 MR. VOLKOV: But you did not go away.
16
17 SGT. ESPOSITO: No.
18
19 MR. VOLKOV: You stayed and questioned her.
20
21 SGT. ESPOSITO: We stayed and asked her some questions.
22
23 MR. VOLKOV: Was my client under arrest at that time?
24
25 SGT. ESPOSITO: No.
26
27 MR. VOLKOV: Yet you detained her.
28
29 SGT. ESPOSITO: No, sir. She was not detained.
30
31 MR. VOLKOV: After my client said that you could not come into her home and
32 look around, you, in your words, stayed and asked her questions.
33
34 SGT. ESPOSITO: Yes.
35
36 MR. VOLKOV: Because you wanted to convince her to let you in the house.
37
38 SGT. ESPOSITO: We hoped to gather information.
39
40 MR. VOLKOV: You were on a fishing expedition.
41
42 SGT. ESPOSITO: As I said, we hoped to gather information.
43
44 MR. VOLKOV: At the point that my client answered the door, you made your
45 initial request to enter, and she refused, you did not have sufficient
46 information to seek or obtain a search warrant, did you?

1
2 MR. ANDROS: Objection. The sergeant does not determine whether he had
3 sufficient evidence to obtain a search warrant. That determination
4 is made by a judge or magistrate.
5
6 MR. VOLKOV: I will rephrase. At the point that my client answered the door, you
7 made your initial request to enter, and she refused, did you believe
8 that you had sufficient information to seek or obtain a search
9 warrant?
10
11 SGT. ESPOSITO: No.
12
13 MR. VOLKOV: Sergeant, at this time, did you notice people gathering on
14 Edgewood Boulevard Street watching?
15
16 SGT. ESPOSITO: No, I did not.
17
18 MR. VOLKOV: Would it surprise you if I told you they were?
19
20 SGT. ESPOSITO: Not much surprises me, sir.
21
22 MR. VOLKOV: About how long after your request to come in and talk did you,
23 Detective Johnstone, Officer Davis, and Officer Rue push your
24 way into the vestibule?
25
26 SGT. ESPOSITO: Are you asking me how long between our arrival and our entry into
27 the vestibule, or are you asking me whether we pushed our way
28 into the vestibule?
29
30 MR. VOLKOV: Are you saying, Sergeant Esposito, that my client invited you into
31 the vestibule?
32
33 SGT. ESPOSITO: It was snowing hard. She stepped back to get out of the snow with
34 us holding the screen door open and the solid door wide open. We
35 stepped into the vestibule with her to get out of the snow. We
36 interpreted her movement in as an invitation to do the same.
37
38 MR. VOLKOV: Back to my question, how long after your request to come in and
39 talk did you, Detective Johnstone, Officer Davis, and Officer Rue
40 enter the vestibule?
41
42 SGT. ESPOSITO: I'm not sure. Five minutes I would guess.
43
44 MR. VOLKOV: And I am correct that all four of the officers who had approached
45 the door came into the vestibule?
46

1 SGT. ESPOSITO: Yes, but Davis left shortly thereafter to seek a search warrant and
2 call Protective Services.

3

4 MR. VOLKOV: Let's get to that in a moment. At the time that you, Detective
5 Johnstone, Officer Davis, and Officer Rue entered the vestibule,
6 you did not believe that you had probable cause to obtain a search
7 warrant, correct?

8

9 SGT. ESPOSITO: Correct.

10

11 MR. VOLKOV: Describe for us the vestibule shared by the duplexes at 450
12 Edgewood Boulevard.

13

14 SGT. ESPOSITO: Well, it is a small room or hall.

15

16 MR. VOLKOV: About how big?

17

18 SGT. ESPOSITO: We did not measure, but I would say about twelve feet long and six
19 feet deep.

20

21 MR. VOLKOV: It must have been pretty crowded with four officers and my client
22 packed in there.

23

24 SGT. ESPOSITO: Yes, it was crowded.

25

26 MR. VOLKOV: The two doors to the duplexes are directly across from the outer
27 door, correct?

28

29 SGT. ESPOSITO: Yes.

30

31 MR. VOLKOV: Separated by about how many feet?

32

33 SGT. ESPOSITO: Facing the doors, A is to the left side, and B is to the right. I would
34 say there is about four feet of wall between the two doors.

35

36 MR. VOLKOV: While you were in the vestibule, the solid door to the outside
37 remained open and the screen door closed, correct?

38

39 SGT. ESPOSITO: Yes.

40

41 MR. VOLKOV: And my client's door, that is, the door to 450A, was cracked a few
42 inches?

43

44 SGT. ESPOSITO: Yes.

45

46 MR. VOLKOV: Where was everyone standing once you entered the vestibule?

1
2 SGT. ESPOSITO: The suspect had backed up and was standing just in front of her
3 door. I was essentially just in front of her. Officer Rue was to my
4 left, Detective Johnstone was to his left, kind of pushed up against
5 the wall, and Officer Davis was to my right.
6
7 MR. VOLKOV: Is it fair to say that the officers were in a semi-circle surrounding
8 my client?
9
10 SGT. ESPOSITO: Yes, I guess so.
11
12 MR. VOLKOV: What types of visual observations did you make in the vestibule?
13
14 SGT. ESPOSITO: Well, the area around B was very neat, consistent with old people
15 living there. There was a welcome mat just in front of the door, a
16 well-maintained mailbox affixed to the wall next to the door with
17 the address clearly displayed on the mailbox, and a couple of
18 plastic plants over on the right side of the vestibule in B's area.
19 The other half of the vestibule was different. There was the large
20 plastic container full of soda bottles next to the door adjacent to the
21 subject's residence. There was a little plastic tricycle leaning up
22 against the container, and there was a lot of garbage and plastic
23 toys strewn around. Officer Davis also stepped on the white crystal
24 substance I described earlier.
25
26 MR. VOLKOV: Let's discuss the white substance, Sergeant. You reported that,
27 facing the doors, the substance was about two feet to the right of
28 my client's door, which places it halfway between her door at A
29 and her neighbor's door at B, correct?
30
31 SGT. ESPOSITO: That's correct.
32
33 MR. VOLKOV: You also testified that you and the other officers had noticed salt
34 crunching under your feet on the walkway, correct?
35
36 SGT. ESPOSITO: That's correct.
37
38 MR. VOLKOV: And as we discussed, it had recently snowed, and salt crystals were
39 everywhere at that time.
40
41 SGT. ESPOSITO: Yes.
42
43 MR VOLKOV: Have you ever dealt with an icy walkway?
44
45 SGT. ESPOSITO: Yes, of course, this is upstate New York, sir.
46

1 MR VOLKOV: And what are you supposed to do when you have an icy walkway?
2
3 SGT. ESPOSITO: You put special salt on it that is designed to melt the ice.
4
5 MR VOLKOV: So what gave you reason to believe, after seeing salt on the
6 walkway, that the crystal Officer Davis stepped on would be
7 drugs?
8
9 SGT. ESPOSITO: I didn't look closely at the crystals outside. But the crystal Officer
10 Davis stepped on looked clear, whereas salt to melt ice and snow
11 usually has a yellow tinge.
12
13 MR. VOLKOV: Are you also saying that you concluded that old people lived next
14 door at 450B because the area in the vestibule around B was neater
15 than the area around A?
16
17 SGT. ESPOSITO: I'm saying it was consistent.
18
19 MR. VOLKOV: Consistent with what?
20
21 SGT. ESPOSITO: With what the tipster said.
22
23 MR. VOLKOV: The tipster didn't say that the people in 450B were neat, did she?
24
25 SGT. ESPOSITO: No. She said they were older, decent folks.
26
27 MR. VOLKOV: Well, did you do anything at all to check if the residents of 450B
28 were elderly?
29
30 SGT. ESPOSITO: No.
31
32 MR. VOLKOV: So, you're just saying old people are neat?
33
34 SGT. ESPOSITO: It was consistent.
35
36 MR. VOLKOV: Did you notice a lot of the walkway salt in the vestibule?
37
38 SGT. ESPOSITO: Some.
39
40 MR. VOLKOV: Were some of those in the area of 450B?
41
42 SGT. ESPOSITO: Probably.
43
44 MR. VOLKOV: Is that part of what you describe as neat?
45

1 SGT. ESPOSITO: I assumed that the large amounts of people described by the tipster
2 had tracked them in.
3
4 MR. VOLKOV: Seems like you assumed a lot of things.
5
6 MR. ANDROS: Objection, Your Honor. That is not a question. Now Mr. Volkov is
7 just badgering the witness.
8
9 MR. VOLKOV: I withdraw the comment. You testified earlier that there was a
10 large plastic container that contained soda bottles in the area of the
11 vestibule closer to door A, right?
12
13 SGT. ESPOSITO: Yes.
14
15 MR. VOLKOV: Did you notice any other boxes or cartons in the vestibule?
16
17 SGT. ESPOSITO: Yes.
18
19 MR. VOLKOV: Did you notice a large box that, at some point, contained
20 Campbell's soup?
21
22 SGT. ESPOSITO: Yes.
23
24 MR. VOLKOV: Also toward the A side of the vestibule?
25
26 SGT. ESPOSITO: Yes.
27
28 MR. VOLKOV: Well, couldn't my client and her son drink a lot of soda and eat a
29 lot of soup?
30
31 SGT. ESPOSITO: I don't know.
32
33 MR. VOLKOV: In your training and experience, does Campbell's soup have
34 anything to do with drug dealing?
35
36 SGT. ESPOSITO: No, sir.
37
38 MR. VOLKOV: You also testified earlier that you could smell a strong chemical
39 odor from the crack in my client's door.
40
41 SGT. ESPOSITO: Yes, I could smell a strong chemical odor like rotten eggs, which is
42 a typical sulfur smell usually indicative of manufacturing
43 methamphetamines. Additionally, we saw movement inside the
44 house, which turned out to be a young child. You asked me earlier
45 if we could have obtained a search warrant, and, yes, at this point,
46 we had enough evidence to obtain a search warrant.

1
2 MR. VOLKOV: Your Honor, I would like that comment struck from the record. It
3 is not responsive to any question.
4
5 THE COURT: Well, counsel, do you contest that, at this point, the officers had
6 probable cause to obtain a warrant?
7
8 MR. VOLKOV: Yes. And, furthermore, as Mr. Andros pointed out, a determination
9 of probable cause really isn't up to the police department.
10
11 THE COURT: All right, counsel. But are you arguing that, at the time that the
12 officers entered the vestibule and smelled a strong chemical odor
13 emanating from your client's residence, they lacked probable cause
14 to obtain a warrant?
15
16 MR. VOLKOV: Yes.
17
18 THE COURT: Counsel, why don't you simply continue? There is no jury here. I
19 will disregard the sergeant's testimony if need be. He is entitled to
20 say that he believed that, at that point, the officers had probable
21 cause to obtain a warrant, and that is how I understand his
22 testimony.
23
24 MR. VOLKOV: Yes, Your Honor. Sergeant Esposito, is it your testimony that you
25 personally smelled a strong chemical odor emanating from the
26 door crack of 450A?
27
28 SGT WILLIAMS: Yes.
29
30 MR. VOLKOV: And, furthermore, you have described an odor likened to the smell
31 of rotten eggs?
32
33 SGT. ESPOSITO: Yes.
34
35 MR. VOLKOV: The door leading into my client's residence is solid wood, right?
36
37 SGT. ESPOSITO: Yes.
38
39 MR. VOLKOV: We are not talking about a screen door?
40
41 SGT. ESPOSITO: No.
42
43 MR. VOLKOV: How far was it cracked?
44
45 SGT. ESPOSITO: I'm not sure. A few inches.
46

1 MR. VOLKOV: Not more than four inches?

2

3 SGT. ESPOSITO: Correct.

4

5 MR. VOLKOV: Where are the locations in the house where your team found

6 methamphetamines or chemicals?

7

8 SGT. ESPOSITO: We found methamphetamines in the living room and more in the

9 bedroom.

10

11 MR. VOLKOV: The living room was just within the door, correct?

12

13 SGT. ESPOSITO: Yes.

14

15 MR. VOLKOV: And in the living room you found only a pipe with some white

16 residue, yes?

17

18 SGT. ESPOSITO: Yes.

19

20 MR. VOLKOV: You're not saying you could smell the residue, are you?

21

22 SGT. ESPOSITO: I'm saying the smell was consistent with cooking crystal meth.

23

24 MR. VOLKOV: But you didn't find any evidence that anyone was cooking crystal

25 meth inside the residence!

26

27 SGT. ESPOSITO: The bottles in the vestibule were also consistent.

28

29 MR. VOLKOV: So whatever you thought you smelled may have been coming from

30 the vestibule, not the crack in the door?

31

32 SGT. ESPOSITO: I smelled the sulfur smell coming from inside 450A.

33

34 MR. VOLKOV: But you're not saying you could smell from the crack in the door

35 something that was in a room located on the other side of the

36 residence, behind a door, and in a drawer, are you?

37

38 SGT. ESPOSITO: No, sir.

39

40 MR. VOLKOV: That would be absurd, correct?

41

42 SGT. ESPOSITO: It is not my testimony. I could smell chemicals consistent with

43 crystal meth being manufactured in the home, and we eventually

44 located eleven grams of crystal meth inside the home.

45

1 MR. VOLKOV: On the U.S. attorney's counsel table is all of the evidence seized
2 from 450A and also the items you took from the shared vestibule
3 on December 3, 2024. How far away do you think you are right
4 now from that table?

5

6 SGT. ESPOSITO: Approximately 15 feet.

7

8 MR. VOLKOV: Can you smell anything?

9

10 SGT. ESPOSITO: No. But there are many interfering smells in the courtroom today,
11 and the smell I smelled comes from manufacturing the drug, not
12 the drug itself just sitting there.

13

14 MR. VOLKOV: Well, given that you were standing in a vestibule shared by two
15 duplexes, that only a screen door separated you from the street,
16 that there were five people in the vestibule, and that you testified
17 that there was a lot of trash and debris in my client's area of the
18 vestibule, am I correct to assume that there were some interfering
19 smells on December 3, 2024, in my client's vestibule as well?

20

21 SGT. ESPOSITO: Yes.

22

23 MR. VOLKOV: Sergeant Esposito, when the officials want to search packages and
24 suitcases, do they ever just use you instead of the drug dogs?

25

26 SGT. ESPOSITO: Is that supposed to be a joke?

27

28 MR. VOLKOV: It's funny, isn't it? No, I want you to answer. Does the department
29 still use drug dogs instead of you to sniff packages and suitcases?

30

31 SGT. ESPOSITO: Yes.

32

33 MR. VOLKOV: Did any of your fellow officers share your observation of smelling
34 a strong chemical odor when you conferred on the porch?

35

36 SGT. ESPOSITO: Not that they said, but you'll have to ask them.

37

38 MR. VOLKOV: So, you are the only one who said he could smell chemicals?

39

40 SGT. ESPOSITO: As far as I remember.

41

42 MR. VOLKOV: About how long did the four of you spend in the vestibule with my
43 client before you went outside to confer?

44

45 SGT. ESPOSITO: More than five but less than fifteen minutes.

46

1 MR. VOLKOV: Would it be fair to say, then, about ten minutes?

2

3 SGT. ESPOSITO: Approximately.

4

5 MR. VOLKOV: And it was during those ten minutes that you and Detective

6 Johnstone pointed your sidearms at my client's son?

7

8 SGT. ESPOSITO: Yes, it was during that time that we saw movement and drew our

9 weapons.

10

11 MR. VOLKOV: Sergeant Esposito, you testified that you ordered my client to stand

12 to the side and yelled for the person to come out with their hands

13 up, correct?

14

15 SGT. ESPOSITO: Yes.

16

17 MR. VOLKOV: Isn't it true that Detective Johnstone ordered my client's son to,

18 quote, come out with your fucking hands up or we start shooting,

19 end quote?

20

21 SGT. ESPOSITO: I don't think I could quote the detective exactly. You have to

22 understand that these situations pose a high danger to officers. We

23 had no idea that the boy was in the house. Once we saw him, it

24 made sense that he hesitated to come out. But, all we knew at the

25 time was that we saw movement, and the person did not

26 immediately come out when we ordered him to do so. We probably

27 yelled about four times for him to come out with his hands up. By

28 the fourth time, Detective Johnstone or I may have used profane

29 language. The adrenaline gets very high when you think you might

30 be shot by someone inside the house who you cannot really see. As

31 soon as the little boy came into sight, we reholstered our weapons.

32

33 MR. VOLKOV: You testified earlier that, at some point in time, you, Detective

34 Johnstone, and Officer Davis exited the vestibule. About how long

35 did you, Davis, and Johnstone spend on the front porch conferring?

36

37 SGT. ESPOSITO: Probably about eight minutes. We exchanged information, and

38 Officer Davis returned to the tactical vehicle and field-tested the

39 drugs.

40

41 MR. VOLKOV: What drugs?

42

43 SGT. ESPOSITO: The crystal I described.

44

45 MR. VOLKOV: Anything else that you field-tested?

46

1 SGT. ESPOSITO: No.
2
3 MR. VOLKOV: Did Officer Davis come back into the vestibule?
4
5 SGT. ESPOSITO: No. He left.
6
7 MR. VOLKOV: Before Officer Davis left, did you tell him, quote, I'll call you
8 when we get consent?
9
10 SGT. ESPOSITO: I believe I said I would call him if we got consent.
11
12 MR. VOLKOV: When Officer Davis left, did he announce he was going to seek a
13 search warrant and call Protective Services?
14
15 SGT. ESPOSITO: No.
16
17 MR. VOLKOV: About how long after Davis left did you call him to tell him that
18 my client had signed the consent to search form?
19
20 SGT. ESPOSITO: About ten minutes.
21
22 MR. VOLKOV: You arrived at the residence at 6:30 p.m., correct?
23
24 SGT. ESPOSITO: Yes.
25
26 MR. VOLKOV: And, according to your police report, my client signed the consent
27 to search at about 7 p.m.
28
29 SGT. ESPOSITO: Yes.
30
31 MR. VOLKOV: So, you talked to my client for thirty minutes before she signed
32 your consent to search form?
33
34 SGT. ESPOSITO: Minus the three minutes that we knocked.
35
36 MR. VOLKOV: Okay, so, at the time my client signed the consent to search, you
37 spent three minutes banging on the door and twenty-seven minutes
38 talking to my client?
39
40 SGT. ESPOSITO: I guess so.
41
42 MR. VOLKOV: Even though, after you had talked to her for only a minute, she
43 refused to let you come in and search?
44
45 SGT. ESPOSITO: Yes.
46

1 MR. VOLKOV: Sometime during the twenty-seven minutes of questioning,
2 Detective Johnstone told my client that she would be a lot better
3 off if she consented to the search, right?
4
5 SGT. ESPOSITO: As I said in my report, he told your client that it would be very
6 serious if Social Services found out that a young child lived in a
7 known drug house and that the best way to put these suspicions to
8 rest would be to let us come in and take a look around for
9 ourselves.
10
11 MR. VOLKOV: But Social Services were already going to be informed because
12 Davis left to inform them, right?
13
14 SGT. ESPOSITO: Yes.
15
16 MR. VOLKOV: Sergeant, when you produced the consent to search, and I see you
17 are the one who witnessed my client's signature, did you read the
18 document aloud to her?
19
20 SGT. ESPOSITO: Yes, I believe so. It is my practice to do so.
21
22 MR. VOLKOV: Why?
23
24 SGT. ESPOSITO: Many suspects cannot read, and we want to make sure they
25 understand what they are signing.
26
27 MR. VOLKOV: Did my client ask you any questions about the consent?
28
29 SGT. ESPOSITO: No.
30
31 MR. VOLKOV: Did she ask for any changes in the form?
32
33 SGT. ESPOSITO: No.
34
35 MR. VOLKOV: Did she take some time to look it over herself after you read it, or
36 did she just immediately sign it?
37
38 SGT. ESPOSITO: I believe she signed it immediately.
39
40 MR. VOLKOV: Sergeant, did you notice that my client did not really sign her
41 name, but rather that she printed it here on Exhibit A?
42
43 SGT. ESPOSITO: Yes. I can see that.
44
45 MR. VOLKOV: But my question is, did you notice it at the time?
46

1 SGT. ESPOSITO: I don't recall.
2
3 MR. VOLKOV: If you had, would it be an indication to you that she may be
4 illiterate?
5
6 MR. ANDROS: Objection. The witness testified already that he does not recall
7 whether he noticed it or not. Now defense counsel wants the
8 Sergeant to speculate as to what he might have thought had he
9 noticed it.
10
11 THE COURT: Sustained.
12
13 MR. VOLKOV: Sergeant Esposito, did you explain to my client the meaning of the
14 word acquiescence?
15
16 SGT. ESPOSITO: No.
17
18 MR. VOLKOV: The word curtilage?
19
20 SGT. ESPOSITO: No.
21
22 MR. VOLKOV: The word enticement?
23
24 SGT. ESPOSITO: No.
25
26 MR. VOLKOV: Sergeant, what was my client's child doing for the at least twenty
27 minutes between when he appeared and when my client consented
28 to the search?
29
30 SGT. ESPOSITO: The child was clinging to his mother and crying some.
31
32 MR. VOLKOV: At what point did you pry the child away from her entirely?
33
34 MR. ANDROS: Objection. Relevance.
35
36 MR. VOLKOV: I will rephrase the question. After my client signed the consent to
37 search, and you proceeded into the residence, did anyone stay with
38 my client and her child?
39
40 SGT. ESPOSITO: Yes, sir. Initially Detective Johnstone and I entered the residence,
41 and Officer Rue stayed in the vestibule with the suspect and the
42 child. Once Detective Johnstone found the pipe in the living room
43 and crystal meth in the bedroom, we went out to inform the others.
44 At that point, we placed Ms. Marino under arrest and placed her in
45 the squad car. Officer Capstone stayed with the suspect, and
46 Detective Perez stayed on the front porch with the child. Officer

1 Rue joined Detective Johnstone and me in the remainder of the
2 search.
3
4 MR. VOLKOV: Did Ms. Marino eventually come for the child?
5
6 SGT. ESPOSITO: Yes.
7
8 MR. VOLKOV: Has my client been reunited with her child since then?
9
10 MR. ANDROS: Objection, Your Honor. That has no relevancy to their motion to
11 suppress.
12
13 MR. VOLKOV: I beg to differ, Your Honor. These officers coerced my client to
14 consent to search by threatening to separate her from her child and
15 then separated her from her child anyhow.
16
17 THE COURT: I'll allow the Sergeant to answer. There's no jury here. I am sure I
18 can sort out the relevant from the irrelevant.
19
20 SGT. ESPOSITO: I don't know.
21
22 MR. VOLKOV: Sergeant Esposito, does the Special Investigations Section receive
23 federal funding?
24
25 SGT. ESPOSITO: No.
26
27 MR. VOLKOV: Are the members of the Special Investigations Section deputized to
28 act as federal agents?
29
30 SGT. ESPOSITO: No.
31
32 MR. VOLKOV: The reason you submitted your report to the federal prosecutors
33 rather than to the county prosecutor was the amount of
34 methamphetamines seized?
35
36 SGT. ESPOSITO: Yes.
37
38 MR. VOLKOV: Thank you, Sergeant, no further questions.
39
40 THE COURT: Mr. Andros, any redirect?
41
42 MR. ANDROS: Yes, thank you, Your Honor.
43
44

1 Redirect:
2
3 MR. ANDROS: Sergeant Esposito, up until the time when Ms. Marino signed the
4 consent to search, was Ms. Marino under arrest?
5
6 SGT. ESPOSITO: No.
7
8 MR. ANDROS: At any time, did any of the officers physically restrain Ms. Marino
9 from re-entering her residence?
10
11 SGT. ESPOSITO: No, sir.
12
13 MR. ANDROS: In fact, during the entire thirty minutes prior to Ms. Marino signing
14 the consent, did you or any other officer lay a hand on Ms.
15 Marino?
16
17 SGT. ESPOSITO: No.
18
19 MR. ANDROS: Nothing further. Thank you.
20
21 THE COURT: Thank you, Sergeant Esposito. You may step down. Next witness,
22 Mr. Andros?
23
24 MR. ANDROS: Yes, Your Honor. The people call Officer Sam Davis.
25
26 Officer Sam Davis, City of Rochester Police Department, Sworn
27 Direct Examination:
28
29 MR. ANDROS: Officer Davis, who are you employed by?
30
31 OFFICER DAVIS: The City of Rochester Police Department.
32
33 MR. ANDROS: What unit are you assigned to?
34
35 OFFICER DAVIS: I am assigned to the Special Investigations Section.
36
37 MR. ANDROS: On Thursday, December 3, 2024, were you assigned to the Special
38 Investigations Section?
39
40 OFFICER DAVIS: Yes, I was.
41
42 MR. ANDROS: On December 3, 2024, did you accompany Sergeant Sage Esposito
43 as a member of the Special Investigations Section to 450
44 Edgewood Boulevard in Rochester, New York?
45
46 OFFICER DAVIS: Yes, I did.

1
2 MR. ANDROS: What information did you have about any crime that may have
3 been occurring or had occurred at 450 Edgewood Boulevard on
4 December 3 when Special Investigations went there?

5
6 OFFICER DAVIS: That the Special Investigations Section had received a tip through
7 the drug hotline that someone was manufacturing and selling
8 crystal methamphetamines out of the residence located at 450A
9 Edgewood Boulevard and that someone about a year before had
10 been arrested outside of the residence for possession of
11 methamphetamines.

12
13 MR. ANDROS: What did Special Investigations plan to do at 450 Edgewood
14 Boulevard?

15
16 OFFICER DAVIS: We planned to perform an investigatory knock and talk.

17
18 MR. ANDROS: What is a knock and talk?

19
20 OFFICER DAVIS: When we have reason to suspect crime may be occurring at a
21 location, but insufficient information to obtain a search warrant,
22 we sometimes further investigate that suspected crime by seeing if
23 the suspect will talk with us voluntarily.

24
25 MR. ANDROS: So, you simply knock on the door?

26
27 OFFICER DAVIS: Yes, that's the first step. We knock on the door and attempt to
28 engage the occupant in conversation in order to obtain information
29 about a suspected crime.

30
31 MR. ANDROS: I understand from the police report and Sergeant Esposito's
32 testimony that on December 3, 2024, at about 1830, the Special
33 Investigations Section arrived at 450 Edgewood Boulevard?

34
35 OFFICER DAVIS: That's correct.

36
37 MR. ANDROS: What do you recall happening upon arrival?

38
39 OFFICER DAVIS: Sergeant Esposito, Officer Rue, Detective Johnstone, and I
40 approached the door, and Sergeant Esposito knocked.

41
42 MR. ANDROS: Were there any other officers from the Special Investigations
43 Section team present that evening?

44
45 OFFICER DAVIS: Yes. Detective Perez and Officer Capstone stood outside the
46 tactical vehicle on the street.

1
2 MR. ANDROS: What happened once Sergeant Esposito knocked on the suspect's
3 door?

4
5 OFFICER DAVIS: It took several minutes for the suspect to answer the door. Once
6 she did, we asked her questions about possible drug dealing at the
7 location.

8
9 MR. ANDROS: At some point in time, did someone ask the suspect for consent to
10 search the residence?

11
12 OFFICER DAVIS: Yes, at more than one point in time.

13
14 MR. ANDROS: What happened the first time?

15
16 OFFICER DAVIS: Sergeant Esposito, I believe, who was the lead officer on this
17 investigation, asked Ms. Marino if we could come in and take a
18 look around for ourselves; Ms. Marino said no. Several minutes
19 later, we entered the vestibule to get out of the snow. In the
20 vestibule, I stepped on a clear crystal substance about two feet
21 from the suspect's door and also saw a large plastic bin that
22 contained a large number of empty soda bottles. Sergeant Esposito,
23 Detective Johnstone, and I conferred outside. Then I tested the
24 substance, and it tested positive for methamphetamines. I then left
25 to obtain a search warrant.

26
27 MR. ANDROS: What was your planned basis for the search warrant?

28
29 OFFICER DAVIS: The anonymous tip and information that corroborated it, the crystal
30 in the vestibule that field-tested positive for methamphetamine, the
31 large plastic bin that contained a large number of empty soda
32 bottles that are commonly associated with cooking meth, and the
33 fact that Sergeant Esposito had detected a strong chemical smell
34 emanating from the residence, which also corroborated what the
35 tipster told us about drug dealing out of this location.

36
37 MR. ANDROS: Officer Davis, at some point in time, did you learn that Sergeant
38 Esposito had obtained the suspect's permission to search the
39 residence?

40
41 OFFICER DAVIS: Yes. I was back at the Special Investigations Section's
42 headquarters at the Rochester Police Department and had just
43 begun to type the affidavit in support of the warrant when Sergeant
44 Esposito radioed me and told me that I could stop because Ms.
45 Marino had signed a consent to search.

1 MR. ANDROS: Did you stop?
2
3 OFFICER DAVIS: Yes.
4
5 MR. ANDROS: Thank you. Nothing further.
6
7 Cross Examination:
8
9 MR. VOLKOV: Officer Davis, did you personally smell any chemicals while
10 standing in the vestibule at 450 Edgewood Boulevard?
11
12 OFFICER DAVIS: No. It smelled like garlic or strong spices to me.
13
14 MR. VOLKOV: Do you recall anyone other than Sergeant Esposito mentioning that
15 they smelled chemicals at any point in time while at 450
16 Edgewood Boulevard on December 3, 2024?
17
18 OFFICER DAVIS: No.
19
20 MR. VOLKOV: With regard to the crystal you found in the vestibule, you stepped
21 on that crystal about halfway between the door to 450A and the
22 door to 450B, correct?
23
24 OFFICER DAVIS: I guess that's right. I didn't take measurements.
25
26
27 MR. VOLKOV: When you left 450 Edgewood Boulevard to seek a search warrant,
28 as you were leaving, did Sergeant Esposito say, quote, I'll call you
29 when we get consent, unquote?
30
31 OFFICER DAVIS: Yes.
32
33 MR. VOLKOV: Officer Davis, when you left 450 Edgewood Boulevard to seek a
34 search warrant, did you also call Child Protective Services?
35
36 OFFICER DAVIS: Yes. At that point in time, we had become aware that there was a
37 small child in the house. Assuming we got to search the residence
38 and found the drugs we thought we would, we knew we would be
39 arresting Ms. Marino and would need someone to take custody of
40 her child.
41
42 MR. VOLKOV: When did you call Protective Services?
43
44 OFFICER DAVIS: When I was en route to the Police Department.
45

1 MR. VOLKOV: How long did it take you to drive from my client's house to the
2 Police Department?

3

4 OFFICER DAVIS: About five minutes.

5

6 MR. VOLKOV: So, that gave you approximately five more minutes at the station
7 before Sergeant Esposito called and told you he had obtained
8 consent to search?

9

10 OFFICER DAVIS: Yes.

11

12 MR. VOLKOV: During those five minutes, what did you do?

13

14 OFFICER DAVIS: Well, I believe I used the restroom and got a cup of coffee. Then, I
15 went into the Special Investigations Section's office and found the
16 forms on the computer for the affidavit and the warrant.

17

18 MR. VOLKOV: At the time Sergeant Esposito called to tell you my client had
19 signed the consent form, how far along were you in preparing your
20 affidavit?

21

22 OFFICER DAVIS: Oh, only a factual allegation or two. I'm not the world's greatest
23 typist.

24

25 MR. VOLKOV: If possible, I need you to be more specific. What was the first
26 allegation you typed?

27

28 OFFICER DAVIS: I set forth the tip we had received. Come to think of it, that was a
29 long paragraph. I guess I had only typed most of the allegation
30 with regard to the tip before Esposito called. Can't get much done
31 typing with two fingers.

32

33 MR. VOLKOV: Before Sergeant Esposito called you to tell you that my client had
34 signed the consent form, had you contacted the prosecuting
35 attorney with regard to your warrant request?

36

37 OFFICER DAVIS: No. Not yet. It was pretty late in the evening. I thought I would
38 prepare the affidavit, then call the on-call prosecutor and tell him
39 that I was faxing him the affidavit and warrant for his review.

40

41 MR. VOLKOV: About how long would it normally take the prosecutor to review
42 your warrant request?

43

44 OFFICER DAVIS: Oh, not long. About five minutes.

45

1 MR. VOLKOV: But then the prosecutor may have some questions for you about the
2 affidavit, right?
3
4 OFFICER DAVIS: Yes. We usually need to discuss the affidavit and investigation a
5 bit. The prosecutor may also have some suggestions on the way
6 that we have stated the allegations.
7
8 MR. VOLKOV: Might the prosecutor also want additional information or for you to
9 perform additional investigation?
10
11 OFFICER DAVIS: Yes, that happens sometimes.
12
13 MR. VOLKOV: Does the prosecution usually want further information?
14
15 OFFICER DAVIS: It is not at all unusual for the prosecutor to make suggestions in the
16 way we have stated the allegations or to ask us to flesh out more
17 the information included. It is unusual, however, for him to want
18 further investigation.
19
20 MR. VOLKOV: Assuming that the prosecutor has some suggestions for changes
21 but does not require you to investigate further, typically, about how
22 long would it take between faxing the request to the prosecutor and
23 finalizing the documents?
24
25 OFFICER DAVIS: Oh, maybe about 15 minutes.
26
27 MR. VOLKOV: Does the prosecutor then come into the office to sign the warrant
28 request?
29
30 OFFICER DAVIS: It depends on the on-call prosecutor. Some of the ones that live
31 closer like to come in and sign in person. The ones that live further
32 usually just fax or email back a signed copy.
33
34 MR. VOLKOV: Once you get the prosecutor's signature, you contact the on-call
35 judge or magistrate, yes?
36
37 OFFICER DAVIS: Yes.
38
39 MR. VOLKOV: How do you contact him or her?
40
41 OFFICER DAVIS: We call the on-call judge to let him or her know we are faxing or
42 emailing a warrant request.
43
44 MR. VOLKOV: Does the judge or magistrate sign in person or by fax or email?
45

1 OFFICER DAVIS: Again, it depends on the judge. Some of them require you to bring
2 the request out to their home after you've faxed it so that they can
3 sign in person.
4

5 MR. VOLKOV: Does the judge or magistrate sometimes have questions for you
6 about the request?
7

8 OFFICER DAVIS: No. That's extremely unusual. By the time we have prepared the
9 request and affidavit, and we do a lot of these drug cases, and the
10 prosecutor has reviewed it for probable cause and made any
11 suggestions he needs to, it doesn't take long to get the magistrate's
12 signature.
13

14 MR. VOLKOV: Typically, if there are no problems, about how long does it take for
15 you to prepare the affidavit and warrant request, get the
16 prosecutor's signature, and present the request to the judge and
17 obtain his signature?
18

19 OFFICER DAVIS: It depends how complicated the case is. Some affidavits in big
20 investigations are very complicated. This was a simple case. Start
21 to finish, it would have taken me no more than an hour.
22

23 MR. VOLKOV: We established that, at the time Sergeant Esposito called and
24 informed you that my client had signed the consent to search form,
25 you had not contacted the on-call prosecutor. Additionally, you
26 had not yet contacted any judge or magistrate, correct?
27

28 OFFICER DAVIS: No. We never call the on-call judge until the prosecutor has signed
29 the warrant request because we may have to change the affidavit.
30 We don't disturb the judge at home or wake him in the middle of
31 the night until we have to.
32

33 MR. VOLKOV: So, you were about five minutes into an approximately one-hour
34 process when Sergeant Esposito called to tell you that Ms. Marino
35 had signed the consent to search, correct?
36

37 OFFICER DAVIS: Yes, that's about right.
38

39 MR. VOLKOV: Thank you. That's all.
40

41 Redirect:
42

43 MR. ANDROS: Officer Davis, were you confident that you would obtain your
44 search warrant based upon the tip, the evidence that corroborated
45 the tip, the crystal methamphetamine that you stepped on in the
46 vestibule near the suspect's door, the plastic bin that had contained

1 a large amount of soda bottles typically associated with cooking
2 methamphetamines, and the strong chemical odor?
3
4 MR. VOLKOV: Objection. Leading.
5
6 THE COURT: Sustained.
7
8 MR. ANDROS: I'll rephrase. Were you confident, Officer Davis, that you would
9 obtain your search warrant?
10
11 MR. VOLKOV: Objection. Calls for speculation.
12
13 THE COURT: Your response, Mr. Andros?
14
15 MR. ANDROS: The officer's level of confidence with regard to obtaining the
16 warrant is part of the test, Your Honor, for inevitable discovery, so
17 I have to be able to ask the officer his level of confidence.
18
19 THE COURT: All right. Sergeant, what was your level of confidence?
20
21 OFFICER DAVIS: High.
22
23 MR. ANDROS: Nothing further.
24
25 MR. VOLKOV: I need to ask an additional question, Your Honor.
26
27 THE COURT: Go ahead. Recross.
28
29 Recross:
30
31 MR. VOLKOV: Officer Davis, couldn't absolutely anyone see that a woman lived
32 in 450A, and that she lived there with her child?
33
34 MR. ANDROS: Objection. Calls for speculation; argumentative.
35
36 THE COURT: Sustained. Anything else, Mr. Volkov?
37
38 MR. VOLKOV: Is there anything unusual, Sergeant, about a woman living in that
39 duplex?
40
41 OFFICER DAVIS: No.
42
43 MR. VOLKOV: In fact, Sergeant, doesn't a woman live in approximately ninety
44 percent of the residences in this area?
45
46 MR. ANDROS: Object—

1
2 OFFICER DAVIS: I don't know.
3
4 THE COURT: Next witness?
5
6 MR. ANDROS: Yes, Your Honor. Officer Randy Rue.
7
8 Officer Randy Rue, City of Rochester Police Department, Sworn
9 Direct Examination:
10
11 MR. ANDROS: Officer Rue, who are you employed by?
12
13 OFFICER RUE: The City of Rochester Police Department.
14
15 MR. ANDROS: What unit are you assigned to?
16
17 OFFICER RUE: The Special Investigations Section.
18
19 MR. ANDROS: On December 3, 2024, did you accompany other members of
20 Special Investigations to 450 Edgewood Boulevard in Rochester,
21 New York?
22
23 OFFICER RUE: Yes.
24
25 MR. ANDROS: Why did you and the other officers go there?
26
27 OFFICER RUE: We went there based on a tip received on the drug hotline.
28
29 MR. ANDROS: What kind of tip?
30
31 OFFICER RUE: Sergeant Esposito received an anonymous tip indicating that there
32 was drug activity—specifically, drug dealing—at that address. In
33 addition, the tipster apparently revealed that there may have been a
34 child living there and that, not all that long ago, someone had been
35 arrested for possession of methamphetamines outside of that
36 address.
37
38 MR. ANDROS: What did you and the other officers plan on doing when you got
39 there?
40
41 OFFICER RUE: What we refer to as a knock and talk.
42
43 MR. ANDROS: Can you explain to me what a knock and talk is?
44
45 OFFICER RUE: Yes. It is a kind of preliminary investigation. Basically, we knock
46 on the door and attempt a dialogue with the occupant in the hopes

1 of gathering information from them. It can be a useful tool when
2 we suspect criminal activity but when it is too early in the
3 investigation to obtain a warrant.

4
5 MR. ANDROS: Am I correct in understanding that you and the other officers
6 arrived at 450 Edgewood Boulevard at approximately 1830 on
7 December 3, 2024, the night in question?

8
9 OFFICER RUE: Yes.

10
11 MR. ANDROS: Who approached the door?

12
13 OFFICER RUE: Sergeant Esposito, Detective Johnstone, Officer Davis, and I
14 approached the door. Detective Perez and Officer Capstone
15 remained in the street near the tactical vehicle.

16
17 MR. ANDROS: Who knocked on the door?

18
19 OFFICER RUE: Sergeant Esposito.

20
21 MR. ANDROS: What happened after Sergeant Esposito knocked on the door?

22
23 OFFICER RUE: Nothing at first.

24
25 MR. ANDROS: There was no answer?

26
27 OFFICER RUE: No, not at first. After several minutes, the suspect opened the door.

28
29 MR. ANDROS: Did someone ask the suspect for consent to search the residence?

30
31 OFFICER RUE: Yes, a few times.

32
33 MR. ANDROS: What was her response?

34
35 OFFICER RUE: Sergeant Esposito asked her about the possibility of drug dealing at
36 the residence, and then he asked her if we could take a look
37 around.

38
39 MR. ANDROS: What did she say?

40
41 OFFICER RUE: At first, she said no.

42
43 MR. ANDROS: Were you on the steps or in the vestibule at this point?

44
45 OFFICER RUE: Well, I can't remember exactly how far the conversation had
46 progressed before we were allowed into the vestibule. I just know

1 that, after the suspect finally answered the door, Sergeant Esposito
2 initiated the conversation by bringing up the possibility of drug
3 dealing at the residence and then asked if we could have a look
4 around. However, once we were in the vestibule, Sergeant Esposito
5 detected a strong chemical smell, and Officer Davis stepped on a
6 crystal that tested positive for methamphetamines. Davis also
7 observed a large plastic bin full of empty soda bottles.

8
9 MR. ANDROS: How did each officer respond?

10
11 OFFICER RUE: Before Sergeant Esposito mentioned anything about the chemical
12 odor, I believe he asked the suspect point blank whether there were
13 any drugs in the house or whether there was any other kind of
14 illegal activity going on in the house. She denied it again. I don't
15 recall if Officer Davis made mention of the crystal or the bin full
16 of soda bottles while we were in the vestibule.

17
18 MR. ANDROS: At some point, a decision was made to obtain a warrant. What
19 information was this decision based on?

20
21 OFFICER RUE: I was not involved in the discussion immediately preceding the
22 decision to obtain a warrant. While we were all still in the
23 vestibule, Sergeant Esposito asked one more time if we could take
24 a look around. I stayed with the suspect in the vestibule while
25 Sergeant Esposito, Officer Davis, and Detective Johnstone stepped
26 back out onto the front steps. That's when they made the decision
27 to obtain a warrant.

28
29 MR. ANDROS: Am I correct in understanding that, after the decision to obtain a
30 warrant was made, Officer Davis left to obtain the warrant, and
31 you were again joined by Sergeant Esposito and Detective
32 Johnstone in the vestibule?

33
34 OFFICER RUE: That's correct.

35
36 MR. ANDROS: What happened after Officer Davis left to obtain a warrant, and
37 you were rejoined in the vestibule by the other two officers?

38
39 OFFICER RUE: We asked the suspect a few more questions.

40
41 MR. ANDROS: Did you learn anything that might have helped your investigation?

42
43 OFFICER RUE: No, not really.

44
45 MR. ANDROS: A short time later, the suspect consented to your requests to search
46 the residence, correct?

1
2 OFFICER RUE: Yes.
3
4 MR. ANDROS: And she signed the consent form?
5
6 OFFICER RUE: Yes.
7
8 MR. ANDROS: Did you see her sign it?
9
10 OFFICER RUE: I was right there. Yes.
11
12 MR. ANDROS: Did you find any evidence of illegal activity when you conducted
13 your search?
14
15 OFFICER RUE: Yes, sir. Let's see, we found a clear pipe in the living room with
16 meth residue, several grams of crystalized methamphetamines in
17 the bedroom portioned into small one-by-one-inch baggies, and a
18 gun hidden inside of a cereal box in the kitchen.
19
20 MR. ANDROS: Thank you for your time, Officer Rue.
21
22 Cross Examination:
23
24 MR. VOLKOV: Officer Rue, about how long did you stand at the door knocking
25 before my client answered?
26
27 OFFICER RUE: I didn't knock.
28
29 MR. VOLKOV: Who did?
30
31 OFFICER RUE: Sergeant Esposito.
32
33 MR. VOLKOV: Were you standing right there while he was knocking?
34
35 OFFICER RUE: Yes.
36
37 MR. VOLKOV: How long did he knock for before my client answered the door?
38
39 OFFICER RUE: I'd say two, maybe three minutes.
40
41 MR. VOLKOV: As Sergeant Esposito knocked, and you, Officer Davis, and
42 Detective Johnstone stood by, were you yelling at her to open the
43 door?
44
45 OFFICER RUE: Yes, we announced who we were and asked her to come talk to us.
46

1 MR. VOLKOV: Would it be more accurate to say you asked her to come and talk to
2 you, or that you demanded that she open up the door?
3
4 OFFICER RUE: We yelled for her to open up the door.
5
6 MR. VOLKOV: Were all four of you yelling?
7
8 OFFICER RUE: I do not recall.
9
10 MR. VOLKOV: Were you yelling?
11
12 OFFICER RUE: Yes, I believe I yelled for her to open up the door.
13
14 MR. VOLKOV: And you weren't the only one yelling that, were you?
15
16 OFFICER RUE: No, I was not.
17
18 MR. VOLKOV: Did you or any of the other officers yell at my client to hang up the
19 phone and answer the door?
20
21 OFFICER RUE: I don't think I did.
22
23 MR. VOLKOV: Did anyone else?
24
25 OFFICER RUE: They may have.
26
27 MR. VOLKOV: Eventually, after Sergeant Esposito banged on my client's door for
28 a while and you all yelled at her to get off the phone and open the
29 door, she opened the door to her residence and then opened the
30 solid door of the vestibule shared by both residences in the duplex,
31 correct?
32
33 OFFICER RUE: Yes, after about three minutes.
34
35 MR. VOLKOV: Sergeant Esposito asked her if you could come in, correct?
36
37 OFFICER RUE: Yes.
38
39 MR. VOLKOV: And she responded no?
40
41 OFFICER RUE: Correct.
42
43 MR. VOLKOV: But you and the other officers did not leave. You stayed and began
44 asking her questions, right?
45
46 OFFICER RUE: Yes, we stayed to ask her a few questions.

1 MR. VOLKOV: How did all four of you end up in the vestibule with my client?

2
3 OFFICER RUE: Well, after we stood there talking to her for a few minutes, it began
4 to snow hard. Your client stepped back into the vestibule and was
5 holding the screen door open. We simply followed her in out of the
6 snow.

7
8 MR. VOLKOV: And all four of you entered the vestibule?

9
10 OFFICER RUE: Yes.

11
12 MR. VOLKOV: While the solid door to the outside remained open, for which
13 doorway there was a screen door that was closed, the door leading
14 directly into my client's apartment was cracked open just a few
15 inches, right?

16
17 OFFICER RUE: Affirmative.

18
19 MR. VOLKOV: Do you remember there being a plastic bin full of empty soda
20 bottles, and other salt-like chunks on the floor?

21
22 OFFICER RUE: Yes, sir.

23
24 MR. VOLKOV: At some point, Sergeant Esposito stated that he detected a strong
25 chemical smell and attempted to call my client's attention to it in
26 his requests to get her to let you search her house. Am I right?

27
28 OFFICER RUE: Sergeant Esposito indicated that he could smell a strong chemical
29 odor and that we had been tipped off that this was a drug house. He
30 expressed concern for the child and asked if we could take a look
31 around.

32
33 MR. VOLKOV: And my client said she could not smell the chemicals?

34
35 OFFICER RUE: Yes, she denied being able to smell chemicals, and she denied that
36 she was a drug user.

37
38 MR. VOLKOV: Did you detect this chemical smell, Officer Rue?

39
40 OFFICER RUE: No. I was suffering from the aftermath of COVID at that time, so
41 my nose was a little plugged.

42
43 MR. VOLKOV: Did Officer Davis say that he detected this chemical smell?

44
45 OFFICER RUE: No, he did not.

1 MR. VOLKOV: What about Detective Johnstone? Could he smell it?
2
3 OFFICER RUE: All I can answer, sir, is that he did not indicate in my presence that
4 he could.
5
6 MR. VOLKOV: When the other three officers went outside to talk, about how long
7 were you alone in the vestibule with my client and her son?
8
9 OFFICER RUE: Maybe seven or eight minutes.
10
11 MR. VOLKOV: And when Sergeant Esposito and Detective Johnstone finally
12 entered my client's house to search it, you remained in the
13 vestibule for several more minutes with my client and her child,
14 correct?
15
16 OFFICER RUE: Yes.
17
18 MR. VOLKOV: So, it is fair to say that, of all the officers there that evening, you
19 spent the most time in the vestibule?
20
21 OFFICER RUE: Fair.
22
23 MR. VOLKOV: And you detected no smell at any time?
24
25 OFFICER RUE: Like I said, sir, I was post-COVID-19 at that point, so no I did not.
26
27 MR. VOLKOV: The first time you were left alone in the vestibule with my client
28 and her son, when the other three officers went outside to talk, did
29 you talk with my client or her son at all?
30
31 OFFICER RUE: Yes, sir. I tried to keep the lines of communication open between
32 ourselves and the suspect.
33
34 MR. VOLKOV: Did you continue to press her for permission to enter her house and
35 conduct a search?
36
37 OFFICER RUE: I wouldn't say that I pressed her.
38
39 MR. VOLKOV: What did you say to her?
40
41 OFFICER RUE: Well, I can't recall what I said word for word. I think I suggested
42 that, if she in fact had nothing to hide, then she should let us take a
43 quick look, and we'd be on our way.
44
45

1 MR. VOLKOV: Did you suggest that, if she would just let you conduct a search
2 instead of making you obtain a search warrant, her home would be
3 spared from being torn up during the search?

4
5 OFFICER RUE: I may have mentioned that raids conducted on search warrants are
6 generally more intrusive to the resident than searches that are
7 voluntarily consented to, but at no time was I trying to scare her
8 into letting us conduct a search.

9
10 MR. VOLKOV: What would be the point of you making any such comment, one
11 way or the other?

12
13 OFFICER RUE: I was just trying to make her life easier. I actually felt sorry for her.

14
15 MR. VOLKOV: Did you tell my client that, when you have to get a warrant, you
16 take everything out of the cupboards and pour it on the floor?

17
18 OFFICER RUE: I don't recall that.

19
20 MR. VOLKOV: In your search pursuant to consent, didn't you take everything out
21 of the cupboards and pour it on the floor anyhow?

22
23 OFFICER RUE: I don't recall.

24
25 MR. VOLKOV: Well, the legally registered gun you found was inside a box of
26 cereal, right?

27
28 OFFICER RUE: Right.

29
30 MR. VOLKOV: Did you also ask my client who was going to take care of her
31 child?

32
33 OFFICER RUE: It's possible. I don't recall specifically. I know I mentioned
34 something to the effect that the best way that she could alleviate
35 our concerns about the safety of her child would be to just let us
36 take a quick look around.

37
38 MR. VOLKOV: At that point in time, could you have arrested my client for
39 anything?

40
41 OFFICER RUE: No, sir.

42
43 MR. VOLKOV: At that point in time, when you were alone with my client and her
44 son in the vestibule, could you have called Protective Services to
45 come and get my client's son?

46

1 OFFICER RUE: No.
2
3 MR. VOLKOV: While you were alone with my client in the vestibule, did you bend
4 down and call my client's son over to you?
5
6 OFFICER RUE: Yes. I could tell he was a bit frightened or confused about us being
7 there. I was trying to make the child and his mother feel
8 comfortable, to create a calm environment. To defuse the tension.
9 Those are things we are trained to do, for our safety, for the safety
10 of the public, and for the safety of the suspect.
11
12 MR. VOLKOV: For a moment, did my client's son let go of his mother and come
13 over to you?
14
15 OFFICER RUE: Yes. I was letting him know he needn't fear an officer of the law.
16
17 MR. VOLKOV: Did you notice my client crying at this point?
18
19 OFFICER RUE: I noticed that your client was crying softly in the vestibule. As I
20 have stated, I felt compassion for her and attempted to defuse the
21 fearful nature of the encounter.
22
23 MR. VOLKOV: Did you hold onto the hand of my client's child even though you
24 could see that my client was upset?
25
26 OFFICER RUE: I let go of the kid's hand when your client reached out for him.
27
28 MR. VOLKOV: But my question is, did you hold onto the child's hand for a minute
29 first?
30
31 OFFICER RUE: Yes, for a moment, and then I let him go.
32
33 MR. VOLKOV: Once Officer Davis left the premises to obtain a warrant, assuming
34 you actually had probable cause for that warrant, couldn't you
35 have prevented, at that point, my client from re-entering the
36 residence?
37
38 OFFICER RUE: Yes, at that point we could secure the premises until the process of
39 obtaining a warrant was complete.
40
41 MR. VOLKOV: If you were so confident you had probable cause and would have
42 obtained a warrant, why did you keep pressing my client to
43 consent? Why didn't you just secure the residence until you
44 obtained your warrant? Wouldn't that have been the most prudent
45 thing to do?
46

1 OFFICER RUE: To answer your third question, I don't know. To answer your
2 second question, what I did was continue to give your client
3 accurate information about the process. To answer your first
4 question, we didn't wait for the warrant because the subject
5 consented before the warrant was obtained.
6

7 MR. VOLKOV: Since you could have secured the premises pending the warrant,
8 there was no danger of evidence being lost or destroyed while you
9 sought the warrant, right?
10

11 OFFICER RUE: Correct.
12

13 MR. VOLKOV: Thank you, Officer Rue. That will be all.
14

15 THE COURT: Any redirect?
16

17 MR. ANDROS: No, Your Honor.
18

19 THE COURT: Officer Rue, you may step down. Further witnesses, Mr. Andros?
20

21 MR. ANDROS: No, Your Honor.
22

23 THE COURT: Mr. Volkov?
24

25 MR. VOLKOV: Yes, Your Honor. The defense calls Ms. Lucy Marino.
26

27 Ms. Lucy Marino, Defendant, Sworn
28

29 Direct Examination:
30

31 THE COURT: Good morning, Ms. Marino.
32

33 MS. MARINO: Good morning, judge.
34

35 THE COURT: Mr. Volkov, you may proceed.
36

37 MR. VOLKOV: Good morning, Ms. Marino. I have some questions for you about
38 December 3, 2024, the night police came into your home.
39

40 MS. MARINO: Yup.
41

42 MR. VOLKOV: Ms. Marino, do you live at the house located at 450A Edgewood
43 Boulevard in Rochester, New York?
44

45 MS. MARINO: (nods head)
46

1 MR. VOLKOV: Will you please answer yes or no, so the court reporter can record
2 your verbal answers?
3
4 MS. MARINO: Oh. Sure. Yeah, I live there.
5
6 MR. VOLKOV: Does anyone else live with you?
7
8 MS. MARINO: Sometimes my baby's dad—Charles's dad—he stays.
9
10 MR. VOLKOV: As of December 3, 2024, did just you and your son live at 450A
11 Edgewood Boulevard?
12
13 MS. MARINO: Yes.
14
15 MR. VOLKOV: How long have you lived at 450A Edgewood Boulevard?
16
17 MS. MARINO: Since a little before Charles was born.
18
19 MR. VOLKOV: Is your son's name Charles, Ms. Marino?
20
21 MS. MARINO: Yeah. Yes. Charles Enzo.
22
23 MR. VOLKOV: How old is Charles?
24
25 MS. MARINO: Charles just turned three in July.
26
27 MR. VOLKOV: Do you have any other children?
28
29 MS. MARINO: No, sir. Just Charles.
30
31 MR. VOLKOV: As of December 3, 2024, was Charles two?
32
33 MS. MARINO: Yes.
34
35 MR. VOLKOV: At that point in time, when Charles was two, was he in daycare or
36 preschool during the day?
37
38 MS. MARINO: No, sir. He stayed with me all day. I can't afford daycare. Plus, I
39 want to spend time with my baby.
40
41 MR. VOLKOV: Ms. Marino, are you employed anywhere?
42
43 MS. MARINO: No, not since Charles came. I was working at Taco Bell, but, when
44 I had Charles, I couldn't work and afford daycare for him too. I'd
45 rather watch him myself, because then I know he's safe, you

1 know? I hear a lot of bad stories about kids with babysitters and in
2 daycare.
3

4 MR. VOLKOV: Were you receiving any public assistance, Ms. Marino, before you
5 were arrested on December 3, 2024?
6

7 MS. MARINO: Yeah, FA, family assistance and SNAP. And the government pays
8 some of my rent. When Charles gets older, like when he goes to
9 school, I can get a job.
10

11 MR. VOLKOV: Okay. So, have you spent every day of Charles's life with him
12 since he was born until December 3, 2024?
13

14 MS. MARINO: Yeah. Every single day.
15

16 MR. VOLKOV: When is the last time you got to spend the day with your son?
17

18 MS. MARINO: I haven't seen my baby Charles ever since I got arrested. I've been
19 locked up since the police arrested me.
20

21 MR. VOLKOV: Ms. Marino, why haven't you been out on bail?
22

23 MS. MARINO: I can't pay it.
24

25 MR. VOLKOV: Have you met with anyone from the Department of Human
26 Services about your son since you've been in jail?
27

28 MS. MARINO: Yeah, yeah, they come and talked to me a few times.
29

30 MR. VOLKOV: What have they told you about where Charles is?
31

32 MS. MARINO: For a little while, he was with a foster family. I was so upset about
33 that. I was in foster care for a while when I was a kid, when my
34 mom was with a bad guy, and it was so bad. You don't know what
35 people are like. I never wanted that for Charles.
36

37 MR. VOLKOV: So, for a while, Charles was in foster care?
38

39 MS. MARINO: Yeah, but now he's with his Nonna, his dad's mom. I'm scared I'll
40 never get him back. The social worker won't tell me if I will or
41 won't.
42

43 MR. VOLKOV: Have you had an opportunity to visit Charles while you've been
44 housed in the jail awaiting trial?
45

1 MS. MARINO: I told the social worker that I don't want Charles to visit me in jail.
2 I don't want him to see his mama like this. I just don't (crying
3 softly).

4

5 MR. VOLKOV: I know this is difficult, Ms. Marino. Thank you for your testimony.
6 You testified earlier that the government was helping with your
7 rent. Were you paying some rent as well?

8

9 MS. MARINO: My part is about \$50 a month.

10

11 MR. VOLKOV: How have you paid that portion of your rent?

12

13 MS. MARINO: Uh, sometimes Charles's dad gives it to me, but not often enough.

14

15 MR. VOLKOV: When is the last time that Charles's dad also lived at 450A
16 Edgewood Boulevard?

17

18 MS. MARINO: He stays from time to time, maybe a couple nights a week here and
19 there. He's my boyfriend.

20

21 MR. VOLKOV: Ms. Marino, I want to turn to your level of education, okay?

22

23 MS. MARINO: (Nods.) Oh, sorry. Yes, sir, Mr. Volkov.

24

25 MR. VOLKOV: Tell me the grades you have completed in school.

26

27 MS. MARINO: I went through the eighth grade. I would have gone into high
28 school just after I had Charles.

29

30 MR. VOLKOV: So, you completed the eighth grade and never began high school?

31

32 MS. MARINO: Right, yeah.

33

34 MR. VOLKOV: Why did you stop school?

35

36 MS. MARINO: I was pretty pregnant with Charles, and I moved and just stopped
37 going.

38

39 MR. VOLKOV: So, you dropped out of school?

40

41 MS. MARINO: Yeah, I turned seventeen that summer, you know. I never liked
42 school.

43

44 MR. VOLKOV: When you were in school, where did you go?

45

46 MS. MARINO: Maple Park School Number 41 in Rochester.

1
2 MR. VOLKOV: Maple Park is the public middle school in Rochester, New York?
3
4 MS. MARINO: Yes.
5
6 MR. VOLKOV: At that time, where did you live?
7
8 MS. MARINO: With my mom and her boyfriend at Sunflower Gardens.
9
10 MR. VOLKOV: Sunflower Gardens is a mobile home community in Rochester,
11 New York, correct?
12
13 MS. MARINO: Yeah.
14
15 MR. VOLKOV: Why did you move from your mom's home when you were
16 seventeen?
17
18 MS. MARINO: I lived with my mom and her boyfriend, plus a bunch of pets in my
19 mom's trailer—might as well have lived at a zoo. It was crowded
20 and did not smell great. It wasn't that good. I wanted to make sure
21 nothing bad happened to my baby.
22
23 MR. VOLKOV: You moved to protect your child when he was born?
24
25 MS. MARINO: Yes, sir.
26
27 MR. VOLKOV: How did you manage to move?
28
29 MS. MARINO: Charles's dad helped me some. He's a lot older than me, you
30 know? So he sometimes helps me figure things out. Like he
31 helped me figure out how to get help with a place to stay.
32
33 MR. VOLKOV: How much older is Charles's father than you?
34
35 MS. MARINO: Twelve years or there abouts.
36
37 MR. VOLKOV: So, are you saying he helped you figure out how to apply for
38 government assistance?
39
40 MS. MARINO: Yeah. Yeah, and he helped me move some stuff, you know.
41
42 MR. VOLKOV: Ms. Marino, I am going to ask you a hard question now. Ms.
43 Marino, can you read and write?
44
45 MS. MARINO: A little. I get by fine.
46

1 MR. VOLKOV: Ms. Marino, how old are you now?
2
3 MS. MARINO: Nineteen.
4
5 MR. VOLKOV: After you dropped out of school after the eighth grade at seventeen
6 years of age, have you had any more school?
7
8 MS. MARINO: No.
9
10 MR. VOLKOV: Have you taken any classes or gotten your GED?
11
12 MS. MARINO: No, no time for that with a baby.
13
14 MR. VOLKOV: Ms. Marino, wasn't it hard to finish middle school without reading
15 and writing?
16
17 MS. MARINO: I got held back a lot. I wasn't the only one who couldn't read good.
18 They would always want me to go to summer school. I always
19 hated school. I didn't go.
20
21 MR. VOLKOV: I am going to show you, Ms. Marino, what has been marked as
22 Exhibit A. Your Honor, may I approach the witness stand?
23
24 THE COURT: You may, Mr. Volkov.
25
26 MR. VOLKOV: Ms. Marino, do you recognize this document?
27
28 MS. MARINO: No, sir, Mr. Volkov. I really don't. I don't remember it, exactly.
29
30 MR. VOLKOV: Do you see near the bottom where your name is printed by hand?
31
32 MS. MARINO: Yes, sir.
33
34 MR. VOLKOV: Does that look like your writing?
35
36 MS. MARINO: Yeah, my writing, yeah.
37
38 MR. VOLKOV: Do you think you wrote that?
39
40 MS. MARINO: Yes, I think so. It's how I write my name.
41
42 MR. VOLKOV: Let the record reflect that the name is printed by hand, not signed,
43 and that the letter "N" is printed backwards. Ms. Marino, I see you
44 can write down your name. But you never learned to sign it,
45 correct?
46

1 MS. MARINO: So I never learned cursive.
2
3 MR. VOLKOV: Please don't be offended, Ms. Marino, but this is important for the
4 record. Are there words besides your name you can print?
5
6 MS. MARINO: Yes, some. Of course. Some. Not big words. I don't like to. I don't
7 like to write. Not my thing.
8
9 MR. VOLKOV: When you filled out forms for public assistance, did someone help
10 you?
11
12 MS. MARINO: Yeah. Yes. Charles's dad. And the workers too. They read the
13 forms to me. They helped me fill them out.
14
15 MR. VOLKOV: Ms. Marino, can you read at all?
16
17 MS. MARINO: Yeah, I just always had problems with reading and stuff. It was
18 always real hard for me. I can write my name, my son's name,
19 simple stuff, smaller words. I'm good with numbers though.
20
21 MR. VOLKOV: Let's talk about the night of December 3. Do you remember a
22 point on December 3 at which police officers knocked on your
23 door?
24
25 MS. MARINO: Yeah. More like pounding on my door.
26
27 MR. VOLKOV: What were you doing at the time?
28
29 MS. MARINO: I was sitting on the couch watching TV. Charles had fallen asleep
30 on the couch, and I was watching TV.
31
32 MR. VOLKOV: Do you remember what time it was?
33
34 MS. MARINO: Oh geez. It was like maybe 6:30. I wondered, who was pounding
35 after dark? No need to break the door down. I looked out the
36 window and saw four big men standing on the front porch looking
37 like a biker gang or somebody looking for trouble.
38
39 MR. VOLKOV: Were you also on the telephone at this time?
40
41 MS. MARINO: Oh, yeah. I was talking to my friend Suzi when I heard the banging
42 on the door.
43
44 MR. VOLKOV: Ms. Marino, why do you say that the men on the porch were
45 looking like a biker gang?
46

1 MS. MARINO: They were big. At least one had long, stringy hair. They had
2 tattoos and beards. You know, just need the helmet with skulls on
3 it and a souped-up Harley for the complete picture.
4

5 MR. VOLKOV: Did you realize they were the police?
6

7 MS. MARINO: Not at first. They didn't look like no police I ever saw. Then they
8 started pounding harder on the door and yelling stuff like this is the
9 police. Open up the door! Then, I noticed one guy knocking had on
10 a police uniform.
11

12 MR. VOLKOV: Did you see any other police?
13

14 MS. MARINO: I didn't know what the other three were. They were in dark clothes.
15 Like I say, they looked like a gang of bikers.
16

17 MR. VOLKOV: What happened next?
18

19 MS. MARINO: I was scared. I didn't know what to do. I ran to a different window
20 where I could see out the house better. I saw two more big guys
21 dressed dark standing by the street. They had big guns. Then I
22 noticed that my neighbors were starting to gather round and stare.
23 There was still pounding and yelling at the door. They started
24 yelling at me to answer the door. They were yelling things like
25 hang up the fucking phone and open up the door.
26

27 MR. VOLKOV: At some time did you answer the door?
28

29 MS. MARINO: Yes. I was scared. I didn't know what to do. But it didn't seem like
30 the men would go away. They were pounding and yelling, and that
31 drew all the looky-loos and busy bodies. My neighbors must have
32 thought I was a serial killer. For sure, a criminal. I thought they
33 were going to bust down the door. You know the landlord won't
34 pay for that. I told Suzi I guess I better open the door because they
35 wouldn't leave. She told me to call her back later. I hung up my
36 cell phone and went into the hall and through the hall to open the
37 door.
38

39 MR. VOLKOV: Are you speaking of the door you share with your neighbors at 450
40 Edgewood Boulevard?
41

42 MS. MARINO: Yes.
43

44 MR. VOLKOV: What happened when you opened the door?
45

1 MS. MARINO: It's hard to remember right. They said they were police. They said
2 I was running a drug house?! They wanted to come in. They were
3 loud. They were big.
4

5 MR. VOLKOV: Was more than one of them talking to you?
6

7 MS. MARINO: Yeah. Uh-huh. It was confusing.
8

9 MR. VOLKOV: Did one of the officers ask you if he could come into your house?
10

11 MS. MARINO: Yeah. I mean, after causing that ruckus?
12

13 MR. VOLKOV: What did you say?
14

15 MS. MARINO: I said no. I was really polite about it too, but Charles was sleeping.
16 I was scared of them. I didn't know what to do. I wanted them to
17 leave, but they would never leave.
18

19 MR. VOLKOV: Do you mean that, after you told the officers that they could not
20 come in your house, they did not leave?
21

22 MS. MARINO: No. They kept asking me questions and accusing me of being a
23 drug dealer, saying I was going to lose my kid.
24

25 MR. VOLKOV: At some time, did the officers come into the vestibule—the front
26 hallway that you share with the duplex next door?
27

28 MS. MARINO: Yes. When I first opened the door, it was just snowing a little.
29 Then it started to snow hard. The snow was coming in at me. I took
30 a step back, and in came all four of the police.
31

32 MR. VOLKOV: Without your permission, all four officers came into the vestibule?
33

34 MS. MARINO: Yes. Just walked in like they owned the place.
35

36 MR. VOLKOV: Did you ask the men to leave?
37

38 MS. MARINO: You mean did I tell them get off my porch and go away? No, no.
39 You can't tell the police to get out.
40

41 MR. VOLKOV: Ms. Marino, at some point in time, do you think you gave the
42 officers permission to come in and look around the house?
43

44 MS. MARINO: I guess so. After they came in the hall, they pulled guns on my son.
45 They were shouting and swearing, saying come out with your
46 fucking hands up or we start shooting!

1
2 MR. VOLKOV: What happened after Charles came out into the vestibule?
3
4 MS. MARINO: They were even louder. They didn't go away. The big guys on the
5 street were still there. Everyone was still staring. My son was
6 crying. It was so horrible, Mr. Volkov, I don't know how to tell
7 you. They said they would take away Charles if I didn't let them
8 in. I was all alone.
9
10 MR. VOLKOV: Ms. Marino, do you remember a point in time when some of the
11 officers went back out of the vestibule and went outside to talk?
12
13 MS. MARINO: Yes, three of them went out and one was still in the hall with me.
14
15 MR. VOLKOV: Do you know why three of them went out?
16
17 MS. MARINO: No. Never told me nothing.
18
19 MR. VOLKOV: Could you hear what they were saying?
20
21 MS. MARINO: No.
22
23 MR. VOLKOV: Do you know the name of the officer who was left in the vestibule
24 with you?
25
26 MS. MARINO: No.
27
28 MR. VOLKOV: Did the officer who was still in the vestibule with you say anything
29 to you while the others were gone?
30
31 MS. MARINO: Yes. He kept saying that, if I wasn't doing anything, why didn't I
32 let them take a look around? He says, have you ever seen when
33 they come in on a raid with a search warrant? They tear up the
34 floorboards and they dump all the cereal out of every box onto the
35 floor. Is that what I wanted? He says it won't be like that if I let
36 them in. Then, he said, if you let us in to make sure there is nothing
37 illegal here, nothing would happen with Charles. He said
38 something like, who's going to take care of your child? Then he
39 bent down so he was short, sitting on his heels, and he says to
40 Charles, come here, little buddy, friendly-like, and held out his
41 hand. Charles let go of my hand and put his hand in the police's.
42 For about a minute, the policeman was holding onto Charles and
43 talking to Charles real quiet and I didn't know what to do. I was
44 starting to feel really panicked, really scared, like I couldn't
45 breathe. I didn't know, was he going to take him away right then?
46 Then Charles was looking at me, and he began to cry. I started to

1 cry, too, but quiet, not so Charles could hear. I held out my hand to
2 Charles, and he came running into my arms. I just held onto him
3 the whole rest of the time. I held him up on my hip when the other
4 police came back in, even though he's getting real big, because
5 there wasn't any room to keep holding him down on the floor.
6

7 MR. VOLKOV: Was there a point when you could hear anything the officers
8 outside said?

9

10 MS. MARINO: Yeah. Right before they came back in, as one is coming in the
11 door, he says to the other, I'll call you when she signs. Then, two
12 come back in, and one left.

13

14 MR. VOLKOV: Do you know how long after two of the officers came back into the
15 vestibule you signed the form?

16

17 MS. MARINO: I'm not sure. Since one had hold of Charles, I still couldn't even
18 breathe. I felt panicked and couldn't think the whole rest of the
19 time. Then they took him forever (crying softly).

20

21 MR. VOLKOV: Ms. Marino, do you need to take a break?

22

23 MS. MARINO: I'll be okay. Let's just get this over with.

24

25 MR. VOLKOV: Do you know how long it was between when the officers first
26 pounded on your door and when you let them come in to take a
27 look around?

28

29 MS. MARINO: I'm not sure. It felt like forever. It seemed like hours.

30

31 MR. VOLKOV: Going back to Exhibit A, do you remember an officer reading this
32 consent form aloud to you?

33

34 MS. MARINO: I'm sorry, Mr. Volkov. I just don't remember it.

35

36 MR. VOLKOV: Ms. Marino, did you read through the form on your own?

37

38 MS. MARINO: Oh, no. I know I didn't do that. Like I said, I got trouble reading.
39 Plus, Charles was scared and crying. My neighbors were outside
40 gawking. It was dark in the hall. With all that happening, I know
41 that I couldn't read that legal paper.

42

43 MR. VOLKOV: Did you understand what you were signing at the time?

44

45 MS. MARINO: I mean, I knew they were going to come in, but, other than that, I
46 got no idea. I remember thinking I don't want my neighbors to

1 think I'm a criminal. Plus, if my housing worker thought I was a
2 criminal, I could lose my housing. They said they could get a
3 warrant anyhow, and then they would tear up the house. They
4 would never go away. It's like, just give me that paper.

5
6 MR. VOLKOV: Ms. Marino, do you know what the word curtilage means?

7
8 MS. MARINO: Never heard of it.

9
10 MR. VOLKOV: Do you know what the word acquiescence means?

11
12 MS. MARINO: No.

13
14 MR. VOLKOV: That's fine. Your Honor. Thank you, Ms. Marino.

15
16 Cross Examination:

17
18 MR. ANDROS: Good afternoon, Ms. Marino. My name is Leano Andros, and I am
19 here on behalf of the United States. I have a few short questions to
20 ask you about the same police encounter you just testified about.

21
22 MS. MARINO: Okay.

23
24 MR. ANDROS: You said that you've lived at 450A Edgewood Boulevard for about
25 three years, correct?

26
27 MS. MARINO: Yes.

28
29 MR. ANDROS: Have the police come to 450 Edgewood Boulevard any time before
30 the night in question, during your three years?

31
32 MS. MARINO: I guess, maybe once or twice.

33
34 MR. ANDROS: So, it's fair to say that this isn't your first encounter with the
35 police?

36
37 MS. MARINO: Well, I have been in a car that got pulled over before and whatever.
38 They've come to my house once before, but nothing like th—

39
40 MR. ANDROS: So, the night of December 3, 2024, wasn't unique in that you've
41 been questioned by police before, correct?

42
43 MS. MARINO: I guess.

44
45 MR. ANDROS: And when you looked out the window of your living room, you
46 testified that you saw some men on the street with big guns. Did

1 you notice that they were standing in front of a big armored vehicle
2 with the word POLICE on it in big, capital letters?
3
4 MS. MARINO: Yeah, that's even worse. Everyone knows they look like that when
5 they are going to bust down someone's door.
6
7 MR. ANDROS: So, even though you testified that the officers on your porch were
8 large, tattooed, and had facial hair, and that you saw two men in
9 dark clothing out by the street, you understood at the time that
10 these men were police officers, correct?
11
12 MS. MARINO: I got it after the initial shock.
13
14 MR. ANDROS: Now, Ms. Marino, you said that you were watching television in
15 the living room before the police knocked on your door. How far is
16 your living room located from the front door where Sergeant
17 Esposito knocked?
18
19 MS. MARINO: I don't know exactly.
20
21 MR. ANDROS: Can you approximate?
22
23 MS. MARINO: Well, the living room is right next to the front hall. Like, I can see
24 the front lawn from my living room window. Not far.
25
26 MR. ANDROS: Not far, okay. So, your living room, where you testified that you
27 were watching television when Sergeant Esposito knocked on the
28 door, is located next to the front door, and yet it took you almost 3
29 minutes to answer Sergeant Esposito's knocking?
30
31 MS. MARINO: I'm not sure how long it took me—
32
33 MR. VOLKOV: Objection. Asked and answered.
34
35 COURT: Overruled.
36
37 MR. ANDROS: But, Ms. Marino, you must admit that it took quite a lengthy
38 amount of time to answer the front door, located feet away from
39 where you were sitting, when Sergeant Esposito knocked, correct?
40
41 MS. MARINO: Like I said, I was scared to answer. It was dark, I was home
42 alone—
43
44 MR. ANDROS: Ms. Marino, isn't it true that you saw the police from your living
45 room window, which, as you testified, looks over the front lawn

1 where the police were standing, and took three minutes to hide
2 evidence?

3
4 MS. MARINO: What? Hide stuff in that shoe box? No. I didn't answer because I
5 was scared.

6
7 MR. ANDROS: Ms. Marino, you testified that, when you opened the door, you saw
8 six police officers outside, including two officers by the armored
9 vehicle whose weapons were unholstered?

10
11 MS. MARINO: Well, I wasn't even sure they were the police. They were so scary
12 looking. You wouldn't want to see these guys in a dark alley. An
13 episode of Dateline flashed through my head if you know what I
14 mean and I was about to star in it. The two big guys by the black
15 truck had those big, long guns out and ready to go. Locked and
16 loaded.

17
18 MR. ANDROS: And you could see this from your front door, even though it was
19 pitch black outside, snowing, and the officers were standing in the
20 street?

21
22 MS. MARINO: There were streetlights. So, I could see that those police had those
23 big guns. No mistake about it.

24
25 MR. ANDROS: Ms. Marino, at some point after you finally walked over to the
26 front door, isn't it true that, of your free volition, you allowed the
27 officers into the vestibule?

28
29 MS. MARINO: My free what? I opened the door, yes. Did I freely do something?
30 No. What do you mean?

31
32 MR. ANDROS: I mean that, when you stepped back, you were inviting the officers
33 in out of the snow.

34
35 MS. MARINO: No. I just took a step back because the snow was coming in, and
36 they all four pushed their way into the hall.

37
38 MR. ANDROS: Once the officers came into the hall, you never once asked them to
39 leave, correct?

40
41 MS. MARINO: No. I didn't tell them to leave. You can't tell the police what to do.
42 I just backed up toward my door and stood there in front of it while
43 they all crowded in, asking me questions, and telling me to let
44 them in the house.

1 MR. ANDROS: Ms. Marino, when asked by Sergeant Esposito if any illegal
2 activities were going on inside the residence, what did you tell
3 him?
4
5 MS. MARINO: Illegal stuff, no, I told him no.
6
7 MR. ANDROS: You responded that there were no illegal activities going on inside
8 the home, even though there was an overpowering chemical smell
9 emanating from inside your home, correct?
10
11 MS. MARINO: I don't know what you mean. There was no smell like that. I keep a
12 clean place.
13
14 MR. ANDROS: And when the officers asked if anyone else was home, you again
15 lied to the police, correct? You told police that you were home
16 alone, but this was a lie, wasn't it?
17
18 MS. MARINO: Lie to police? No, no way. I told them that I was the only one
19 there, except for my baby Charles, and he was sleeping.
20
21 MR. ANDROS: When the officers saw that the other individual in the home was
22 your young son, Detective Johnstone and Sergeant Esposito
23 immediately reholstered their weapons, correct?
24
25 MS. MARINO: They put their guns away.
26
27 MR. ANDROS: So, after lying about being home alone and lying about the drugs in
28 the house, Sergeant Esposito informed you that the officers were
29 going to get a search warrant for the home, is that correct?
30
31 MR. VOLKOV: Objection, Your Honor. That mischaracterizes my client's
32 testimony.
33
34 MR. ANDROS: I'll rephrase. At some point after the officers reholstered their
35 weapons, Sergeant Esposito informed you that the officers were
36 going to get a search warrant, correct?
37
38 MS. MARINO: He told me that he could get a warrant, so it didn't even matter if I
39 gave the police permission to enter my house.
40
41 MR. ANDROS: Ms. Marino, at this point, did either Detective Johnstone or
42 Sergeant Esposito request permission to enter your home and
43 conduct a search?
44

1 MS. MARINO: Yes. Sergeant Esposito told me that all the neighbors knew that I
2 sold drugs, and somebody had called the police to tell them I was a
3 drug dealer. I'm not a drug dealer.

4

5 MR. ANDROS: Is that when Sergeant Esposito read you the consent to search
6 form?

7

8 MS. MARINO: I don't know. I can't remember. Everything was happening all at
9 once.

10

11 MR. ANDROS: Ms. Marino, isn't that your name on Exhibit A, and didn't you
12 already testify you signed the form?

13

14 MS. MARINO: I'm not saying that I didn't give the police permission.

15

16 MR. ANDROS: Ms. Marino, is this your signature on this form?

17

18 MS. MARINO: Yeah.

19

20 MR. ANDROS: And you already testified that you knew this meant that the police
21 could come in and look around, correct?

22

23 MS. MARINO: Yes.

24

25 MR. ANDROS: Really, no one did anything to force you to sign it, right?

26

27 MR. VOLKOV: Objection, Your Honor. Calls for a legal conclusion.

28

29 MR. ANDROS: I'll restate. Ms. Marino, at any time, did any of these officers lay a
30 hand on you?

31

32 MS. MARINO: No.

33

34 MR. ANDROS: And none of the officers ever pointed their guns at you, did they?

35

36 MS. MARINO: No.

37

38 MR. ANDROS: When Sergeant Esposito read you the consent form, you didn't ask
39 any questions about it, did you?

40

41 MS. MARINO: No. No questions from me.

42

43 MR. ANDROS: You didn't tell the officer you didn't understand, right?

44

45 MS. MARINO: No. What would be the point?

46

1 MR. ANDROS: Ms. Marino, when you were in school, were you in any special
2 education classes?
3
4 MS. MARINO: I'm not special ed. I'm just not good at school. There's a
5 difference.
6
7 MR. ANDROS: All of Charles's life, you've taken care of him on your own, right?
8
9 MS. MARINO: Yeah, on my own. No help from no one.
10
11 MR. ANDROS: Ms. Marino, are you able to perform the basic caretaking functions
12 to raise your son? Are you able, for example, to bathe him without
13 injuring him and to cook him meals?
14
15 MS. MARINO: Of course I can. I always have. Charles is healthy. He's a healthy
16 kid. No one ever said they'd take him away before.
17
18 MR. ANDROS: Good. And so, you are able, for example, to follow the instructions
19 to heat up chicken nuggets or to make macaroni and cheese?
20
21 MS. MARINO: Yeah. Is this a joke? Don't need a college degree to heat up food.
22
23 MR. ANDROS: Ms. Marino, do you ever take the bus for transportation?
24
25 MS. MARINO: Yeah.
26
27 MR. ANDROS: Do you have any trouble reading and following the bus schedule?
28
29 MS. MARINO: No.
30
31 MR. ANDROS: Have you ever wound up on the wrong bus?
32
33 MS. MARINO: No.
34
35 MR. ANDROS: No more questions, Your Honor. Thank you, Ms. Marino.
36
37 THE COURT: Redirect, Mr. Volkov?
38
39 MR. VOLKOV: No, Your Honor.
40
41 THE COURT: You may step down, Ms. Marino. I see that it is 4 p.m. Do you
42 have additional witnesses, Mr. Volkov?
43
44 MR. VOLKOV: Yes, Your Honor: Ms. Suzi Bass.
45

1 THE COURT: She is going to have to wait until next motion day. I will continue
2 this hearing to July 8, 2025, at 1 p.m. Court is adjourned.

SPECIAL INVESTIGATIONS SECTION
PERMISSION TO SEARCH
City of Rochester New York

EXHIBIT

A

I LUCY MARINO, willingly give my permission to SGT. S. ESPOSITO and other law enforcement officer(s) he/she may designate or assign to assist him/her, to conduct a complete search of the premises and entire curtilage thereof, including all buildings, and vehicles, both inside and outside the property located at
450A EDGEWOOD BLVD. ROCHESTER

The above said officer(s) further have my acquiescence to take from the premises, any letters, papers, materials, or any other property or things which they desire as evidence for criminal prosecution in the case or cases under investigation. This written permission to search without a search warrant is given by me to the above officer(s) voluntarily and without any intimidation, coercion, or enticement of any kind, on this the 3 (Day) of DEC. (Month) of 2024 at (Time) 1859

Signed: LUCY MARIAO

WITNESS *Sage Esposto*

DATE 12-3-24

WITNESS

DATE 12/3/24

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Hon. Beverly D. Angelo
CASE #: CR 25-0192

V.

LUCY MARINO

Rochester, NY

July 8, 2025

1:00 p.m.

TRANSCRIPT OF CONTINUED EVIDENTIARY HEARING ON
DEFENDANT'S MOTION TO SUPPRESS EVIDENCE
BEFORE THE HONORABLE BEVERLY D. ANGELO

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Proceedings reported by machine shorthand; transcript produced by computer-aided transcription

PROCEEDINGS

1 THE CLERK: Criminal 25-0192, United States of America versus Lucy Marino.
2 Mr. Andros for the government. Mr. Volkov for the defendant.
3
4 THE COURT: We are here on the continued evidentiary hearing on the
5 defendant's motion to suppress evidence. Mr. Volkov, please call
6 your next witness.
7
8 MR. VOLKOV: Thank you, Your Honor. The defense calls Ms. Suzi Bass.
9
10 Ms. Suzi Bass, Witness for the defendant, Sworn
11
12 Direct Examination:
13
14 THE COURT: Good Morning, Ms. Bass.
15
16 MS. BASS: Hello. Good morning.
17
18 THE COURT: Mr. Volkov, you may proceed.
19
20 MR. VOLKOV: Good morning, Ms. Bass. I am going to ask you a few questions
21 about the evening of December 3, 2024, the night you were on the
22 phone with Ms. Marino when police officers came to her door.
23
24 MS. BASS: Mm-hmm.
25
26 MR. VOLKOV: It's important that you respond to my questions today with verbal
27 answers, such as yes and no, so the court reporter can take them
28 down.
29
30 MS. BASS: Sorry. Okay.
31
32 MR. VOLKOV: How old are you, Ms. Bass?
33
34 MS. BASS: I'll be 20 in December. December 12th.
35
36 MR. VOLKOV: Do you have a criminal record, or have you ever been arrested?
37
38 MS. BASS: No. I've never been in any kind of trouble like that at all.
39
40 MR. VOLKOV: Are you currently employed?
41
42 MS. BASS: Yeah. I work at a call center.
43
44 MR. VOLKOV: How long have you been there?

1
2 MS. BASS: Oh, about a year or so.
3
4 MR. VOLKOV: Do you work full-time?
5
6 MS. BASS: Yeah, pretty much. Some weeks I might work a little less than
7 forty hours, but sometimes more.
8
9 MR. VOLKOV: How long have you known Ms. Marino?
10
11 MS. BASS: Well, I guess a couple years or something like that.
12
13 MR. VOLKOV: How did the two of you meet?
14
15 MS. BASS: Well, I've lived on Edgewood Boulevard for about five years with
16 my mom about three blocks down the street from Lucy on the
17 three-hundred block. There's a Market on the corner of Edgewood
18 Boulevard and Dewey, and, a lot of the time, if I need something, I
19 just walk down to it. We were walking out of there at the same
20 time and going the same way. She looked like she was struggling
21 with the bags she was carrying, and I had like a carton of milk or
22 something, so I basically just asked her if I could help. She told me
23 where she was going, and I told her I was going just past there and
24 that I would carry something for her. It was just a short way, but
25 we got to talking. She seemed nice, and then, after that, we were
26 just always friendly with each other. I walked by her place all the
27 time, and, if she was out front, we would talk. And we both were
28 always walking to the store, so we just started walking all the time
29 together. I guess, after a while, we became good friends and started
30 hanging out.
31
32 MR. VOLKOV: Okay, so the two of you got along and began communicating
33 frequently. And you continued to keep in regular contact and spend
34 time with one another?
35
36 MS. BASS: Oh, yeah. I mean, after we met, we started hanging out pretty
37 regular.
38
39 MR. VOLKOV: What do you do together?
40
41 MS. BASS: Well, she doesn't get too much help with Charles. It is not like his
42 dad comes around that much to give her a break. It's pretty much
43 just her and Charles and, him being so little and all, she has to look
44 after him and take care of him day and night. Mostly we hang out
45 at her place, talking, watching TV and stuff, and looking after
46 Charles. He's our main entertainment, you know? I really got to

1 like going over there. He's such a good little kid, and he was
2 always cracking us up, especially once he started walking and
3 talking.

4
5 MR. VOLKOV: Do you remember where you were the night of December 3, 2024,
6 at around 6:30 p.m.?

7
8 MS. BASS: Uh-huh. I was at home.

9
10 MR. VOLKOV: Do you remember what you were doing?

11
12 MS. BASS: Like I said, I live with my mom, and she had gone out. I was
13 sitting by myself, messing around on my phone, and kinda waiting
14 on her to get home so I could ask her how it went, because it was
15 more like a date she went on, and I knew she'd probably want to
16 tell me all about it anyway. We're close like that. Anyway, I can't
17 remember if she called me or I called her, but, while I waited, I
18 was talking on the phone with Lu.

19
20 MR. VOLKOV: With Ms. Marino, you mean?

21
22 MS. BASS: Yeah. I call her Lu or Lucy, too. We were talking on the phone.

23
24 MR. VOLKOV: What were you talking about?

25
26 MS. BASS: Just random stuff like we usually do, I guess. I turned on the TV
27 because I could hear her TV in the background, and I knew she
28 was watching The Voice, so I started watching it too.

29
30 MR. VOLKOV: Is The Voice the name of a television show?

31
32 MS. BASS: Yes, it was the semi-finals elimination rounds.

33
34 MR. VOLKOV: Sorry to interrupt, Ms. Bass, but how do you know it was that
35 show she was watching?

36
37 MS. BASS: Well, if you ever saw the show, you'd know. It has a very
38 distinctive theme song every time the show returns from
39 commercial. I could also hear Reba and Snoop, two of my favorite
40 artists talking about their teams.

41
42 MR. VOLKOV: And you and Ms. Marino continued your conversation after you
43 turned on the television?

1 MS. BASS: Yeah. We were kind of laughing at ourselves, you know? I mean,
2 she was team Gwen and I favored Snoop and Reba, so we really
3 got into it when it got down to the semis.
4

5 MR. VOLKOV: Was it while you and Ms. Marino were both watching television
6 and talking on the phone with one another that police officers
7 arrived at Ms. Marino's home?
8

9 MS. BASS: Yeah, it was.
10

11 MR. VOLKOV: How did you come to know that police officers were outside Ms.
12 Marino's home?
13

14 MS. BASS: Well, we were talking and watching TV, and then Lu said
15 something like hold on, I think someone's here. She sounded real
16 surprised. Like a second or two later, she was like someone's
17 pounding on my door!
18

19 MR. VOLKOV: Is that all you heard, Ms. Marino telling you that someone was
20 outside, or did you hear anything else?
21

22 MS. BASS: Oh, no, I heard a bunch more. I could tell Lu was freaked out when
23 she first told me someone was pounding on her door. I turned the
24 TV down, and we both stopped talking and got real quiet. That's
25 when I could hear it, too. She must've looked out her window and
26 seen the cops outside because she was like oh my god, Suzi!
27 There's a bunch of guys outside! I could tell she was scared. She
28 said she didn't know what to do. I told her under no means to open
29 her door, being dark and all. I was scared, too, I mean for her, you
30 know? I wouldn't know what to do either.
31

32 MR. VOLKOV: What exactly could you hear?
33

34 MS. BASS: At first, all I could hear was the pounding. They must've been
35 pounding real hard, because I could hear it all right. However hard
36 they were pounding at first, they started pounding harder. It got
37 louder. Then, all of a sudden, I could hear them yelling, too.
38

39 MR. VOLKOV: I want to know more about the yelling, but, first, could you tell me
40 about how long the pounding continued from when you first heard
41 it?
42

43 MS. BASS: I don't know. A while. It seemed like a long time. Probably at least
44 a few minutes. They were still pounding when Lu got off the
45 phone.
46

1 MR. VOLKOV: And was the pounding constant or intermittent?
2
3 MS. BASS: Huh?
4
5 MR. VOLKOV: Was the pounding constant or were there pauses?
6
7 MS. BASS: It wasn't like a constant pounding that didn't stop the whole time,
8 but, I mean, it was like, if it did let up, it was only for a quick
9 second, and then it started again. They would pound a few times,
10 wait a second, and then pound again.
11
12 MR. VOLKOV: And you could hear it over the phone?
13
14 MS. BASS: Yes. Lu was close to the door, right in her front room there, and
15 someone pounding on the door would've been loud in the living
16 room.
17
18 MR. VOLKOV: A moment ago, you said, at some point, you began to hear yelling,
19 too. Could you make out what was being yelled?
20
21 MS. BASS: Yeah, that was when I knew it was probably the police, because I
22 could hear them saying it was the police and to open up the door.
23 But I heard them drop the F bomb more than once. They sounded
24 pissed.
25
26 MR. VOLKOV: Please repeat to me exactly what you heard.
27
28 MS. BASS: Well, aside from what I already told you about them saying it was
29 the police and to open up the door, they must've seen her inside
30 talking to me, because I heard them tell her to hang up the fucking
31 phone, and more than once.
32
33 MR. VOLKOV: Just to clarify, when you say you could hear them talking, do you
34 mean you could hear them yelling?
35
36 MR. ANDROS: Objection. Leading.
37
38 MR. VOLKOV: I'll rephrase. How could you hear what the officers were saying?
39
40 MS. BASS: They were definitely yelling, and loud. I couldn't have heard them
41 if they weren't yelling really loud. She was inside, and they were
42 outside, you know?
43
44 MR. VOLKOV: Okay. How many times did you hear the officers tell Ms. Marino
45 to, quote, hang up the fucking phone?
46

1 MS. BASS: I don't know exactly. A few, though. They yelled at her a bunch of
2 times to hang up the phone and a few times they added the F word.
3
4 MR. VOLKOV: Was Ms. Marino saying anything to you while the police were
5 yelling and banging on the door?
6
7 MS. BASS: I mean, not a lot. I think she was just trying to be quiet, hoping
8 they'd go away or something. I know she said something like, I'm
9 scared, I don't know why they're here, and she was all like what
10 should I do? What should I do? She was freaked. She said there
11 were guys in the street holding big guns.
12
13 MR. VOLKOV: How did your telephone conversation with Ms. Marino end?
14
15 MS. BASS: After a while of them pounding and screaming, she said she
16 figured they weren't going nowhere, and they weren't letting up.
17 She had to go talk to them. She told me she was going out there to
18 see what they wanted and that she'd talk to me later. That was it.
19
20 MR. VOLKOV: Ms. Bass, to your knowledge, are you at all hearing impaired?
21
22 MS. BASS: No (chuckles), honestly, not sure where this is going. I'm still
23 pretty young, I can hear just fine. I got 20/20 vision too if that
24 matters.
25
26 MR. VOLKOV: I have no further questions for the time being, Your Honor. Thank
27 you, Ms. Bass.
28
29 Cross Examination:
30
31 MR. ANDROS: Hello, Ms. Bass. My name is Leano Andros, and I am here on
32 behalf of the United States. I'm going to ask you a few questions
33 about the events you just testified about.
34
35 MS. BASS: All right.
36
37 MR. ANDROS: You said you've never been arrested. Have you ever done any
38 drugs?
39
40 MS. BASS: Well, uh, I tried pot when I was younger, but no hard drugs.
41
42 MR. ANDROS: How many times did you try it?
43
44 MS. BASS: A couple. I mean, what does that have to do with anything?
45

1 MR. ANDROS: Have you ever smoked marijuana or otherwise used drugs with
2
3
4 MS. BASS: No. I don't use drugs, and neither does she. We're clean.
5
6 MR. ANDROS: I see. You testified that, while you were on the phone with Ms.
7 Marino, at some point during your conversation, after the police
8 arrived at her house, you could hear them knocking on the door
9 and asking Ms. Marino to talk to them, correct?
10
11 MS. BASS: Yeah, I could hear them banging on the door and yelling.
12
13 MR. ANDROS: You and Ms. Marino were watching television, and then you
14 turned your television down. Could you still hear Ms. Marino's
15 television in the background, like you could so well before, in
16 addition to the police officers?
17
18 MS. BASS: Well, I can't remember for sure. She probably turned her TV
19 down, too.
20
21 MR. ANDROS: But you don't know if she turned it down, so you also don't know
22 whether you were hearing the television or the police officers at
23 any given moment while you were on the phone, right?
24
25 MS. BASS: I think I could tell the difference between the two. The police
26 weren't singing.
27
28 MR. ANDROS: You testified earlier that, at some point in your phone
29 conversation, you could hear Ms. Marino's television so well that
30 you knew which program she was watching. You also testified that
31 you recall, in detail, specific things that the police were saying. Do
32 you remember anything specific that was said on the television
33 after the police arrived?
34
35 MS. BASS: Like I said, she probably turned her TV down, too.
36
37 MR. ANDROS: But you can't say for sure that you could distinguish between the
38 noises coming from Ms. Marino's television and the police
39 officers' attempts to communicate with Ms. Marino, right?
40
41 MS. BASS: I'm saying that I don't remember hearing her TV while the cops
42 were banging on her door and yelling at her to let them in.
43
44 MR. ANDROS: It's fair to say, given the fact that you could hear her television so
45 well before, that you still might have been hearing her television
46 throughout the rest of your phone conversation?

1
2 MS. BASS: Not fair, no. What I'm saying is, I don't remember if I could still
3 hear her TV or not.
4
5 MR. ANDROS: You're not answering my question, Ms. Bass. Is there any reason
6 why you would not have been able to hear her television if she
7 didn't, in fact, turn it down?
8
9 MS. BASS: Well, I guess if she didn't turn it down, I could still hear it.
10
11 MR. ANDROS: Yet you're confident that, with all the background noise, you could
12 distinguish the police from anything else you might have been
13 hearing?
14
15 MS. BASS: Yes. I could hear the police banging on her door, and I could hear
16 them yelling at her. No background noise in the world covers up
17 the hollering and pounding, sorry.
18
19 MR. ANDROS: Compared to the clarity of the noise coming from Ms. Marino's
20 television before the police arrived, how clear were the officers'
21 voices?
22
23 MS. BASS: I could hear them fine.
24
25 MR. ANDROS: Could you hear them as clearly as you remember hearing Ms.
26 Marino's television?
27
28 MS. BASS: I guess. I don't know. I could definitely make out what they were
29 yelling. Could definitely hear the pounding.
30
31 MR. ANDROS: Ms. Marino's television that you could hear so clearly at some
32 point during your conversation was in the same room as Ms.
33 Marino, correct?
34
35 MS. BASS: Yeah, at least while she was in her living room.
36
37 MR. ANDROS: And her living room is directly connected to her front door, right?
38
39 MS. BASS: Yeah.
40
41 MR. ANDROS: So, Ms. Marino would only have to move a few feet from her
42 couch in front of the television to be at her door?
43
44 MS. BASS: Yeah, I guess.
45

1 MR. ANDROS: She wouldn't have to move so far that the incredible clarity of the
2 noise coming from her television would have been lost, right?
3
4 MS. BASS: Probably not.
5
6 MR. ANDROS: And either from her couch in her living room or from a position
7 right at her front door, Ms. Marino was still separated from the
8 police by two solid doors and a vestibule, correct?
9
10 MS. BASS: Yeah, they were on her steps.
11
12 MR. ANDROS: And you could hear them clearly?
13
14 MS. BASS: Yes. I could hear them yelling at her to open the door and to hang
15 up the fucking phone.
16
17 MR. ANDROS: Was it at all difficult to make out everything they were saying?
18
19 MS. BASS: No, not really. I could tell what they were saying.
20
21 MR. ANDROS: It wasn't muffled?
22
23 MS. BASS: I mean, they were in the background, you know, but I could still
24 hear them pretty good. Yelling, cussing, pounding, round and
25 round.
26
27 MR. ANDROS: No more questions, Your Honor. Thank you, Ms. Bass.
28
29 THE COURT: Redirect, Mr. Volkov?
30
31 MR. VOLKOV: No, Your Honor.
32
33 THE COURT: You may step down, Ms. Bass. Additional witnesses?
34
35 MR. VOLKOV: No, Your honor.
36
37 THE COURT: Thank you. I have read your briefs and do not see a need for you to
38 present oral argument on the motion to suppress. I have listened to
39 the testimony of all of the witnesses, to include Sergeant Esposito,
40 Officer Davis, and Officer Rue, and, for the defense, Lucy Marino
41 and Suzi Bass. I also have reviewed all of the cases cited in your
42 briefs. Mr. Volkov, you are not asserting that the officers needed a
43 warrant to enter the vestibule, are you?
44
45 MR. VOLKOV: No, Your Honor.
46

1 THE COURT: Are you arguing that, at any time prior to your client marking her
2 name on the consent form, she was seized?
3
4 MR. VOLKOV: No, Your Honor.
5
6 THE COURT: So, you are not arguing that your client was entitled to Miranda
7 warnings at any time before she marked the consent form with her
8 name?
9
10 MR. VOLKOV: No, Your Honor.
11
12 THE COURT: Turning to the issue of the evidence's suppression, Mr. Andros,
13 you are not arguing that the anonymous tip standing alone was
14 sufficient to create probable cause, right?
15
16 MR. ANDROS: No, Your Honor, I am not arguing that the tip alone was enough.
17
18 THE COURT: And you are not arguing that, standing alone, the
19 methamphetamine crystal and the plastic container with empty
20 soda bottles constituted probable cause to search the residence,
21 correct?
22
23 MR. ANDROS: That is also correct.
24
25 THE COURT: And, to be clear, your brief and argument here today was that the
26 evidence's discovery was inevitable, not that exigent
27 circumstances excused the officers' warrantless entry?
28
29 MR. ANDROS: That is correct, Your Honor.
30
31 THE COURT: We agree there was no exigency?
32
33 MR. ANDROS: Yes, Your Honor.
34
35 THE COURT: Can we also agree that, if we assume a warrant would have been
36 issued, the same evidence actually discovered in the search would
37 have been still been there to be discovered when the officers
38 executed the warrant?
39
40 MR. VOLKOV: Yes, Your Honor.
41
42 MR. ANDROS: Yes.
43
44 THE COURT: Because the Supreme Court case of Illinois versus McArthur
45 would have allowed the officers to secure the premises while
46 seeking the warrant, correct?

1
2 MR. ANDROS: Yes.
3
4 MR. VOLKOV: Yes, Your Honor.
5
6 THE COURT: All right. Thank you for those clarifications. I will take the matter
7 as submitted. You may expect a written ruling shortly. Anything
8 else, counselors?
9
10 MR. VOLKOV: No, Your Honor.
11
12 MR. ANDROS: No, thank you, Your Honor.
13
14 THE COURT: We stand adjourned.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

CASE #: CR 25-0192
Hon. Beverly D. Angelo

v.

LUCY MARINO

Order Denying Defendant's
Motion to Suppress Evidence

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**ORDER DENYING DEFENDANT'S
MOTION TO SUPPRESS EVIDENCE**

THIS MATTER is before the Court on Defendant Lucy Marino's Motion to Suppress the evidence discovered in her apartment, filed on May 19, 2025. The Court held an evidentiary hearing on the Motion on June 30 and July 8, 2025. Having considered the parties' submissions, the record, the hearing testimony, and the relevant law, the Court will deny the Motion.

The government has failed in its burden to prove by a preponderance of the evidence that Ms. Marino's consent to search her residence was given voluntarily, viewed from the perspective of a reasonable person with the defendant's characteristics in the defendant's circumstances. *See Schneckloth v. Bustamonte*, 412 U.S. 218, 219-34, 246-49 (1973); *Lynum v. Illinois*, 372 U.S. 528, 531-34 (1963); *United States v. Isiofia*, 370 F.3d 226 (2d Cir. 2004). Ms. Marino's consent

was a mere submission to authority. I find that her testimony with regard to the facts and circumstances that led her to sign the consent to search is credible because it is not contradicted by any officer's testimony; in fact, much of it is corroborated by the officers. Additionally, Ms. Marino's testimony is corroborated by an independent third-party witness, Ms. Bass. Due to the characteristics of the defendant, the number of officers, time of day, weapons displayed, and the officers' statements about and actions toward Ms. Marino's child, my determination is that consent was coerced.

However, the Court will not suppress the evidence because its discovery was inevitable. *See Nix v. Williams*, 467 U.S. 431, 448 (1984); *United States v. Whitehorn*, 829 F.2d 1225, 1230-33 (2d Cir. 1987). If the officers had not searched her apartment based upon her coerced consent, a search warrant would have been issued based upon the anonymous tip, the information corroborating it, the methamphetamine crystal, and the plastic bin containing empty soda bottles, which, in the officers' experience and expertise, are used to cook methamphetamines. Neither the tip alone, nor the crystal plus a bin full of empty soda bottles, would constitute probable cause to believe that evidence would be found in the residence of the manufacture or possession with intent to deliver methamphetamines. Moreover, I must note that I have disregarded as lacking in credibility and corroboration Sergeant Esposito's testimony that he detected a strong chemical smell.

The evidence's discovery was inevitable because I find with a high level of confidence that, at the time the officers entered and searched Ms. Marino's residence, the warrant process was in progress and there was a sufficient showing of probable cause. Further, the parties stipulated on the record that the same evidence that was discovered in the residence would have been discovered pursuant to the warrant once it issued.

For those reasons, the Court hereby DENIES Defendant's Motion to Suppress Evidence.

IT IS SO ORDERED.

Dated: July 14, 2025



Honorable Beverly D. Angelo

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

CASE #: CR 25-0192
Hon. Beverly D. Angelo

v.

LUCY MARINO

Conditional Plea Agreement
Fed. R. Crim. Proc. 11(a)(2)

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CONDITIONAL PLEA AGREEMENT

Pursuant to Federal Rule of Criminal Procedure 11(a)(2), Defendant, LUCY MARINO, with the approval of the Court and the consent of the United States Attorney, enters a conditional plea of no contest to the charge named in the Grand Jury Indictment: Possession with Intent to Manufacture and Deliver Methamphetamines, in violation of Title 21, United States Code, Section 841(a)(1). Specifically, the Indictment charges that, on or about December 3, 2024, in Rochester, New York, Defendant knowingly and intentionally possessed with intent to manufacture, distribute, or dispense 11 grams or more of Methamphetamine, a Schedule I controlled substance. Defendant is charged under 21 U.S.C. § 841(a)(1) and penalized under 21 U.S.C. § 841(b)(1)(B)(viii), with enhancement under 21 U.S.C. § 860a.

1. Defendant's Right to Appeal. Defendant expressly preserves the right to appeal the decision of the United States District Court for the Western District of New York of July 14, 2025, denying her motion, filed May 19, 2025, to suppress evidence. If Defendant prevails on her appeal of the district court's denial of her motion to suppress evidence, Defendant has the right to withdraw her plea.
2. Defendant Understands the Crime. In order for Defendant to be guilty of violating Title 21, United State Code, Section 841(a)(1), the following must be true: (1) Defendant must have knowingly and intentionally possessed 11 grams or more of methamphetamines; (2) Defendant must have intended to manufacture, distribute, or dispense the

methamphetamines; and (3) methamphetamine must be a Schedule I controlled substance. Defendant is pleading *nolo contendere* and understands that, as a result, she will be convicted of the charge described above.

3. **Defendant Understands the Penalties.** The statutory maximum sentence that the Court can impose for a violation of Title 21, United States Code, Section 841(b)(1)(B)(viii), is the following: a term of imprisonment which may not be less than 5 years nor more than 40 years; a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$5,000,000; and a mandatory special assessment of \$100.00. Defendant agrees to pay the special assessment at or before the time of sentencing, unless Defendant affirmatively demonstrates to the Court that she lacks the ability to pay. Defendant further understands that enhancement under 21 U.S.C. § 860a carries a consecutive sentence for any term of years, but not more than 20 years.
4. **Factual Basis of Guilt.** Defendant and the United States agree that the Court will use the police report of December 3, 2024, prepared by Sergeant Sage Esposito of the Imperial County Sheriff's Department, to form the factual basis for the no contest plea.
5. **The Sentencing Guidelines.** Defendant understands that, although the United States Sentencing Guidelines (the "Guidelines") are not mandatory, the Court must consult the Guidelines and take them into account when sentencing Defendant. Defendant understands that the Court, with the aid of the pre-sentence report, will determine the facts and calculations relevant to sentencing. Defendant understands that Defendant and Defendant's attorney will have the opportunity to review the pre-sentence report and to make objections, suggestions, and recommendations concerning the calculations of the Guideline range and the sentence to be imposed. Defendant further understands that the Court shall make the final determination of the Guideline range that applies in the case and may impose a sentence within, above, or below the Guideline range, subject to the statutory maximum and minimum penalties described in Paragraph 3 of this Agreement. Defendant further understands that disagreement with the Guideline range or sentence shall not constitute a basis for withdrawal of the plea.
6. **Waiver of Constitutional Rights.** By pleading no contest, Defendant gives up the right to persist in a plea of not guilty and the right to a speedy and public trial by a jury or by the Court. As a result of Defendant's *nolo contendere* plea, there will be no trial. At any trial, whether by the jury or by the Court, Defendant would have had the following rights:
 - a. The right to the assistance of counsel, including, if Defendant could not afford an attorney, the right to have the Court appoint an attorney to represent Defendant.
 - b. The right to be presumed innocent and to have the burden of proof placed on the Government to prove Defendant guilty beyond a reasonable doubt.
 - c. The right to confront and cross-examine any witnesses against Defendant.

- d. The right, if Defendant wished, to testify on Defendant's own behalf and present evidence in opposition to the charges, including the right to call witnesses and to subpoena those witnesses to testify.
- e. The right not to be compelled to testify, and, if Defendant chose not to testify or present evidence, to have that choice not be used against Defendant.

I have read and understand the above Conditional Plea Agreement. I have discussed this plea, my constitutional rights, and my right of appeal with my attorney. I freely, knowingly, and voluntarily agree to enter my plea of no contest as indicated above on the terms and conditions set forth herein:

Dated: December 5, 2025

LUCY MARINO

LUCY MARINO
Defendant

I am Lucy Marino's attorney. I have carefully discussed every part of this agreement with my client. Further, I have advised fully my client of her rights, of possible defenses, of the sentencing provisions, and of the consequences of entering into this agreement. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one:

Dated: December 5, 2025

A. Volkov

ALEKSANDR VOLKOV
Attorney for Defendant

PROSECUTOR APPROVAL

I have reviewed this conditional plea agreement and consent to it.

Dated: December 5, 2025

Leano Andros

LEANO ANDROS
Assistant United States Attorney
Western District of New York

COURT APPROVAL

This Conditional Plea Agreement is approved, and I direct that it be entered into the record in this case.

Dated: December 5, 2025

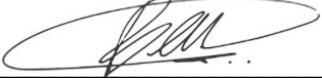
Beverly D. Angelo

Honorable Beverly D. Angelo

This Conditional Plea Agreement shall accompany the Conviction and Commitment Order and be made part of the record in this case.

I certify this is a true and correct record of this Court:

Date: 12/5/25

Court Clerk/Deputy: 

I N C I D E N T M O A R R E S T D A T A O T H E R S I N V O L V E D	Agency Name: Rochester Police Department Special Investigations Section		INCIDENT / INVESTIGATION REPORT				OCA		
							Date/Time Reported: 12/3/2024		
	#1	Crime Incidents(s) Cont. Sub-Possess w/ Intent to Deliver Methamphetamines			Com	At Found 12/3/2024 at 1915 hrs		Last Known Secure: 12/3/2024 at 1930 hrs	
	#2	Crime Incident Cont. Sub-Manufacture Methamphetamines			Com	Location of Incident 450A Edgewood Boulevard, Rochester, New York			
	#3	Crime Incident			Com	Premise Type Multi-Family Residence/Duplex			
	How Attacked or Committed Possession and Manufacture of Methamphetamines in Residence							Weapons/Tools	
	# of Suspects: 1	Arrest Number: 12-A-D-88			Injury: None		Drug/Alcohol Use: N/A		
	S#1	Suspect Name/Business Name (Last, First) Marino, Lucy		Suspect # 1	DOB/AGE 19	Race Caucasian	Sex F	Weight/Height 5'01" / 100 lbs	
	Home Address 450 Edgewood Boulevard, Rochester, New York							Home Phone 1-315-555-1212	
	Employer Name/Address Unknown							Business Phone	
VYR	Make	Model	Style	Color	Lic/Lis		Vin		
Code	Name (Last, First)				Vic of Crime#	DOB/AGE	Race		
Home Address							Home Phone		
Employer Name / Address							Business Phone		
Code	Name(Last, First)				Vic of Crime #	DOB/AGE	Race		
Home Address							Home Phone		
Employer Name / Address							Business Phone		
Notes									
P R O P E R T Y	VIC #	Code	Stat.	Value	QTY	UOM	Property Description		Obtained From
	001	6			1		Papers of residency for Marino for 450A Edgewood Boulevard. Located in living room drawer		450A Edgewood Boulevard.
	002	6			11	Gram	Methamphetamine. One small square plastic container containing 1x1 plastic baggies with clear, chunky crystals that field-tested positive for Methamphetamine. Weight 11 G.		450A Edgewood Boulevard.
	003	6		\$330	1		Clear pipe containing white powder residue		450A Edgewood Boulevard.
	004	6		\$120	1		Camp Snap Digital Camera		450A Edgewood Boulevard.
	005	6		\$500	1		Acer Laptop		450A Edgewood Boulevard.
	006	6		\$4923	\$		\$4923 in cash.		450A Edgewood Boulevard.
	007	6			2	Boxes	Large plastic bin containing empty soda bottles.		450 Edgewood Boulevard.

	008	6		\$800	1		.45 caliber Colt semi-automatic pistol.	450A Edgewood Boulevard.
	1= None	2= Burned	3= Counterfeit/forged	4= Damaged	5= Recovered	6= Seized	7= Stolen	
	8= Lost	9= Found						
O F F I C E R S	D/SGT PEREZ, Rochester Police Department DET JAMES JOHNSTONE, Rochester Police Department SGT SAGE ESPOSITO, Rochester Police Department OFC RILEY RUE, Rochester Police Department OFC FILO DAVIS, Rochester Police Department OFC KYLE CAPSTONE, Rochester Police Department							
I N F O	Information: On 12/3/2024, the Special Investigations Section Officers conducted a knock and talk investigation at 450A Edgewood Boulevard in Rochester, New York. Subsequent investigation led to the seizure of suspected crystal methphetamines. Report to be submitted to the United States Attorney's Office for Prosecution due to the amount of methphetamines seized.							
I N V E S T I G A T I O N	On 11/29/2024, I reviewed an anonymous tip left that day on Crime Stoppers that there was a methamphetamine operation and delivery of drugs out of 450A Edgewood Boulevard. The tipster advised that a male had previously been arrested for possession of methphetamines outside of the residence in 2023. The anonymous caller advised that there was a child living in the residence, and the tipster feared for the child's safety. The tipster further advised that there was "a lot" of traffic coming and going from the duplex. On 12/3/2024, the Special Investigations Section assembled a team and proceeded to 450A Edgewood Boulevard to perform a knock and talk. At 1830, Officer Rue, Officer Davis, Detective Johnstone, and myself approached the door while Detective Perez and Officer Capstone stood outside the Special Investigations Section vehicle. I knocked on the door 450 Edgewood Boulevard for approximately three minutes before it was answered by an unknown female (later identified as LUCY MARINO). I identified myself as a police officer and asked MARINO if I could come inside and speak with her. MARINO refused. I was able to gather from MARINO that she resided at 450A Edgewood Boulevard and that her name was LUCY MARINO. It began to snow heavily, and MARINO moved back from the door to the vestibule shared by 450A and B Edgewood Boulevard, allowing us to step into the vestibule and out of the snow as well. Immediately upon entry into the vestibule, I could smell a strong chemical odor, akin to that of a rotten egg smell, coming from inside the residence at 450A. MARINO had left the solid door between the vestibule and her duplex open by a couple of inches. I asked MARINO if any illegal activity was going on inside the residence, and she answered in the negative. Det. Johnstone asked if there was anyone else inside the residence, to which MARINO replied that she was all alone and that her baby was sleeping. I asked again if we could come take a look around and MARINO answered in the negative. At this point, I observed some quick movement from inside the residence. Det. Johnstone and I drew our weapons, ordered MARINO to stand aside, and ordered the individual inside the residence to "come out with your hands up." MARINO stated, "It's just my baby boy," and told the child to come to the door. The child looked to be about two or three years of age. Det. Johnstone and I reholstered our weapons, and Det. Johnstone asked MARINO why she had lied about other individuals being inside the residence and told MARINO that the situation was very serious and could become a lot more serious if she continued to lie. MARINO stated that she thought we wanted to know if other adults were there. At this point, Officer Davis, Detective Johnstone, and I went out of the vestibule onto the front porch to confer. As we were exiting the vestibule, Officer Davis stepped on a clear, crystal-like substance, located adjacent to MARINO's door in plain view in the vestibule, which field tested positive for Methphetamines. Detective Johnstone had observed in the vestibule a plastic bin which had contained a large quantity of empty plastic soda bottles. At this point, Officer Davis left to obtain a search warrant and to notify Child Protective Services as to the child in the house. Det. Johnstone informed MARINO what the consequences could be if Protective Services found out that a young child lived in a known drug house and that the best way to put these suspicions to rest would be to let us come in and take a look around for ourselves. I informed MARINO that we had received a tip that drugs were being dealt from this house and that the informant had feared for the child's safety, as did we.							
	PERMISSION TO SEARCH: At 1900 hours MARINO signed the Consent to Search form.							
	LIVING ROOM:							

I N V E S T I G A T I O N	<p>Det. Johnstone obtained proof of residency and one clear pipe containing a white powder residue. Also seized were one Camp Snap digital camera, and one Acer laptop computer.</p> <p>BEDROOM:</p> <p>Det. Johnstone also located inside a dresser drawer a small square plastic container containing 11 grams of a clear, crystal-like substance portioned into several 1x1 inch baggies that field tested positive for crystal meth, and \$4923 in cash.</p> <p>KITCHEN:</p> <p>Officer Rue located a cereal box that was substantially heavier than an ordinary cereal box. Officer Rue emptied the contents of the cereal box on the kitchen floor. A .45 caliber, Colt semi-automatic pistol was located within the contents of the cereal box. Officer Rue ran the gun through the central registry, and it came back properly registered to MARINO'S boyfriend.</p> <p>FIELD TEST:</p> <p>A field test was conducted on items #2 and #3 with positive results for the presence of methamphetamines.</p> <p>LAB ANALYSIS:</p> <p>Items #2, #3, and #7 will be forwarded to NYSP Crime Lab for analysis.</p> <p>FORFEITURE:</p> <p>The miscellaneous chemicals, the laptop, digital camera, and cash were all seized with the intent to forfeit.</p> <p>CHILD PROTECTIVE SERVICES:</p> <p>Officers waited at 450A Edgewood Boulevard until Protective Services arrived and took custody of the child present at the residence.</p> <p>EXTERNAL DOCUMENTS:</p> <p>Permission to Search Form. Evidence photos</p>
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EVIDENCE PHOTOS



Colt 1911 .45 caliber handgun



Some of the 1x1 inch baggies each containing $\frac{1}{4}$ gram crystal methamphetamine



1x1 inch baggie containing $\frac{1}{4}$ gram crystal methamphetamine



Pipe with residue of crystal methamphetamine

THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

Appellate Court Case No.: 25-0425
District Court Case #: CR-25-0192

v.

NOTICE OF APPEAL

LUCY MARINO,

Defendant-Appellant.

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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Case #: CR 25-0192

Honorable Beverly D. Angelo, District Judge

Notice is hereby given that Lucy Marino, Defendant in the above-named case, hereby appeals to the United States Court of Appeals for the Second Circuit from the final order entered in this action in the United States District Court for the Western District of New York on the 5th day of December, 2025, accepting Defendant's conditional plea of *nolo contendere* and entering her conviction for Possession with Intent to Manufacture and Deliver Methamphetamines Pursuant to Defendant's conditional plea of December 5, 2025, Defendant appeals the United States District Court for the Western District of New York's order of July 14, 2025, denying her motion to suppress evidence.



By: Aleksandr Volkov
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Dated: December 12, 2025