No. 03-240

IN THE

Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

v.

WILLIAM LARSON

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Thirteenth Circuit

October Term 2016

The University of San Diego School of Law
28th Annual Criminal Procedure Tournament November 11-13, 2016
San Diego, CA

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4 **UNITED STATES DISTRICT COURT**
5 **WESTERN DISTRICT OF VICTORIA**
6

UNITED STATES OF AMERICA, Plaintiff, v. WILLIAM LARSON, Defendant.	Case No.: 4:16-cr-1092-RME **ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS EVIDENCE** **Date: October 22, 2015**

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15 On August 1, 2015, William Larson ("Defendant") was charged by indictment with one
16 count of Sex Trafficking of Children in violation of 18 U.S.C. § 1591(a)(1) and one count of
17 being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). More specifically,
18 it is alleged that Defendant recruited, enticed, harbored, transported, provided, obtained,
19 advertised, maintained, patronized, or solicited four minor females knowing that each of them
20 would be caused to engage in commercial sex acts as defined in 18 U.S.C. § 1591(e)(3). Mr.
21 Larson has filed a motion to suppress evidence collected on the date of his initial arrest in this
22 case. For the reasons explained below, the Court **DENIES** Mr. Larson's requests.
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I. STATEMENT OF FACTS

In March 2013, Victoria City, Victoria was selected by the Professional Baseball Association to host the league's 2015 All-Star Game. Leaders from the Victoria City Board of Supervisors ("Board") and the Association agreed that the game would be held on July 14, 2015, at Cadbury Park, in the Starwood Park neighborhood of downtown Victoria City. The event was expected to draw tens of thousands of visitors to the area from across the country. The Starwood Park neighborhood has long been afflicted by gang activity. The area is mostly controlled by the Starwood Homeboyz, but is also home to members of the "707 Hermanos." These gang members engage in a wide spectrum of illegal activity including robbery, narcotics sales, and murder. Their most profitable venture, however, is human trafficking. Gangs in the area control upwards of 1,500 conscripted sex workers, many of whom are believed to be children. Like many street gangs in America, they prefer pimping to other more traditional criminal enterprises because it is more lucrative and less risky. These groups are known to utilize the "deep web" and post advertisements on sites such as backpage.com that are hard to monitor. As a result, law enforcement often has difficulty locating the perpetrators of human trafficking.

Several concerned citizens groups quickly raised fears that the game would create a swell of human trafficking activity in their neighborhood. They argued that these phenomena often accompany large sporting events, as the high volume of men travelling without their wives or other female partners would be prone to indulge in entertainment that they might not otherwise consider. In response, the Board passed Local Ordinance 1923 ("L.O. 1923") on May 5, 2015. In full, L.O. 1923 reads:

"1. Any individual obtaining a room in a hotel, motel, or other public lodging facility shall be subject to search by an authorized law enforcement officer if that officer has reasonable suspicion to believe that the individual is:
   a. A minor engaging in a commercial sex act as defined by federal law
   b. An adult or a minor who is facilitating or attempting to facilitate the use of a minor for a commercial sex act as defined by federal law.
2. This ordinance shall be valid only from Monday July 11, 2015, through Sunday July 17, 2015.
3. A search conducted under the authority of this provision shall be limited in scope and duration to that which is reasonably necessary to ascertain whether the individual searched is engaging in the conduct described in subsection (1).
4. This ordinance shall be valid only in the Starwood Park neighborhood.

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a. Starwood Park is defined to encompass the area within a three-mile radius of Cadbury Park Stadium."

On May 6, 2015, the Board released a statement to the press announcing L.O. 1923. This statement emphasized the unique prevalence of child sex trafficking in Starwood Park through recently collected statistics and the personal stories of victims that had been rescued. The arguments contained in this release focused on the tremendously damaging effects that child sex trafficking has on virtually all of its victims. The statement further listed statistics showing the surge in sex trafficking that regularly accompanies major sporting events. The city concluded its press release by telling the public that it intended to make the week of the All-Star Game fun for all visitors.

On the night of July 12, 2015, Officer Joseph Richols and Officer Zachary Nelson were inspecting patrons at the front desk as they checked in to the Stripes Motel. The Stripes Motel is located on I Street, between Narrow Avenue and Coconut Boulevard in the middle of Starwood Park. At approximately 11:22 p.m., defendant William Larson and a female entered the Stripes Motel. The officers noticed that the female appeared to be much younger than Mr. Larson, and further that she was wearing a low-cut top and tight fitting shorts that exposed much of her legs. Neither Mr. Larson nor the female were carrying any luggage.

The officers also noticed that Mr. Larson had two separate tattoos identifying him as a member of the Starwood Homeboyz street gang. The first identifying tattoo, located on Mr. Larson's left forearm, contained the letters "S" and "W" imprinted on a wizard's hat. Mr. Larson's second identifying tattoo was located on the back of his neck and read "4-11-5-11." From his training and experience, Officer Nelson knew that these numbers referenced the letters "d", "k", and "e" based on their respective positions as the fourth, eleventh, and fifth letters of the alphabet. In this case, they stood for the phrase "dinosaur killer, everybody killer." Dinosaur is a derogatory term used by members of the Starwood Homeboyz to describe members of their rival street gang, the "707 Hermanos."

Based on these observations, Officer Richols and Officer Nelson believed that they were authorized to search Mr. Larson and his companion pursuant to L.O. 1923. The Government has conceded that there was not probable cause to initiate a search in this situation. The Officers

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searched Mr. Larson first and recovered the following items from a large jacket he was wearing: nine condoms, a butterfly knife, lube, two oxycodone pills, a list of names and corresponding allotments of time (i.e. “1 hour”, “45 min”, and “15 min”), and $600 in cash. When searched, Mr. Larson’s companion produced a valid State of Victoria driver’s license identifying her as W.M., a 16-year-old female. Officer Richols immediately handcuffed Mr. Larson and arrested him for sex trafficking of a minor in violation of 18 U.S.C. § 1591(a)(1).

Officer Nelson believed W.M. to be the victim rather than a perpetrator in this case and subsequently declined to place her under arrest. Officer Nelson asked W.M. if she had a safe place to spend the night, and W.M. responded that she lived in an apartment a couple blocks away with Mr. Larson. Officer Nelson asked W.M. if she was willing to speak with him a little bit more about her relationship with Mr. Larson and she agreed to do so.

After speaking with her, Officer Nelson asked whether she would give her consent to allow him to search the apartment. She replied affirmatively. Officer Nelson put on gloves and walked with her to the apartment, located at 621 Sasha Lane. Underneath the bed he found a black semi-automatic handgun with the serial number scratched off. He impounded this item and Mr. Larson later admitted that it belonged to him. It was later revealed that Mr. Larson had previously suffered two convictions for state level drug trafficking offenses, each punishable by a term of imprisonment exceeding one year.

On the nightstand, Officer Nelson found a smart phone. The phone had a custom cover emblazoned with an “S” and a “W” wrapped around a wizard’s hat. This design was identical to the one that Mr. Larson had tattooed on his left forearm. Officer Nelson asked W.M. whom the phone belonged to and she told him that she shared it with Mr. Larson. Officer Nelson asked her if he would need a password to access the device, and she told him that the password was 4-11-5-11. He asked her if he could search the phone and W.M. again gave him permission. Officer Nelson was able to access the phone using this code and found several photos of Mr. Larson holding the gun that was found underneath the seat, suggestive photos of W.M., and a video of Mr. Larson rapping about pimping.

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On August 1, 2015, a federal grand jury returned an indictment against Mr. Larson charging him with one count of sex trafficking of children in violation of 18 U.S.C. § 1591(a)(1) and one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). In the motion presently before the Court, Mr. Larson seeks to suppress nearly every piece of evidence gathered in this case. He first contends that the initial search of his person at the Stripes Motel was invalid because L.O. 1923 is facially unconstitutional under the Fourth Amendment. Moreover, he contends that his Fourth Amendment rights were violated when Officer Nelson searched the apartment identified by W.M. as belonging to them, and then again when he proceeded to search the cell phone discovered within the apartment.

II. ANALYSIS

This Court finds that searches conducted pursuant to L.O. 1923 are not facially unconstitutional under the Fourth Amendment. While the ordinance does allow for warrantless searches that would not otherwise be permitted under the Fourth Amendment, the Court finds that such searches are justified by the "special needs" exception to the general requirement of a warrant. Furthermore, this Court finds that neither the search of the apartment nor the search of the cell-phone constituted a violation of Mr. Larson's Fourth Amendment Rights. W.M.'s statements established that she had at least apparent authority to give Officer Nelson consent to conduct both searches.

A. The Special Needs Doctrine

Mr. Larson contends that the initial search of his person, in which Officer Richols discovered several incriminating items, was illegal because it violated his Fourth Amendment rights. The Court does not agree, and finds that all searches properly conducted pursuant to L.O. 1923 were justified by special needs that outweighed the usual warrant requirement.

The Fourth Amendment to the United States Constitution guards "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. A warrantless search is presumed to be unreasonable, and therefore invalid under the Fourth Amendment. *Katz v. United States*, 389 U.S. 347, 357 (1967). Accordingly, if a search is conducted without a warrant having first been issued by a neutral and

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1 detached magistrate, then it is the burden of the government to show that an exception to the
2 general requirement of a warrant makes that search reasonable. *Coolidge v. New Hampshire*, 403
3 U.S. 443, 455 (1971).

4 One such exception is the "special needs" doctrine. *New Jersey v. T.L.O.*, 469 U.S. 325,
5 351 (1985) (Blackmon, J., concurring). This doctrine applies only where "certain exceptional
6 circumstances, justify a search policy designed to serve non-law-enforcement ends." *Ferguson v.*
7 *City of Charleston*, 532 U.S. 67, 74 (2001). In such situations, the ordinary requirement of a
8 warrant may become "impracticable." *T.L.O.*, 469 U.S. at 351. In assessing the asserted special
9 need of the government, the court must balance the competing government and individual
10 privacy interests that are implicated by the proposed search. *Skinner v. Railway Labor Executives*
11 *Association*, 489 U.S. 602, 619 (1989). Such an inquiry will properly consider the context within
12 which it is made. *Chandler v. Miller*, 520 U.S. 305, 314 (1997). In sum, to justify a warrantless
13 search under the special needs exception, the government must show (1) the search serves a
14 purpose related to a special need that is separate from ordinary law enforcement, and (2) that this
15 special need makes the ordinary requirement of a warrant impracticable under the circumstances.
16 *National Treasury Employees Union v. Von Raab*, 489 U.S. 656, 665 (1989).

17 "If the primary purpose is ordinary law enforcement, the special needs doctrine does not
18 apply and the search cannot be upheld under the doctrine." *United States v. Sczubelek*, 255
19 F.Supp.2d 315, 320 (D. Del. 2003). In making this determination, the Court ought to interrogate
20 whether the search "serve[s] as [its] immediate purpose an objective distinct from the ordinary
21 evidence gathering associated with crime investigation." *United States v. Amerson*, 483 F.3d 73,
22 81 (2nd Cir. 2007.) The inquiry will properly focus on the "primary purpose" of the search.
23 *Miller v. United States Parole Commission*, 259 F.Supp.2d 1166, 1175 (D. Kan. 2003). Here,
24 because L.O. 1923 has a valid purpose outside of ordinary law enforcement and authorizes only
25 minimal invasions of privacy, the exceptional circumstances giving rise to the ordinance pardon
26 the general requirement of a warrant. This Court finds that L.O. 1923 serves a valid non-law-
27 enforcement purpose, namely the protection of Starwood Park's vulnerable youth.
28

The fact that a search is conducted by law enforcement personnel does not compel the conclusion that it has been conducted primarily for law enforcement purposes. In *Griffin v. Wisconsin*, 483 U.S. 868, 873-75 (1987) the Supreme Court upheld the warrantless search of probationers pursuant to Wisconsin law under the special needs doctrine. The Court specifically found that given the probationers' known proclivity toward lawlessness, the purpose of the law was accurately identified to be rehabilitation of the probationers and protection of the community at large. *Id*. at 875. In reaching this conclusion, the Court referenced state law interpreting the statute at issue to ascertain its purpose. *Id*. That an individual searched as a result of this law could be subject to criminal sanctions based on the results of that search was merely collateral to the larger goals being served. Therefore, the Court determined that the primary purpose of this statute was not the general enforcement of the criminal laws.

Further, the government may validly take steps to protect its citizens from the victimizing consequences of conduct that is also considered illegal. In *Skinner*, 489 U.S. at 621, the Court upheld a law allowing a federally operated railroad to conduct blood and urine tests in order to detect the presence of alcohol or controlled substances in certain employees. *Id*. at 621. Quoting the Code of Federal Regulations, the Court held that the purpose of the search was to "to prevent accidents and casualties in railroad operations that result from impairment of employees by alcohol or drugs." *Id*. at 620-21. In that case, the overarching concern was "safety" and not "to assist in the prosecution of employees."

These cases essentially state the unremarkable proposition that when a government acts to protect its citizens from harm, it may prioritize this end above the desire to punish particular wrongdoers. Such is the case with L.O. 1923. The statement released by the County Board of Supervisors makes this clear, painting a heartbreaking picture of vulnerable youth who are robbed of their innocence at an early age. The damage inflicted by time spent in the custody of sex traffickers is not easily undone, and is therefore best addressed by preventing its occurrence entirely. It is this goal that the Board's statement evidences a desire to achieve. A different argument could be made if the statement had focused on the ill intent of the traffickers, or if inflammatory arguments had been made to emphasize their culpability or misconduct. Instead,

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1 what the Court perceives is a strong desire to stop children from being hurt, and a recognition by
2 the Board that it would be frankly ridiculous to let those who may be responsible walk free.

3 The timing of the statute further indicates this to be correct. While it is true that human
4 trafficking remains an ever-present issue in our community, it was especially prescient at the
5 time the ordinance in question went into effect. The Board's statement cited persuasive statistics
6 showing the likelihood of an alarming rise in human trafficking related to the 2015 All-Star
7 Game. Thus, because the ordinance was strictly limited in both the area that it could be enforced
8 and the period in which it remained in effect, it may be logically concluded that the ordinance
9 was meant to protect the specific individuals potentially victimized as a result of the All-Star
10 Game, and not to enforce the laws against human trafficking more generally.

11 Having decided that L.O. was passed as a result of a valid special need outside of the
12 general interest in law enforcement, this Court must now determine whether such a special need
13 makes the ordinary requirement of a warrant impracticable. Following precedent, this Court will
14 consider three factors: (1) the nature of the privacy interest that is intruded upon, (2) the
15 character of the intrusion upon that interest, and (3) the nature and immediacy of the government
16 concern at issue. *Vernonia School District 47J v. Acton*, 515 U.S. 646, 654-61 (1995). While a
17 citizen's interest in remaining free from unlawful searches is great, the restrained nature of the
18 intrusion allowed by L.O. 1923 makes it reasonable in light of the interests that the intrusion
19 serves.

20 The privacy interest implicated by L.O. 1923 is that of remaining free from unreasonable
21 searches. Such an interest was thought by the founders to be so great that it was included in the
22 Bill of Rights to United States Constitution. U.S. Const. amend. IV. In the context of a special
23 needs inquiry, an individual's expectation of privacy must be objectively reasonable. *Wilcher v.*
24 *City of Wilmington*, 139 F.3d 366, 374 (3rd Cir. 1998). An individual does not abandon his or her
25 expectation of privacy by entering into a hotel or motel lobby. While police officers may observe
26 an individual from a public place, such as a motel lobby, without violating any reasonable
27 expectation of privacy, this does not afford them the right to search an individual's person or
28 possessions. *Horton v. California*, 496 U.S. 128, 137 (1990). Thus, the interest in not having

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one's person searched while checking into a hotel is substantial, and cuts against a finding of reasonability in this case.

Notwithstanding the gravity of the privacy interest at issue, the intrusion actually allowed by L.O. 1923 was limited. The ordinance was valid only during the week of the All-Star Game, and was further limited to the area immediately surrounding the stadium. The law by its terms was restrictive, instructing that all searches "shall be limited in scope and duration to that which is reasonably necessary to ascertain whether the individual searched is engaging in [sex trafficking]." As a result, the broad and potentially unreasonable searches complained of by Mr. Larson were not be permitted under L.O. 1923 because the ordinance did not sanction such intrusions.

Most importantly, however, is the fact that L.O. 1923 still required an officer to have a modicum of particularized suspicion in order to initiate a search. While individualized suspicion may not be an "indispensable component of reasonableness in every circumstance," it is certainly true that its presence is more likely to make a search reasonable. *Roe v. Marcotte*, 193 F.3d 72, 78 (2nd Cir. 1999) (citing *Von Raab*, 489 U.S. at 665). L.O. 1923 required an officer to have reasonable suspicion that an individual was engaging in very specific conduct before it authorized any action. This strongly indicates that the nature of the intrusion at issue in this case was reasonable.

Finally, the nature and immediacy of the government concern at issue in this case cannot seriously be challenged. The threat of human trafficking was and is "substantial and real." *Chandler*, *supra*, 520 U.S. at 323. While the statement released by the Board cites statistics collected during the Super Bowl specifically, one could reasonably assume the same spike in trafficking is likely to transpire around all sorts of large sporting events. See Aisie Hasna, *Sex Trafficking will Spike During Final Four, Predicts Expert*, FOX 59 (April 1, 2015) http://fox59.com/2015/04/01/sex-trafficking-will-spike-during-final-four-predicts-expert/; see also Keshar Patel, *Sex Trafficking Sullies World Cup*, WORLD POLICY BLOG (June 17, 2014) http://www.worldpolicy.org/blog/2014/06/17/sex-trafficking-sullies-world-cup. Based on this information, it was a virtual certainty that Victoria City would experience this same trend during

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1 the week of the Professional Baseball Association All-Star Game. It is equally apparent that the
2 consequences of allowing this to happen would have been both devastating and far-reaching. As
3 it pertains to L.O. 1923, the specter of human trafficking was daunting, and its approach urgent.
4 Considering all three of the factors described above, the Court finds that the special need
5 at issue has made the ordinary requirement of a warrant impracticable. Accordingly, searches
6 conducted pursuant to L.O. 1923 do not violate the Fourth Amendment.
7 B. Apparent Authority to Give Consent to Search
8 Mr. Larson contends that the searches performed of the apartment on Sasha Lane and a
9 cell phone found within that apartment were improper and moves to suppress all evidence
10 discovered as a result of those searches. The government argues that these searches were the
11 product of W.M.'s freely given consent. Thus, the issue in this case is whether W.M. possessed
12 at least apparent authority to authorize a search of the apartment or subsequently, the cell phone.
13 Neither side has argued that W.M. had actual authority to consent to the search, and thus this
14 Court focuses only on apparent authority. For the reasons stated below, the Court denies Mr.
15 Larson's motion to suppress the challenged evidence.
16 The touchstone of the Fourth Amendment is reasonableness. *Kentucky v. King*, 563 U.S.
17 452, 459 (2011). A search conducted after consent has been obtained from the person whose
18 privacy is being intruded upon is generally reasonable. *Fernandez v. California*, 134 S.Ct. 1126,
19 1132 (2014). "[A] search pursuant to consent may result in considerably less inconvenience for
20 the subject of the search, and, properly conducted, is a constitutionally permissible and wholly
21 legitimate aspect of effective police activity." *Schneckloth v. Bustamonte*, 412 U.S. 218, 228
22 (1973). Consent to a search must be freely and voluntarily given. *Bumper v. North Carolina*, 391
23 U.S. 543, 548 (1968).
24 In addition to the party that a peace officer seeks to collect evidence against, a third party
25 may also consent to a search if he or she shares common authority over the premises or effects
26 that are searched. *United States v. Matlock*, 415 U.S. 164, 170 (1974). Common authority must
27 be proven by the government and can be deduced from mutual use of the property by persons
28 generally having joint access or control of the premises for most purposes. *Illinois v. Rodriguez*,

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497 U.S. 177, 182 (1990). This is an objective inquiry, focusing on whether the facts available to the officer at the time of the search would "warrant a man of reasonable caution" to believe that the consenting party had authority over the premises. *Id*. at 188 (quoting *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968).) "[W]here an officer is presented with ambiguous facts related to authority, he or she has a duty to investigate further before relying on the consent." *United States v. Kimoana*, 383 F.3d 1215, 1222 (2004).

In this case, Officer Nelson astutely acquired facts until an officer of reasonable caution in his position would have believed that W.M. had authority to authorize a search of the apartment. As such, there is no reason to suppress the handgun found underneath the bed inside the apartment that W.M. gave Officer Nelson permission to search. Based on the facts available to Officer Nelson at the time of the search, W.M. had joint control of the apartment as Mr. Larson's girlfriend, and maintained the requisite level of authority over that residence.

This is not the first time that a peace officer has relied on the consent of a significant other to gain access to an apartment. We guard the sanctity of the home especially closely. *Payton v. New York*, 445 U.S. 573, 585 (1980). Several factors may be relevant to determining whether a significant other has authority over given premises, including: "(1) possession of a key to the premises; (2) a person's admission that she lives at the residence in question; (3) possession of a driver's license listing the residence as the driver's legal address; (4) receiving mail and bills at that residence; (5) keeping clothing at the residence; (6) having one's children reside at that address; (7) keeping personal belongings such as a diary or a pet at that residence; (8) performing household chores at the home; (9) being on the lease for the premises and/or paying rent; and (10) being allowed into the home when the owner is not present." *United States v. Groves*, 530 F.3d 506, 509-10 (7th Cir. 2008); see also *United States v. McCurdy*, 480 F.Supp.2d 380, 387 (D. Me 2007); *United States v. McGee*, 564 F.3d 136, 141 (2009). Considering the testimony given at the suppression hearing through the lens of these factors, Officer Nelson reasonably believed that W.M. had authority to give consent to search the premises.

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A live-in girlfriend may have apparent authority even where she "was not on [the] lease, did not have her own set of keys to apartment, and was not contributing to rental payments or utilities." *United States v. Weeks*, 666 F.Supp.2d 1354, 1378 (2006). In previous cases, the court has not required a significant other to live at the searched premises full-time, or receive mail at an apartment where she stored belongings. *United States v. Goins*, 437 F.3d 644, 648 (7th Cir. 2006). Where a defendant's girlfriend told officers that she lived at the property and produced a key to that property, the court has previously found sufficient apparent authority even where the actual property was leased to the defendant's grandmother. *United States v. Hudson*, 405 F.3d 425, 441 (6th Cir. 2005.)

W.M. told Officer Nelson that she had lived in the apartment for more than a year. While she did not store very many items at the apartment, these items composed the extent of her personal property. To Officer Nelson, this reasonably seemed like an affectionate relationship in which Mr. Larson took care of W.M., and granted her unchecked access to the apartment. "A defendant assumes the risk that a co-occupant may expose a common area of a house to a police search." *United States v. Richards*, 741 F.3d 843, 850 (7th Cir. 2014). She even used the apartment to receive extremely personal mail relating to her health. While she did not pay rent, she did tell Officer Nelson that she performed chores in order to contribute to the upkeep of the apartment. W.M. and Mr. Larson appeared to live as cohabitants, just like untold millions of other couples in this country. Thus, this court finds that W.M. had apparent authority to authorize a search of the apartment on Sasha Lane. Accordingly, the Court denies Mr. Larson's request to suppress the handgun found at his apartment.

Finally, the Court must decide whether to suppress the results of the search performed on the cell phone found at the apartment. Because W.M. also had apparent authority to authorize the search of the cell phone, the Court declines to do so. "When the property to be searched is an object or container, the relevant inquiry must address the third party's relationship to the object." *United States v. Andrus*, 483 F.3d 711, 717 (10th Cir. 2007). The fact that an individual is lawfully on the premises does not necessarily mean that person has the authority to consent to a search of any object located therein. *Randolph*, 547 U.S. at 112. Rather, the court focuses on

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whether the consenting party had joint access to or control over the object searched. *United States v. Ruiz*, 428 F.3d 877, 880 (9th Cir. 2005).

The court has considered a number of factors in determining whether a person had access to a device. A person may have access to an electronic device where it is located in a common area and he or she has installed applications onto it. *United States v. Morgan*, 435 F.3d 660, 663-64 (6th Cir. 2006). Another important factor may be whether the defendant's files were password protected. *United States v. Clutter*, 674 F.3d 980, 984 (8th Cir. 2012). A person who only uses the device for seemingly menial tasks such as playing games may still have authority to consent to a search of that device. *United States v. Buckner*, 473 F.3d 551, 555 (4th Cir. 2007).

In this case, the court will not engage in "metaphysical subtleties" in order to determine the boundaries of common authority. *Frazier v. Cupp*, 394 U.S. 731, 740 (1969). The facts known to Officer Nelson at the time he obtained consent to search the phone from W.M. would have lead a reasonable officer to believe that she had joint access or control over the phone. W.M. told Officer Nelson that she and Mr. Larson "shared the phone." This was corroborated by assertions that she was able to use the phone for personal communication and operate her social media accounts on the phone. She also knew the password to the phone and was able to open it without Mr. Larson's assistance. Additionally, the lock screen contained a photograph prominently featuring W.M. All of these facts could have reasonably convinced Officer Nelson that W.M. had authority to consent to a search of the phone, and the Court therefore declines to suppress the evidence discovered as a result of this search.

III. CONCLUSION & ORDER

In light of the forgoing reasons, the Court DENIES Defendant's motion to suppress evidence in its entirety.

IT IS SO ORDERED

Ronald M. Erlin

Ronald M. Erlin
United States District Judge

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UNITED STATES COURT OF APPEALS
FOR THE THIRTEENTH CIRCUIT

UNITED STATES OF AMERICA,
Respondent,

v.

WILLIAM LARSON,
Petitioner.

No. 18-29461

D.C. No. 4:16-cr-1092-RME

OPINION

Appeal from the United States
District Court for the Western District of Victoria
Ronald M. Erlin, District Judge, Presiding

Argued and Submitted
January, 10, 2016
Hanline, Victoria

Filed February 3, 2016
Before Boris P. Chang, Kristen F. Nagle, and Jennifer B. Rodriguez, Circuit Judges

Opinion by Judge Nagle

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OPINION

NAGLE, Circuit Judge:

Petitioner, Mr. William Larson, appeals his convictions on charges of human trafficking and possession of a firearm by a felon. Petitioner contends that the District Court erred in denying his motion to suppress evidence prior to trial. For the reasons set forth below, we agree and therefore reverse the guilty verdicts entered against him, and remand for new trial.

I. BACKGROUND

The District Court has already set forth the facts relevant to this case in detail. Because the facts of the case are not disputed, this Court hereby adopts and incorporates by reference the facts from the opinion below. The District Court denied Petitioner's motion to suppress evidence, and allowed the Government to use the fruits of his arrest and incident search, as well as the results of the searches consented to by W.M., Mr. Larson's "girlfriend." Based on the facts presented, the jury convicted Petitioner on all charges. Petitioner now appeals the order of the District Court denying his motion to suppress. The parties' standing on their respective claims is not in dispute.

II. ANALYSIS

Petitioner argues on appeal that his conviction should be reversed because the Government admitted evidence obtained in violation of his constitutional rights. First, Petitioner contends that all searches conducted pursuant to Local Ordinance 1923 ("L.O. 1923.") are unconstitutional under the Fourth Amendment. Next, Petitioner argues that W.M. had neither actual nor apparent authority to consent to a search of his apartment or the cell phone recovered therein.

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A. The Special Needs Doctrine

Petitioner argues on appeal that the search of his person pursuant to L.O. 1923 was unlawful because Officer Nelson did not have a search warrant, and no exception to the warrant requirement applied. Respondent has emphatically countered that L.O. 1923 is legally justified by special government needs. We hold that L.O. 1923 does not serve a purpose that is separate from the general interest in law enforcement. Therefore, it is not necessary to address whether the asserted special need makes the warrant requirement impracticable.

Petitioner accurately explains that in order to conduct a search, a law enforcement officer must either have a search warrant or be prepared with a reason as to why he or she does not need one. A warrant will be only issued upon probable cause. U.S. Const. amend IV; *United States v. Leon*, 468 U.S. 897, 904 (1984). The Fourth Amendment contains a "strong preference" for warrants. *Massachusetts v. Upton*, 466 U.S. 727, 734 (1984). Yet, the lack of a warrant is not dispositively fatal, as several exceptions to the warrant requirement have been established. *Katz v. United States*, 389 U.S. 347, 357 (1967). Where a search has been conducted without the benefit of a warrant, the government bears the burden of showing that it falls within one of these few "specifically established and well-delineated exceptions." *Id*. at 356-57. Because Officer Richols searched Petitioner without a warrant, it is incumbent upon the Respondent to prove that they he did not need one.

A warrant may not be required when a search is conducted in order to further certain special needs. *Vernonia School District 47J v. Acton*, 515 U.S. 646, 653 (1995). "[W]here a Fourth Amendment intrusion serves special governmental needs, beyond the normal need for law enforcement, it is necessary to balance the individual's privacy expectations against the Government's interests to determine whether it is impractical to require a warrant or some level

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of individualized suspicion in the particular context." *National Treasury Employees Union v. Von Raab*, 489 U.S. 656, 665-66 (1989). Respondent contends that such special needs allow the warrantless searches at issue here.

It is fairly clear in this case that the purpose of L.O. 1923 cannot be divorced from the state's general interest in law enforcement. We find *Ferguson v. City of Charleston*, 532 U.S. 67 (2001) and *City of Indianapolis v. Edmund*, 531 U.S. 32 (2000) instructive.

In *Charleston*, *supra*, the Court struck down a policy of a state hospital that allowed staff to test the urine of expecting mothers for the presence of drugs, and then forward the results of those tests to police. The city in that case offered a very similar purpose to the one proposed here: protecting the health of the mother being tested and her child. If such an argument was to be accepted, however, then nearly any warrantless search could be permissible under the Fourth Amendment. "Because law enforcement involvement always serves some broader social purpose or objective, under [the government's] view, virtually any nonconsensual suspicionless search could be immunized under the special needs doctrine by defining the search solely in terms of its ultimate, rather than immediate, purpose." *Id*. at 83. The Court also found the use of several law enforcement resources to be probative in ascertaining the primary purpose of the law. *Id*. at 82. Use of these resources demonstrated that the central purpose of the statute was to gather evidence in order to prosecute expectant mothers suspected of using drugs. *Id*. at 84-85.

Similarly, in *Edmund*, *supra*, the Court suppressed evidence gathered in the course of a drug interdiction checkpoint because such a checkpoint "unquestionably has the primary purpose of interdicting illegal narcotics." *Id*. at 40. In that case, even the documents created by the city in advance of the checkpoints described them as being "operated by the City of Indianapolis in an effort to interdict unlawful drugs in Indianapolis." Once again, the Court rejected the proposed

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purpose of arresting those who had committed crimes, noting "[i]f we were to rest the case at this high level of generality, there would be little check on the ability of the authorities to construct roadblocks for almost any conceivable law enforcement purpose." *Id*. at 42. As a result, the Court held that these checkpoints were established in order to "uncover evidence of ordinary criminal wrongdoing." *Id*.

L.O. 1923 is analogous to the laws discussed in these cases for several important reasons. L.O. 1923 was passed in order to protect the vulnerable from the parade of horrors that often surrounds human trafficking. The Board essentially states that L.O. 1923 is intended to avoid the serious harm that often befalls its victims. While this may certainly be a noble goal, it is the goal that many task forces set up to combat human trafficking strive for every day. The negative consequences of sex trafficking that L.O. 1923 seeks to eradicate occur every single night of the year, and not just during the week of the All-Star Game. As a result, there is no logical difference between the conduct targeted by L.O. 1923, and the conduct targeted by police on a nightly basis.

In fact, the federal law that Petitioner was convicted under is titled the "Trafficking Victims Protection Act." This leads to the natural conclusion that this law was passed in order to protect the victims of human trafficking both by deterring future pimps and liberating the individuals already being trafficked. Because the purpose of L.O. 1923 and the law Petitioner was convicted under are the same, we are forced to hold that L.O. 1923 serves only the general interest that society has in enforcing its laws against human trafficking.

This conclusion is further supported by the use of law enforcement to conduct searches pursuant to L.O. 1923. If the Board truly meant only to protect victims without a significant interest in prosecuting those responsible, then they could have found ways to do so that did not

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involve a comprehensive search by police. That prosecution was almost a foregone conclusion following all searches that yielded incriminating results further distinguishes L.O. 1923 from other searches found to have a valid non-law-enforcement purpose. *See Skinner v. Railways Labor Executives' Association*, 489 U.S. 602, 617 (1989).

Because L.O. 1923 has no purpose other than the general enforcement of a specific criminal law, it is not necessary to engage in the balancing test proscribed by the second prong of the special needs analysis. Searches conducted pursuant to L.O. 1923 were done in violation of the Fourth Amendment, and their fruits must be suppressed.

B. Consent to Search

Petitioner next argues that the search of the apartment on Sasha Lane, as well as of the cell phone recovered within it, were not legally valid consent searches because Officer Nelson should have known that W.M. did not have authority to authorize them. Respondent argues that the searches at issue were legitimate because the facts known by Officer Nelson at the time of the search would have lead a reasonably cautious officer to believe that W.M. did have authority to give the necessary consent. We agree with Petitioner that neither search was permitted under the Fourth Amendment, and therefore suppress all evidence gathered during these searches.

A police officer need not obtain a warrant prior to search if consent to that search is freely and voluntarily given by somebody with authority to give it. *Florida v. Bostick*, 501 U.S. 429, 438 (1991). That consent was given freely and voluntarily is not in dispute in this case. Rather, where the parties diverge is whether W.M. was legally able to consent to the two searches. It is not necessary for W.M. to have had actual authority to consent to the searches if "the facts available to the officer at the moment [of the search would] warrant a man of reasonable caution in the belief that the consenting party had authority over the premises."

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Illinois v. Rodriguez, 497 U.S. 177, 188 (1990).

It is abundantly clear that W.M. did not have any authority to consent to the search of Petitioner's apartment. Because the argument has not been raised, we do not entertain the proposition that W.M. had actual authority to consent to these searches. A cohabitant may have authority to consent to a search of jointly occupied premises. *Georgia v. Randolph*, 547 U.S. 103, 106 (2009). "A co-occupant's 'common authority' depends not on property rights, but 'on mutual use of the property by persons generally having joint access or control for most purposes.'" *United States v. Penney*, 587 F.3d 297, 307 (2009) (quoting *United States v. Matlock*, 415 U.S. 164, 171 n. 7 (1974)). "[S]ometimes the facts known by the police cry out for further inquiry, and when this is the case it is not reasonable for the police to proceed on the theory that 'ignorance is bliss.'" *United States v. Cos*, 498 F.3d 1115, 1128 (10th Cir. 2007).

Officer Nelson should have known that W.M. did not have authority to consent to a search of the apartment at 621 Sasha Lane for several reasons. "The existence of consent to a search is not lightly to be inferred, and the government always bears the burden of proof to establish the existence of effective consent." *United States v. Reid*, 226 F.3d 1020, 1025 (9th Cir. 2000). Based on the facts known by Officer Nelson, he could not reasonably have concluded that W.M. maintained joint access and control, because W.M.'s use of the apartment was restricted to only those areas that benefited Petitioner. Simple access is not sufficient to show apparent authority. For example, in *United States v. Turner*, 23 F.Supp.3d 290, 308 (S.D.N.Y. 2014), an apartment building's superintendent, who also happened to be the defendant's father, did not have the apparent authority to authorize a search of an apartment within the building because he did not use that apartment.

From the testimony at the suppression hearing, it appears that Petitioner lived at the

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apartment prior to inviting W.M. to move in with him. W.M. was not given her own bedroom and did not pay rent or join the lease, meaning that Petitioner could force her to leave at anytime. Further, W.M.'s physical presence in the apartment was limited, as she did not bring more than a duffel bag's worth of possessions. As evidenced in the record, Petitioner forced W.M. to do excessive housework, and may have used physical force to impose his will. Additionally, the fact that W.M. needed a spare key to open the apartment indicates that she did not have one of her own.

"Even when the invitation is accompanied by an explicit assertion that the person lives there, the surrounding circumstances could conceivably be such that a reasonable person would doubt its truth and not act upon it without further inquiry." *Rodriguez*, *supra*, 497 U.S. at 188. It is true that W.M. told Officer Nelson that she lived with Petitioner. However, this is exactly the sort of statement that Officer Nelson should have been skeptical of. A reasonably cautious officer would have recognized that W.M. was likely being deceived about the nature of her relationship with Petitioner. She believed that they were both business associates and romantic partners, yet Officer Nelson had ample evidence that something much more sinister was actually occurring. Further, W.M.'s age should have belied her claim to have equal authority over the premises. Officer Nelson knew that W.M. was 16, and should have known that it was rare for a 16-year-old to have the sort of authority she claimed. While "minority does not, per se, bar a finding of actual authority to grant third-party consent to entry," it certainly undermines the government's assertion in this case. *United States v. Gutierrez-Hermosillo*, 142 F.3d 1125, 1231 (10th Cir. 1998). W.M.'s claims to have authority over the apartment at 621 Sasha Lane were ostensible at best.

Similarly, W.M. lacked authority to consent to a search of the cell-phone on the

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nightstand in the bedroom of the apartment. "On review, we ask this question: would the facts available to the officer at the time the consent is given warrant a person of reasonable caution in the belief that the consenting party had authority over the item to be searched?" *United States v. James*, 353 F.3d 606, 615 (8th Cir. 2003). Here, this question must be answered negatively. As the District Court acknowledged, whether apparent authority exists is dependent on the consenting party's joint use of and access to an item. *United States v. Peyton*, 745 F.3d 546, 554 (D.C. Cir. 2014). Again, it is the Respondent's burden to prove that apparent authority existed in this case. *See United States v. Waller*, 426 F.3d 838, 846 (6th Cir. 2005).

Where a police officer knows that the consenting party does not own the item, that officer may not rely on that party's apparent authority to conduct a search. *James*, 353 F.3d at 615. When an officer realizes that he or she has stumbled upon sensitive information due an increased expectation of privacy, that officer should proceed with commensurate caution. *United States v. Smairat*, 503 F.Supp.2d 973, 991 (N.D. Ill. 2007). Further, a reasonable officer will at least become skeptical where the location and surroundings of an item indicate that it likely belongs to somebody other than the party giving consent. *United States v. Taylor*, 600 F.3d 678, 681-82 (6th Cir. 2010).

The record in this case does not support the District Court's holding that W.M. had adequate authority to authorize a search of the cell phone. At the outset, it should be noted that Petitioner has a greater expectation of privacy in the data contained in his cell phone than he does in other physical items such as a shoe box or jacket pocket. *See Riley v. California*, 134 S.Ct. 2473, 2489. As such, Officer Nelson should have doubted W.M.'s access to the cell phone as soon as he recognized that it was located on Petitioner's nightstand, as it certainly appeared to be. Further, when the lock screen contained an ambiguous photo, depicting both W.M. and

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Petitioner, he should have conducted further inquiry. Moreover, Petitioner had obviously marked the cell phone with a design he associated with himself without W.M.'s input. While W.M. did know the password to the phone, it was a series of digits related to Petitioner's gang affiliation. This should have further indicated that the phone belonged solely to Petitioner. Adding to all of this was the fact that W.M. did not pay any of the expenses related to maintenance of the cell phone. In light of this evidence, a reasonable officer would not have believed that W.M. had joint access and use of the cell phone. For this reason, we hold that the evidence found on the cell phone must be suppressed.

The decision of the District Court is therefore, **REVERSED and REMANDED**.

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No. 03-240

IN THE

Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

v.

WILLIAM LARSON

Respondent.

Petition for certiorari is granted. The Court grants certiorari limited to the following questions:

1. Are searches conducted pursuant to L.O. 1923 permitted under the special needs exception to the Fourth Amendment?
2. Did W.M. possess authority to consent to Officer Nelson's search of the apartment at 621 Sasha Lane or the cell phone found therein?

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EXHIBIT A

1 **SUPPRESSION HEARING BEFORE THE HON. RONALD M. ERLIN**
2 OFFICER ZACHARY NELSON
3 Direct Examination by AUSA Johnson
4 Q: Good morning Officer Nelson.
5 A: Good morning sir.
6 Q: Could you please state your name and also spell it for the
7 record?
8 A: My name is Zachary Nelson. That's N-E-L-S-O-N.
9 Q: How are you employed, Officer Nelson?
10 A: I am an officer with the Victoria City Police Department,
11 mid-city Division.
12 Q: How long have you served in that capacity?
13 A: You mean with the department or in mid-city?
14 Q: How about both.
15 A: I've been with the department for about 12 years. I started
16 in the southeast division, but moved to mid-city
17 approximately 7 years ago.
18 Q: Where does the mid-city division patrol, Officer Nelson?
19 A: Mid-city patrols downtown. This courthouse is actually in
20 the mid-city division.
21 Q: Good to know. Were you on patrol the night of July 12,
22 2015?
23 A: Yes.
24 Q: Where were you on patrol that night?
25 A: On July 12, I was on a specialty detail with my partner,
26 Officer Richols. We were at the Stripes Motel on I Street,
27 observing guests as they checked in.
28 Q: What were you observing them for?

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1 A: We were looking for signs of human trafficking. Things that
2 might indicate a situation where somebody was trying to
3 pimp somebody else out.
4 Q: Is this a normal assignment for you?
5 A: No.
6 Q: Then why were you doing it on that night?
7 A: Well the Board of Supervisors had passed a new ordinance
8 earlier that year that allowed us to search guests if we
9 had reasonable suspicion they were trafficking people. We
10 wanted to take advantage of it to see if we could help
11 additional potential victims.
12 Q: Did you actually conduct any searches that night?
13 A: Yes, one.
14 Q: Do you see the individual you searched in court today?
15 A: Yes, I do.
16 Q: Could you please identify him based on his location and an
17 item of clothing?
18 A: Yah he's sitting at the defendant's table wearing a blue
19 jumpsuit that says "V.C. Jail" and has a white T-shirt on
20 underneath.
21 Q: May the record reflect that the witness has accurately
22 identified the defendant?
23 The Court: Yes, it may.
24 Q: Why did you search the defendant?
25 A: We thought there was reasonable suspicion to believe he was
26 trafficking in persons and that meant we were allowed to
27 search him under the new ordinance.
28 Q: What was it that made you suspicious?

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1 A: Lots of things. He was with a girl, and she looked way
2 younger than him. The girl's outfit definitely stood out.
3 She was wearing this really low cut top and shorts that
4 barely covered anything at all. They didn't have any
5 suitcases, so we didn't think they were actually
6 travelling.
7 Q: Did you notice anything else?
8 A: Yah. What scared me the most about the situation were the
9 guy's tattoos. One had an "S" and a "W" wrapped around a
10 wizard's hat and the other was the numbers "4-11-5-11."
11 Q: Why did these tattoos concern you so much?
12 A: Because I knew from my training and experience that they
13 meant he was a gang member. The "S" and "W" pretty
14 obviously stood for Starwood and I knew the numbers
15 corresponded with the letters "d", "k", and "e", for
16 "dinosaur killer, everybody killer." They call the 707
17 Hermanos, their rivals, dinosaurs.
18 Q: What did you find when you searched the defendant?
19 A: He was wearing this big jacket and in the pockets we found
20 nine condoms, lube, a butterfly knife, and 600 dollars in
21 cash. We also found two pills of oxycodone, a list of names
22 and how long they paid for.
23 Mr. Payne: Objection. Speculation.
24 The Court: Overruled.
25 A: And a pair of house keys.
26 Q: What did you do next?
27 A: Officer Richols arrested the defendant and I searched the
28 female.

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1 Q: What did you find?
2 A: I found a valid State of Victoria Driver's license saying
3 she was 16 and then I knew she was probably the victim
4 here.
5 Q: So did you arrest her?
6 A: No, I didn't. I just asked her if she would be willing be
7 talk a little and she said she would.
8 Q: Describe how that conversation started.
9 A: Well, I started asking her how she knew the guy we
10 arrested. She said they were boyfriend and girlfriend and
11 that they were in the area to do business with the all-star
12 game fans.
13 Q: What did you ask her next?
14 A: I asked her whether she had a safe place to spend the
15 night.
16 Q: What did she say?
17 A: She said she did, so I asked her where she lived.
18 Q: And how did she answer?
19 A: She said that they lived together about three blocks away,
20 at 621 Sasha Lane. Even though the lease for the apartment
21 was in his name, they shared it. I asked her what she meant
22 and she said they shared everything.
23 Q: After she said they shared it, did you try to follow up on
24 this answer?
25 A: I just told her I was having a little trouble
26 understanding. She said that they lived together and shared
27 all the money from the business they had together, even
28 though the defendant held all the money. I didn't ask what

1 kind of business because she was answering so many
2 questions. She told me that they met while she was homeless
3 and he offered to let her live with him. At first she
4 accepted just so that she would have a roof over her head,
5 but as it turned out, she said he was really nice to her.
6 He gave her lots of compliments and treated her well. He
7 gave her money so that she could buy clothes and perfume.
8 Q: What did you ask next?
9 A: I asked whether she lived there all the time or just stayed
10 there. She said she had just run away from home about a
11 year and a half ago, but that she had lived there about a
12 year.
13 Q: How did you respond to this answer?
14 A: I asked her whether he had ever gotten mad at her for doing
15 something he didn't like. She said that one time he found
16 her texting a guy she was doing a class project with at
17 school and he got mad, and actually slapped her. He told
18 her that from then on, she could only use the cell phone he
19 had given her, which he paid for, so that he could check
20 it.
21 Q: What did all of this make you think?
22 A: Well it made me think she probably had mutual use of the
23 apartment, but I wasn't entirely sure. I asked her whether
24 she kept any of her belongings in the apartment, and she
25 said that she usually kept her backpack and some spare
26 clothes there but that other than that not really. She said
27 she really didn't have anything else that belonged to her.
28 Only like a duffel bag's worth of stuff. She did say that

1 she had medical bills and other personal mail sent to that
2 apartment.
3 Q: Did this answer change your thinking at all?
4 A: Yes. After this, I felt like they were probably sharing the
5 apartment so I asked her if she would give me permission to
6 search the place. She said I could. She led me to a
7 building about three blocks away, on 621 Sasha Lane. She
8 used a spare key underneath a fake rock to open up the
9 door.
10 Q: What exactly did W.M. say when you asked for permission to
11 search the apartment?
12 A: She said something like "yah that's fine" or "okay."
13 Q: What did you find inside the apartment?
14 A: Underneath the bed, I found a loaded black semi-automatic
15 handgun with the serial number scratched off. I took
16 control of that and impounded it immediately.
17 Q: Did you find anything else that you eventually impounded?
18 A: Yes.
19 Q: What was that?
20 A: I found a cell phone. It was an Apple IPhone 5S. I found it
21 on the nightstand. It had a sticker on it.
22 Q: Did you do anything with that phone?
23 A: Yes.
24 Q: What did you do?
25 A: I asked if the phone belonged to her. She said this was the
26 phone they shared.
27 Q: Did you ask her anything else about the phone?
28

1 A: Yes. I asked her whether she had chosen the sticker on the
2 phone, and she said that was Mr. Larson’s sticker. I asked
3 her who paid the bill. Again, she said Mr. Larson did. I
4 asked her what she used the phone for. She said she had her
5 Instagram and her Facebook and her Snapchat all on there
6 and that she could use those without asking Mr. Larson.
7 Q: Did she say whether she used the phone for her own personal
8 purposes?
9 A: She said she did send some personal texts and make some
10 personal calls, but that Mr. Larson also used it to make
11 calls and send texts for the business they had together.
12 Q: What did you do next?
13 A: I asked her whether she would let me search the phone and
14 she said I could.
15 Q: Did you find anything?
16 A: Yes, we found a few inappropriate pictures of W.M. and a
17 video of Mr. Larson rapping about pimping.
18 Q: No further questions.
19 Cross Examination by Mr. Payne
20 Q: Good morning Officer.
21 A: Good Morning.
22 Q: I’d like to start by talking about the search of Mr.
23 Larson’s apartment
24 By AUSA Johnson: Objection. Assumes facts not in evidence.
25 The Court: Overruled.
26 Q: Did you have a warrant to search the apartment?
27 A: No.
28 Q: You walked to the apartment with W.M., correct?

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1 A: Yes.
2 Q: And she didn't have a key, correct?
3 A: Correct.
4 Q: And you believed that Mr. Larson was the only one that had
5 done any paperwork related to this apartment. Correct?
6 A: Yes.
7 Q: Did W.M. tell you whether she paid any rent?
8 A: She said she did not.
9 Q: Did she say whether she had her own room?
10 A: She didn't have her own room, but she said she did have her
11 own section of the closet where she stored her clothes. She
12 said there was no reason for her to have her own room since
13 her and Mr. Larson always slept together anyways.
14 Q: Did she say whether she did chores around the house at all?
15 A: Yes. Actually she did complain that she did almost all of
16 the chores around the house.
17 Q: And she said she didn't store a lot of her belongings
18 there. Correct?
19 A: Well I guess that's technically true, but it sounded to me
20 like she just didn't have that many belongings.
21 Q: Did you ask her whether she cooked for herself in the
22 kitchen?
23 A: Yes.
24 Q: What did she say?
25 A: She said that if she had her own food she did. Her and Mr.
26 Larson kept separate food.
27 Q: You knew she was 16 at this point, right?
28 A: Yes.

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1 Q: In your training and experience, how many 16 year olds have
2 control of their own apartment?
3 A: Not a lot. But this was clearly a pretty abnormal
4 situation.
5 Q: Lets talk about the cell-phone. That had a sticker on it,
6 correct?
7 A: Yes.
8 Q: What was that sticker?
9 A: It was the same design as Mr. Larson's tattoo.
10 Q: Did you know Mr. Larson's gang moniker at the time you
11 searched the phone?
12 A: My partner found one when they booked him. He texted me
13 while we were walking to the apartment. It's "Wizard."
14 Q: And she told you the password too right?
15 A: Yes.
16 Q: It was the same numbers that were tattooed on Mr. Larson's
17 neck right?
18 A: Yes.
19 Q: And W.M. didn't pay for the phone, did she?
20 A: She said she didn't.
21 Q: And Mr. Larson still used it regularly, right?
22 A: Sounds like it, yes.
23 Q: Did you see what the lock screen was when you turned it on,
24 before you actually accessed the phone?
25 A: Yes. It was a picture of Mr. Larson and W.M. together,
26 smiling and making a gesture at the camera.
27 Q: What else was on the nightstand with the phone?
28

1 A: I think there were what looked like men’s glasses, a gold
2 fake Rolex men’s watch, and some condoms.
3 Q: Did you think this was a man’s nightstand or a woman’s?
4 A: I didn’t know. It could have been either.
5 Q: No further questions.
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1 “W.M.”

2 Direct Examination by Mr. Payne

3 Q: Good Morning. Could you please identify yourself for the
4 record using your initials?

5 A: Yes. My initials are W.M.

6 Q: Thank you. Did you speak to Officer Johnson on the night of
7 July 12, 2015?

8 A: Yah.

9 Q: Can you please describe the circumstances that lead up to
10 that conversation?

11 A: My boyfriend and I were trying to check into the Stripes
12 Motel when the officers arrested my boyfriend and Officer
13 Nelson started to search me.

14 Q: Just to be clear, when you reference your boyfriend, are
15 you speaking about Mr. Larson?

16 A: Yes.

17 Q: What did Officer Nelson find when he searched you?

18 A: Just a Gucci wallet with my driver’s license. I didn’t have
19 any cash or credit cards or anything else with me.

20 Q: How did Officer Nelson begin the conversation with you?

21 A: He looked at my ID and just said he wanted to talk I guess.
22 He told me I wasn’t in trouble so I said sure.

23 Q: What was the first thing he asked you?

24 A: He asked whether I had a safe place to stay and I told him
25 I did. I told him I was living with my boyfriend and that I
26 could stay there even though he was arrested.

27 Q: How did you feel while you were interacting with Officer
28 Nelson?

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1 A: I was nervous, you know? I just watched my boyfriend get
2 arrested so obviously I was scared. I think I was even
3 shaking a little bit, but I was trying to hide it.
4 Q: About how long did you talk to Officer Nelson, before he
5 asked for your consent to search the apartment on Sasha
6 Lane?
7 A: Like ten minutes, somewhere around there.
8 Q: At any point, did he ask you any questions relating to your
9 age?
10 A: No, he didn't.
11 Q: Once you got inside, Officer Nelson found a cell-phone on a
12 nightstand, right?
13 A: Yes.
14 Q: How many nightstands were in the bedroom?
15 A: Two.
16 Q: What was on the other nightstand?
17 A: There was an issue of "Seventeen" magazine and a cover I
18 put over my eyes when I sleep that has the word "MONEY" on
19 it in pink.
20 Q: Do you have any tattoos?
21 A: Just one. I have SW on my ankle. I think Officer Nelson
22 could see it.
23 Q: Thank you. No further questions.
24 Cross Examination by AUSA Johnson
25 Q: Good morning Ma'am.
26 A: Good morning.
27 Q: You told Officer Nelson, that you were the defendant's
28 girlfriend, correct?

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1 A: Yes.
2 Q: And you told him that you lived at 621 Sasha Lane, correct?
3 A: Yes.
4 Q: Did you qualify that response at all?
5 A: No.
6 Q: Did you tell Officer Nelson that you had hosted friends the
7 night before, so it might be a little bit messy?
8 A: Yes.
9 Q: Once you were inside the apartment, you told Officer Nelson
10 that he could search the inside of the bedroom, because
11 both of you shared the bedroom, correct?
12 A: Yes. We did share the bedroom.
13 Q: You mentioned another nightstand on direct. Was there a
14 cell phone on that nightstand?
15 A: No.
16 Q: And when Officer Nelson searched you initially, did he find
17 a different cell phone that could have belonged to you?
18 A: No.
19 Q: No further questions. Thank you.
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EXHIBIT B

FOR IMMEDIATE PRESS RELEASE May 6, 2015

VICTORIA CITY BOARD OF SUPERVISORS

What was your life like when you were 16 years old? Did you play high school sports or write for a school paper? Were you visiting colleges and dreading the SAT? For most high school students, experiences such as these can make otherwise trying adolescent years an enjoyable and growth-filled experience. Tragically, many youth in our community are never given these opportunities because they are stolen into the dark and dangerous of world of sex trafficking at a young age.

Samantha was born in Victoria City and grew up in Starwood Park. She grew up in a single-parent household where her mother worked two jobs in order to provide for her and her older brother. As a result, Samantha did not get to spend a lot of time with her mother. Instead, she hung out with her older brother and his friends who were members of the Starwood Homeboyz street gang. Her mom was abusive, and by the time she was 14, Samantha began experimenting with drugs and falling behind in her classes. Issues such as these lead to enough tension between Samantha and her mother that she was eventually forced to move away from home at age 16. She thought she had found a savior when a friend's father offered to let her live with him, but the reality of her new arrangement evolved into something more terrifying than she could have ever imagined. One night, her friend's father began to beat her, and told her that if she couldn't earn a $1000 "stack" then he was going to beat her again. From then on, she was forced to work as a child sex slave. On the night that her peers went to prom, she was abused and manipulated into having intercourse with multiple strange men. She soon dropped out of school entirely. None of her teachers even noticed. Eventually, she tried to bait a customer into killing her. Instead of doing so he called the police. Samantha now works for Victoria City as a victim's advocate helping others who have endured similar trauma. Samantha's name has been changed to protect her privacy.

Stories like Samantha's are uncomfortably common. A recent study conducted by the University of Victoria City found that there are more than 8,000 child sex trafficking victims in Victoria City every year and that their average age of entry into sex trafficking is 16 years old. Starwood Park accounts for nearly 1,500 of these victims, nearly triple the number in any other region of the city. Research conducted at the University of Central Florida has found that there are currently more human slaves than there were during the period between 1600 and the American Civil War. More than a third of these slaves are believed to be minors.[1] Eighty to ninety percent of these minors have previously been sexually abused.[2] The impacts on victims, such as Samantha, can be

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[1] http://espn.go.com/espn/story/_/id/14720095/the-scope-human-trafficking-continues-grow-awareness

[2] Fernandez, Krustle. "Victims or Criminals: The Intricacies of Dealing with Juvenile Victims of Sex Trafficking and Why the Distinction Matters." *Arizona State Law Journal* 45, no. 1 (2013): 859-90.

devastating. Human trafficking victims are known to suffer from high rates of posttraumatic stress disorder and substance abuse.[3]

More pressingly, recent scholarship has confirmed that an increase in the demand for sex services occurs during large sporting events. A study conducted by Arizona State University examined online postings that advertised sex services in the days leading up to the 2015 Super Bowl and found that postings in the host city increased 30.3% in the ten days leading up to the event.[4] Prior to the 2012 Super Bowl in Indianapolis, more than a quarter of the approximately 1000 online postings advertising sex services referenced the game in some way.[5] In the same vein, the National Center for Missing and Exploited Children estimated that nearly 10,000 individuals were trafficked into Miami when the Super Bowl was hosted there in 2010.[6]

As the host of the 2015 Professional Baseball Association All-Star Game, Victoria City may soon be forced to confront a similar rush of human trafficking victims in our community. As such, the Board of Supervisors is determined to protect the safety of our local children as well as those that visit us for the Midsummer Classic. Local Ordinance 1923 will allow law enforcement to protect children by removing them from dangerous situations before they can escalate. By giving Victoria City's finest the tools they need to act when they spot signs of child sex trafficking, the Board hopes that no child will be harmed as a consequence of the fantastic opportunity to host the rest of the country during the all-star week in Victoria City. However, in order to ensure that potential privacy violations are limited to those that are absolutely necessary, L.O. 1923 narrows the applicability of its provisions to only the areas most likely to be hardest hit by this epidemic by requiring that law enforcement limit the scope of their searches. While human trafficking remains a problem every week of the year, the past tells us that it will be especially dire this week. Therefore, the Board of Supervisors is proud to take what we consider to be an innovative step in order to make this week fun and safe for all citizens, including our most vulnerable residents and guests.

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[3] https://aspe.hhs.gov/basic-report/evidence-based-mental-health-treatment-victims-human-trafficking
[4] https://www.scribd.com/doc/256655029/Exploring-the-Impact-of-the-Super-Bowl-on-Sex-Trafficking-2015
[5] http://www.forbes.com/sites/meghancasserly/2012/02/02/sex-and-the-super-bowl-indianapolis-spotlight-teen-sex-trafficking/#551a759f48a7
[6] http://national.deseretnews.com/article/3412/the-super-bowl-is-the-largest-human-trafficking-event-in-the-country.html

EXHIBIT C

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Exhibit :
Lock-screen photo on the phone searched by Officer Nelson

EXHIBIT D

Exhibit D: Area Encompassed by L.O. 1923