IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA,	)	CRIM. ACTION NO. 3:96CR50034
	)	
	)	
v.	)	ORDER
	)	
RAY WALLACE METTETAL, Jr.,	)	
	)	
Defendant.	)	JUDGE JAMES H. MICHAEL, JR.

Upon consideration of: (1) Defendant's "Motion *In Limine* to Exclude Evidence Relating to Defendant's Automobile"; (2) Defendant's "Motion *In Limine* to Exclude Evidence Relating to Investigative Leads"; (3) Defendant's "Motion to Suppress Evidence of Defendant's Encounter with Police in Nashville"; (4) Defendant's "Motion *In Limine* to Exclude Defendant's Testimony from First Trial"; (5) Defendant's "Motion *In Limine* to Prohibit Certain Witness Testimony"; (6) Defendant's "Motion In Limine to Exclude Testimony of Linda Mettetal"; all oppositions thereto; and having heard oral argument by counsel, for the reasons stated in the accompanying Memorandum Opinion, it is this day

ADJUDGED, ORDERED, AND DECREED

as follows:

1. Defendant's "Motion *In Limine* to Exclude Evidence Relating to Defendant's Automobile" shall be, and it hereby is, DENIED;

2. Defendant's "Motion *In Limine* to Exclude Evidence Relating to Investigative Leads" shall be, and it hereby is, GRANTED IN PART, as to specific information conveyed by the Nashville police to Investigator Hoover regarding the unlawful

arrest and search incident to that arrest; and DENIED IN PART, as to Investigator Hoover's conversation with Brett Yoder to the extent such conversation is not used to prove the truth of Yoder's claim that he rented a storage unit to a man with the last name of Maupin a year before;

3. Defendant's "Motion to Suppress Evidence of Defendant's Encounter with Police in Nashville" shall be, and it hereby is, DENIED;

4. Defendant's "Motion *In Limine* to Exclude Defendant's Testimony from First Trial" shall be, and it hereby is, DENIED;

5. Defendant's "Motion *In Limine* to Prohibit Certain Witness Testimony" shall be, and it hereby is, GRANTED IN PART, as to testimony of the Vanderbilt University and Nashville Police Officers regarding observations made during the illegal arrest and search incident thereto; and DENIED IN PART, as to the general authority of all witnesses referenced in the defendant's motion to take the witness stand;

6. Defendant's "Motion In Limine to Exclude Testimony of Linda Mettetal" is GRANTED with regard to confidential marital communications.

The Clerk of the Court hereby is directed to send a certified copy of this Order and the accompanying Memorandum Opinion to all counsel of record.

ENTERED: _____

Senior United States District Judge

_____

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA,	)	CRIM. ACTION NO. 3:96CR50034
	)	
v.	)	MEMORANDUM OPINION
	)	
RAY WALLACE METTETAL, Jr.,	)	
	)	
Defendant.	)	JUDGE JAMES H. MICHAEL, JR.

I.

Before the court are six motions *in limine* filed by the defendant, Ray Wallace Mettetal, Jr., addressing various evidentiary issues related to his forthcoming criminal trial, scheduled to begin on October 22, 2001. The defendant was tried and convicted in this court in 1998 on 2 counts of possessing a deadly toxin and false identification documents.[1] The defendant was sentenced to serve ten years in prison. The defendant's convictions in this court were vacated by the Fourth Circuit upon its finding that the police lacked probable cause to arrest the defendant following the lack of probable cause found by the state court in Tennessee, and thus evidence used to convict the defendant should have been excluded through application of the exclusionary rule. *United States v. Mettetal*, 213 F.3d 634 (4th Cir. 2000) [hereinafter "*Mettetal I*"]. Upon remand to this court from the Fourth Circuit, the defendant moved to dismiss the 1995 two-count indictment. The defendant's Motion to Dismiss was denied by the order and accompanying memorandum opinion of this court on June 16, 2000, based on application of the good faith exception to the exclusionary rule with respect to the Virginia search warrants. *United States v.*

[1]Attempted murder charges levied against the defendant in Tennessee were dropped in 1999 when a Tennessee state court found no probable cause for the defendant's arrest.

Mettetal, 2000 WL 33232324 (W.D. Va. 2000) [hereinafter "*Mettetal II*"].

Having reviewed the motions *in limine* and oppositions thereto, having heard oral argument by counsel, and for the reasons hereinafter set forth, the defendant's motions shall be GRANTED IN PART and DENIED IN PART. Familiarity with the factual background of this case, described in *Mettetal I* and *Mettetal II*, shall be assumed. Additional relevant facts shall be discussed as they pertain to each of the parties' respective motions.

II.

The exclusionary rule does not apply to information gathered *prior* to the Fourth Amendment violation. *Wong Sun v. United States*, 371 U.S. 471, 485 (1963) (stating that the exclusionary rule bars materials obtained either *during* or as a *direct result* of an unlawful invasion). Therefore, before ruling on many of the defendant's motions, this court should determine at what point the Fourth Amendment violation in this case occurred. The defendant contends that even his initial encounter with the Vanderbilt campus police was an unlawful seizure and, therefore, the entire encounter should be suppressed. This argument is without merit.

An innocuous "police-citizen encounter," in which an officer approaches someone in a public place and asks him or her a few questions, does not violate the Fourth Amendment. *Florida v. Bostick*, 501 U.S. 429 (1991). *Florida v. Royer*, 460 U.S. 491, 497 (1983); *United States v. Analla*, 975 F.2d 119, 124 (4th Cir. 1992); *United States v. Flowers*, 912 F.2d 707, 711-12 (4th Cir. 1990). Furthermore, an officer may stop and briefly detain (a "stop and frisk") an individual who he has a reasonable basis for suspecting is engaged in criminal activity. *Terry v. Ohio*, 392 U.S. 1, 30 (1968). The "reasonable suspicion" standard is not substantial, and "must be determined in light of the totality of the circumstances confronting a police officer including all information available to an officer and any reasonable inferences to be drawn at the time of the decision to stop a suspect." *United States v. Crittendon*, 883 F.2d 326, 328 (4th Cir. 1989).

This court has little difficultly in concluding that Sergeant Campbell had a reasonable suspicion regarding Mettetal. Sergeant Campbell was sent to the Medical Center parking garage in response to a phone call from Christy Wilson describing Mettetal's suspicious activities in the vicinity. In addition, Sergeant Campbell's own observation of Mettetal's obvious disguise provided the requisite "articulable suspicion" necessary to stop Mettetal pursuant to *Terry*.

However, Mettetal argues that, even if the initial stop was valid, the confrontation ripened into a seizure well before he was formally arrested and Sergeant Campbell's actions must therefore be scrutinized under the higher standard of probable cause. Under this higher standard, Mettetal argues that receipt of the Maupin identification and his story regarding a cheating girlfriend should be excluded from evidence at trial. The Supreme Court has intimated that interrogation, requests for identification, and confirmation of identification are valid investigative techniques in the context of a *Terry* stop. *See Michigan v. Summers*, 452 U.S. 692 (1981). Nevertheless, Mettetal asserts that his encounter with the police in Nashville was accompanied by force sufficient to escalate the stop to a seizure. Specifically, it is claimed that the presence of numerous officers surrounding Mettetal and Sergeant Campbell's request for identification accompanied by threat of arrest establishes that the force used by the Vanderbilt and Nashville police exceeded that generally associated with a *Terry* stop.

The Fourth Circuit has held that a "brief but complete restriction of liberty is valid under *Terry*." *United States v. Moore*, 817 F.2d 1105, 1108 (4th Cir. 1987). Furthermore, a show of force does not necessarily transform a *Terry* stop into seizure. *See, e.g., United States v. Sinclair*, 983 F.2d 598 (4th Cir. 1993) (stating that, in conducting *Terry* stops, officers may take steps reasonably necessary to maintain the status quo and to protect their safety, including drawing their weapons); *United States v. Manbeck*, 744 F.2d 360 (4th Cir. 1984) (stating that, "this court has...rejected the notion that officers transform a *Terry* stop into an arrest by virtue of blocking the progress of a vehicle and drawing their weapons when approaching....[this] is a reasonable way of effectuating the stop"). It was reasonable for Sergeant Campbell to enlist the assistance of other officers both for his own safety and to facilitate the valid *Terry* stop in which he was engaged. The fact that Mettetal's liberty was curtailed is a necessary implication of being stopped, no matter how brief the period. Mettetal's perception that he was not free to leave due to the presence of the other officers does not alter this conclusion. *Moore*, 817 F.2d at 108 ("the perception...that one is not free to leave is insufficient to convert a *Terry* stop into arrest").

In addition, Sergeant Campbell's demand that Mettetal present identification was not an unreasonable *Terry* stop investigative procedure. The defendant is correct in asserting that, when officers have no basis for suspecting an individual, they may ask to see identification only if they

do not convey the message that compliance is required. *Florida v. Bostick*, 501 U.S. 429, 435 (1991). However, "the reality is that police officers seeking to obtain information from a suspect in a *Terry* stop are likely- and expected- to use one or more techniques with coercive impact, and they are permitted to ask their questions 'in a way calculated to obtain an answer.'" *United States v. Campa*, 234 F.3d 733, 740 (1st Cir. 2000) (quoting *Kolender v. Lawson*, 461 U.S. 352, 366 (1983). When officers have the requisite "articulable suspicion" to make a *Terry* Stop, they are entitled to require identification. *See United States v. Cardona-Rivera*, 904 F.2d 1149, 1153 (7th Cir. 1990) (citing *Terry*; *United States v. Serna-Barreto*, 842 F.2d 965, 966 (7th Cir. 1988)); *United States v. Riggs*, 474 F.2d 699, 703 (2d Cir. 1973). In fact, requests for identification utilizing much more coercive authority than that displayed by Sergeant Campbell in this case have been upheld when made during a valid *Terry* stop. *See Campa*, 234 F.3d 733 (holding that a demand for identification was valid even after the officer inappropriately removed the suspect's wallet from his pocket during the course of a *Terry* stop).

Under the authorities cited *supra* and the fact pattern in this case, the Fourth Amendment was not implicated in this case until Mettetal was formally arrested by the Nashville police, and any information obtained prior to the arrest is admissible. This conclusion is supported by both the Fourth Circuit's opinion in *Mettetal I* and the Tennessee state court's holding regarding Mettetal's attempted murder indictment. In *Mettetal I*, the Fourth Circuit held that Mettetal's *arrest* subsequent to the thirty minute identification check was without probable cause, not that the stop and subsequent questioning implicated Fourth Amendment analysis. In so holding, the Fourth Circuit stated that evidence discovered, "as a result of information obtained from his *unlawful arrest and the search incident to that arrest*" is subject to the exclusionary rule. (emphasis added) Similarly, the Tennessee state court held that the initial stop of Mettetal was appropriate but that evidence obtained during and subsequent to the formal arrest should be excluded, implying that receipt of the Maupin identification and information obtained prior to the arrest is admissible.

III.

G. DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE RELATING TO DEFENDANT'S AUTOMOBILE

The defendant moves to exclude evidence relating to the his vehicle parked at Washington National Airport. The defendant contends that evidence related to his parked vehicle is fruit of the unlawful arrest that occurred in Tennessee. In *Mettetal II*, this court held that Investigator Hoover of the Harrisonburg Police had a reasonable, good faith belief that the information obtained from Nashville justified his obtaining the warrants which led to the search of Mettetal's office, home, and storage units in the Harrisonburg area. Thus, information gathered pursuant to those search warrants was deemed admissible under the good faith exception to the exclusionary rule. Similarly, information gathered from the search of Mettetal's vehicle parked at Washington National Airport is admissible under the good faith exception.

Like Investigator Hoover, Sergeant Ken Hutton of the Metropolitan Washington Airport Police Authority for National Airport received information from the Metropolitan Nashville Police detailing information obtained from Mettetal's arrest and Detective David Miller's subsequent investigation of Mettetal. There is no evidence to suggest that Sergeant Hutton's good faith belief regarding the validity of Mettetal's arrest was any less reasonable than Investigator Hoover's good faith belief. Because it was objectively reasonable for Sergeant Hutton to believe that both the underlying arrest and search warrant were valid, evidence gathered from the search of Mettetal's vehicle is admissible.

H. DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE EVIDENCE RELATING TO INVESTIGATIVE LEADS

The defendant moves to exclude information received by Investigator Hoover from the Nashville police regarding its arrest and subsequent investigation of Mettetal. The defendant maintains that this information is hearsay and fruit of the unlawful arrest. The defendant also moves to exclude information provided to the Harrisonburg police by Brett Yoder, an employee of Acorn Drive Storage, on the basis that this information is hearsay and irrelevant.

In *Mettetal I*, the Fourth Circuit held that Mettetal's arrest violated the Fourth Amendment. Thus, information obtained from the arrest and search incident to that arrest is subject to the exclusionary rule. This includes information contained in communications from the Nashville police to Investigator Hoover regarding the arrest and accompanying search.

The information conveyed to Investigator Hoover is necessary to establish his motivation for pursuing warrants and initiating an investigation of Mettetal in Virginia. Furthermore, this information would be excepted from the hearsay rule as evidence offered not for the truth of the matter asserted, but rather evidence offered to establish Investigator Hoover's state of mind and motivation. Nevertheless, this court's holding in *Mettetal II* that Investigator Hoover acted reasonably and in good faith in obtaining the search warrants in Virginia would seem to obviate any need to establish Hoover's motivation for investigating Mettetal at trial. To the extent that the parties desire, for the sake of coherency, to identify the catalyst for the Virginia investigation, they may do so by generally referencing the fact that communications with the Nashville police took place, which by itself is not hearsay, without discussing their specific content. Furthermore, the content of those communications may be discussed in detail to the extent they addressed information regarding the period prior to Mettetal's formal arrest and are not used to establish the truth of that information. .

Similarly, Lieutenant Hoover's conversation with Brett Yoder is excepted from the hearsay rule as long as it is not used to prove the truth of the matters asserted in the conversation. In addition, while this conversation may merely provide background evidence, this is an insufficient basis for exclusion under Rule 401. Advisory Committee's Note to Rule 401; *United States v. Blackwell*, 853 F.2d 86, 88 (2d Cir. 1988); *Government of Virgin Islands v. Grant*, 775 F.2d 508, 513 (3d Cir. 1985); *Conway v. Chemical Leaman Tank Lines, Inc.*, 525 F.2d 927, 930 (5th Cir. 1976). However, under the hearsay rule, this conversation is not admissible to prove the truth of Yoder's claim that he rented a storage unit to a man with the last name of Maupin a year before.

I. DEFENDANT'S MOTION TO SUPPRESS EVIDENCE OF DEFENDANT'S ENCOUNTER WITH POLICE IN NASHVILLE

The defendant moves to suppress evidence regarding his presence in Nashville. The defendant argues that, because the police did not remove his disguise until after they unlawfully arrested him, they cannot make a physical description of him as being present in Nashville at that time and place. Furthermore, the defendant contends that his production of the Maupin identification and story regarding a cheating girlfriend were made under threat of arrest and thus

should not be admissible.

Because this court finds that the Fourth Amendment was not implicated in this case until Mettetal's formal arrest, any interaction between the Vanderbilt police and Mettetal prior to the arrest is admissible, including the cheating girlfriend story and the Maupin identification. Furthermore, while Mettetal's disguise may not have been removed until after his arrest, this does not necessarily preclude the police from identifying Mettetal as being present at that time and place. Mettetal's rather obvious disguise was insufficient to make identification of his true appearance impossible, particularly once the officers were within a few feet of him. Furthermore, Mettetal was apparently sweating profusely during the encounter, causing his fake beard to remove in part, thus giving the police a better opportunity to observe his real facial features. Finally, the Maupin identification that Mettetal gave the police included a picture of Mettetal *sans* disguise. Based on these factors, it is reasonable to assume that the Nashville and Vanderbilt police are able to identify Mettetal as the person they stopped, even without the benefit of the subsequent removal of his facial disguise.

J. DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE DEFENDANT'S TESTIMONY FROM FIRST TRIAL

The defendant moves to exclude his testimony from the first trial. The defendant contends that this testimony was wrongfully compelled and thus, under *Harrison v. United States*, 329 U.S. 219, 222 (1968), it should be excluded. Furthermore, the defendant argues that, if he does not testify at the second trial, the government should not be able to claim that he waived his privilege against self-incrimination by testifying at the first trial.

As a general rule, a defendant's testimony at a former trial is admissible against him in later proceedings. *See Harrison*, 392 U.S. at 222. However, in *Harrison*, the Supreme Court held that former testimony may not be admitted when such testimony is impelled by wrongfully obtained evidence. Id. The government has the burden of showing that its illegal action did not induce the defendant's testimony. *Id.* at 225.

The government contends that this case is distinguishable from *Harrison* because it involves physical evidence as opposed to the oral confession at issue in *Harrison*. The underlying rationale for excluding prior testimony is the same whether illegally obtained physical evidence or

verbal confessions are at issue- prior testimony should not be admitted when impelled by the fruit of the poisonous tree. *See Harrison*, 392 U.S. at 222. Many other circuits have applied the rule set forth in *Harrison* to cases involving physical evidence rather than testimonial evidence. *See, e.g., United States v. Pelullo*, 173 F.3d 131 (3rd Cir. 1999) (applying the Harrison analysis with regard to Brady evidence); *United States v. Duchi*, 944 f.2d 391 (8th Cir. 1991) (applying the Harrison analysis with regard to an inappropriately seized UPS package).

Under *Harrison*, the appropriate inquiry is whether the admission of the illegally obtained evidence induced Mettetal to take the stand to testify and, in doing so, make a number of admissions that might not have come out but for that testimony. Other circuits have elaborated on this fundamental inquiry and determined that, "the Court in *Harrison* mandated what is essentially an exclusionary rule inquiry where there appears to be a link between a constitutional violation and a defendant's subsequent decision to take the stand." *Pellullo*, 173 F.3d at 136. We agree with this interpretation, and find that its application to this case permits admission of Mettetal's prior testimony. Even if the illegally named evidence had been excluded from the first trial, Mettetal would have most likely testified. Collectively, this court's holdings in *Mettetal II* and the current opinion generally permit the admission of all evidence at issue except for that obtained following the illegal arrest in Nashville and search incident thereto and the subsequent investigation performed by the Metropolitan Nashville Police. Thus, the admissible evidence now available to the government for the second trial is not substantially different than that used at the first trial, when Mettetal decided to testify. Furthermore, much of the evidence excluded, including the syringe, is more relevant to the attempted murder charges brought against Mettetal in Tennessee than the deadly toxin and false identification charges presently before this court. While Mettetal would have likely chosen not to address these items of evidence at the first trial if he knew they would otherwise be excluded, such an omission would have done little to shift the critical mass of evidence weighing against him. That is, applying the exclusionary rule inquiry used by courts in the wake of *Harrison*, there does not appear to be a link between the constitutional violation and Mettetal's subsequent decision to take the stand. On this basis, Mettetal's prior testimony should be admitted, and his waiver of the Fourth Amendment by previously taking the stand remains in effect.

K. DEFENDANT'S MOTION *IN LIMINE* TO PROHIBIT CERTAIN WITNESS TESTIMONY

The defendant moves to exclude certain witness testimony, including that of Dr. George Allen, Linda Mettetal, Ray W. Mettetal, III, Dr. Ogle, the "mail-drop witnesses," the "hair dressers", the "bus driver", and the Vanderbilt University and Nashville Police Officers. The defendant argues that many of these witnesses and their relationships to the defendant were discovered following Mettetal's illegal arrest and were provided details regarding evidence discovered during the illegal search; thus their testimony should be prohibited under the exclusionary rule. We disagree.

In *Mettetal II*, this court determined that, because the Fourth Circuit's opinion in *Mettetal I* did not consider the application of certain exceptions to the exclusionary rule, it is this court's obligation to do so.[2] There are four exceptions to the exclusionary rule, one of which states that, when the connection between the illegal conduct and acquisition of the challenged evidence is so attenuated that it dissipates the taint of the unlawful act, the exclusionary rule does not apply (the "attenuation doctrine"). This exception to the exclusionary rule is often applied with regard to live witness testimony. In *United States v. Ceccolini*, the United States Supreme Court held that, "the exclusionary rule should be invoked with much greater reluctance where the claim is based on a causal relationship between a constitutional violation and the discovery of a live witness than when a similar claim is advanced to support suppression of an inanimate object." 435 U.S. 268, 280. In support of this conclusion, the Court stated that, "the greater the willingness of the witness to freely testify, the greater the likelihood that he or she will be discovered by legal means and, concomitantly, the smaller the incentive to conduct an illegal search to discover the witness." *Id.* at 276. Furthermore, the Court asserted that the exclusion of live witness testimony, as opposed to the typical documentary evidence, "would perpetually disable a witness from testifying

---

[2] This court was not opposed to interlocutory review of *Mettetal II*, but lacked authority to certify the same to the Fourth Circuit. The defendant sought interlocutory review of *Mettetal II*, and this court stayed the instant proceedings pending the outcome. However, on the government's motion, the Fourth Circuit dismissed the interlocutory appeal by order with no opinion as to the merits of *Mettetal II*. The defendant then petitioned the Supreme Court for certiorari on the Fourth Circuit's dismissal. The Supreme Court denied certiorari.

about relevant and material facts, regardless of how unrelated such testimony might be to the purpose of the original illegal search or the evidence discovered thereby." *Id.* at 277.

The Fourth Circuit applied the *Ceccolini* analysis in *United States v. McKinnon*. 92 F.3d 244 (4th Cir. 1996). In *McKinnon*, the Fourth Circuit found the testimony of a witness admissible even though his involvement was discovered as a result of an illegal search. The Fourth Circuit held that the witness's testimony was admissible, in part, because he freely and immediately cooperated with the police.

The testimony of the witnesses the defendant now seeks to exclude is far more attenuated than that deemed admissible in *McKinnon*, where the witness's name was provided by the illegally seized defendant during interrogation. Furthermore, factors considered by the Supreme Court in *Ceccolini*, when applied in this case, weigh in favor of admitting the testimony of these witnesses. Primarily, all of the witnesses at issue exhibited great willingness to testify. In fact, Yoder and Ray Wallace Mettetal III *initiated* contact with the police after reading about Mettetal's arrest in a newspaper. Furthermore, to the extent that their testimony is relevant to the case before this court (as opposed to the Tennessee attempted murder case), the testimony of many of the aforementioned individuals was obtained by the Harrisonburg police in an investigation far removed, both temporally and spatially, from the illegal seizure in Nashville, Tennessee. Thus, with the exception of testimony provided by the officers in Nashville regarding observations made following the illegal arrest and search incident thereto, the testimony of the witnesses the defendant seeks to suppress is generally admissible.

L. DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE TESTIMONY OF LINDA METTETAL

The defendant moves to exclude confidential marital communications he made to Linda Mettetal while they were married. Courts generally recognize a marital communications privilege, which permits a spouse to protect confidential communications made to his spouse in confidence. *See Blau v. United States*, 340 U.S. 332 (1951); *United States v. Parker*, 834 F.2d 408 (4th Cir. 1987). Thus, there are two elements to this privilege: (1) the information must have been conveyed via a communication and (2) the communication must have been confidential. Communications made by the defendant to Linda Mettetal during their marriage that satisfy these

two elements will be excluded.

IV.

To summarize, (1) Defendant's "Motion *In Limine* to Exclude Evidence Relating to Defendant's Automobile" shall be, and it hereby is, DENIED; (2) Defendant's "Motion *In Limine* to Exclude Evidence Relating to Investigative Leads" shall be, and it hereby is, GRANTED IN PART, as to specific information conveyed by the Nashville police to Investigator Hoover regarding the unlawful arrest and search incident to that arrest; and DENIED IN PART, as to Investigator Hoover's conversation with Brett Yoder to the extent such conversation is not used to prove the truth of Yoder's claims; (3) Defendant's "Motion to Suppress Evidence of Defendant's Encounter with Police in Nashville" shall be, and it hereby is, DENIED; (4) Defendant's "Motion *In Limine* to Exclude Defendant's Testimony from First Trial" shall be, and it hereby is, DENIED; (5) Defendant's "Motion *In Limine* to Prohibit Certain Witness Testimony" shall be, and it hereby is, GRANTED IN PART, as to testimony of the Vanderbilt University and Nashville Police Officers regarding observations made during the illegal arrest and search incident thereto; and DENIED IN PART, as to the general authority of all witnesses referenced in the defendant's motion to take the witness stand; and (6) Defendant's "Motion In Limine to Exclude Testimony of Linda Mettetal" is GRANTED, as noted *supra*.

Each of the foregoing rulings is made in consonance with and subject to the reasoning, the inclusions and exclusions as set out in the text of this opinion.

An appropriate Order shall this day issue.

ENTERED:_____

Senior United States District Judge

_____

Date