

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) **Criminal Action No. 5:12cr00004**
v.)
)
CHARON CHRISTOPHER CARROLL,)
)
 Defendant.)

MEMORANDUM OPINION

Before the court is defendant’s **Motion to Suppress (Dkt. # 20)**, in which defendant seeks to suppress two firearms and ammunition that were found in his car during a warrantless inventory search, as well as subsequent post-Miranda statements made by defendant to law enforcement. This evidence is the basis for defendant’s current charges in this court for possessing a firearm as a convicted felon in violation of 18 U.S.C. § 922(g)(1) and knowingly making a materially false, fictitious, and fraudulent statement and representation in violation of 18 U.S.C. § 1001. The matter has been fully briefed, and the court held an evidentiary hearing on August 28, 2012. Because the warrantless inventory search was conducted in good faith and in accordance with standardized criteria, as required by the Fourth Amendment, defendant’s motion to suppress must be denied.

I

Defendant’s motion to suppress arises out of a traffic stop on January 5, 2012.¹ On that day, Virginia Department of State Police Special Agent J.L. Aikens (“Aikens”) conducted a traffic stop of defendant’s vehicle for speeding on Interstate 81. The posted speed limit was 70

¹ Defendant submitted a video of the entire traffic stop to the court prior to the evidentiary hearing on August 28, 2012, and the court viewed the entire video in detail prior to the hearing.

miles per hour, and defendant was traveling 79 miles per hour. Defendant was driving his wife's car, and there were no other passengers in the vehicle. Aikens asked defendant where he was going, to which defendant responded that he was driving to New York for a family matter. Aikens then asked defendant for his driver's license and registration, which defendant provided. Aikens returned to his patrol car and ran a check on defendant's license and criminal history, upon which he learned of an outstanding arrest warrant for defendant from Appomattox County for assault. While Aikens awaited confirmation on whether Appomattox County wanted the outstanding arrest warrant executed, Aikens called Virginia State Police Dispatch ("Dispatch") and asked whether defendant had a "10-75," or criminal history for drugs. At the evidentiary hearing, Aikens testified that, based on his extensive experience in drug interdiction, he routinely asks about the criminal history for drugs of most of the people he pulls over for traffic violations.

While awaiting confirmation on his 10-75 inquiry, Aikens returned to defendant's car and informed defendant of the outstanding arrest warrant for him for assault. Aikens then told defendant that he would need to be handcuffed and held in investigative detention until Appomattox County confirmed whether or not it wanted the arrest warrant executed. Defendant cooperated and got out of the car, Aikens handcuffed him, and the two returned to the patrol car. Aikens testified at the evidentiary hearing that while defendant was exiting the vehicle, he thought he smelt burnt marijuana, either on defendant or coming from the car. Aikens further testified that he is familiar with the smell of burnt marijuana from his training and experience in drug interdiction. Thus, after placing defendant in the patrol car and before reentering the patrol car himself, Aikens returned to defendant's vehicle and stuck his head in the car's open window, making a comment that he was smelling for "dope" to a back-up agent that had arrived on the scene.

Upon rejoining defendant in the patrol car, Aikens again asked Dispatch to confirm his previous 10-75 inquiry. At that time Dispatch confirmed that defendant had a criminal history involving drugs. Aikens also inquired about whether defendant was positive for “10-78,” or weapons violations, to which Dispatch responded in the affirmative. Shortly thereafter, Dispatch also confirmed that Appomattox County sought to execute the outstanding arrest warrant for defendant. At that time Aikens informed defendant that he was being arrested for the assault charge and explained that, because no one else was present to operate defendant’s vehicle, it would have to be towed and stored. Aikens explained this would mean that, according to police department policy,² he would have to do an inventory search of the car. Aikens asked defendant for consent to search the vehicle, but defendant denied such consent. Aikens then told defendant that he would have to conduct an inventory search anyway in order to look for things of value.

After explaining the inventory search process to defendant, Aikens exited the patrol car and recounted his discussion with defendant to the back-up agent on the scene. Aikens told the back-up agent that he had asked for defendant’s consent to search the car, that defendant had denied consent, that he told the defendant that he would have to inventory the car anyway, and that he was going to search the car for anything illegal. Aikens quickly corrected himself and said he was going to search the vehicle for things of value. Aikens then retrieved an SP-158 Form,³ the specific form used to conduct an inventory search, from the backseat of the patrol car and began performing the inventory search of defendant’s vehicle with the back-up agent. Aikens testified at the evidentiary hearing that the SP-158 Form was with him on a clipboard during the entire inventory search of defendant’s vehicle.

² The Virginia Department of State Police policy for vehicle impoundment and inventory was introduced into evidence by the government as an exhibit at the evidentiary hearing. See Government’s Exhibit 1, Dkt. # 29, Ex. 1.

³ The SP-158 Form completed by Aikens was introduced into evidence by the government as an exhibit at the evidentiary hearing. See Government’s Exhibit 2, Dkt. # 29, Ex. 2.

Shortly after the inventory search began, Aikens and the back-up agent discovered two firearms and ammunition in the glove compartment and trunk of defendant's vehicle. At the evidentiary hearing, Aikens testified that although he suspected he would find illegal items in the vehicle during the inventory search, he was not expecting to find two firearms and ammunition in defendant's car. Aikens asked defendant if he knew anything about the firearms, but defendant denied any knowledge of the weapons. Aikens and the back-up agent then began taking pictures of the firearms and ammunition and preparing to store them. During this time, the video of the traffic stop shows that Aikens and the back-up agent were excited about the discovery of the firearms and ammunition. About ten minutes later, Aikens got back in the patrol car, where defendant had remained handcuffed during the inventory search, and asked defendant whether he was a convicted felon. Defendant responded in the affirmative, and while Aikens awaited confirmation of this inquiry from Dispatch, he read defendant his Miranda rights and told him that he could potentially be arrested for unlawfully possessing firearms as a convicted felon.

Over the next approximately forty minutes, Aikens and other back-up agents who arrived on the scene continued to search defendant's vehicle, secure the firearms and ammunition as evidence, and await the arrival of the towing company to store defendant's car. After Aikens and the other agents had completed their search and the vehicle had been towed, Dispatch confirmed that defendant had several prior felony convictions from various states. Aikens transported defendant to the Shenandoah County Sheriff's Office where he was charged with the state criminal offense of being a felon in possession of firearms. Defendant states in his motion that he was advised of his Miranda rights and that, after initially refusing to speak, he later requested an interview with two special agents with the Bureau of Alcohol, Tobacco, Firearms, and

Explosives (“ATF”), during which he made incriminating statements about the firearms found in the vehicle. It is these firearms, ammunition, and statements that defendant now seeks to suppress.

II

In his motion to suppress, defendant argues that the inventory search was unconstitutional because Aikens acted in bad faith and performed the search as a pretext for conducting a criminal investigation against defendant. Defendant concedes that Aikens had a valid reason to stop his vehicle and arrest him and that, with no one else to drive defendant’s car, it was permissible for the vehicle to be impounded. The police department policy thus required Aikens to prepare an inventory of all the property in the vehicle and secure the property. However, while these facts lay the foundation for an inventory search, defendant argues that they do not necessarily make the inventory search constitutional. A valid inventory search must be conducted in good faith for the purpose of creating an inventory and must be done according to a policy that sets forth standardized criteria to limit officers’ discretion so that the inventory search does not become a ruse for a criminal investigation. Defendant does not contest the police department’s policy or the standardized search criteria set forth in the policy. Instead, he argues that Aikens did not conduct the inventory search in good faith and instead conducted the inventory search as a pretext for an unconstitutional investigatory search.

Defendant’s bad faith argument is premised on the totality of Aikens’ conduct during the traffic stop and inventory search, and defendant principally relies on the following facts to demonstrate Aikens’ bad faith: (1) that Aikens asked Dispatch whether defendant was positive for 10-75 approximately four minutes into the traffic stop before removing defendant from his vehicle and that Aikens asked for 10-75 confirmation a second time once defendant was

handcuffed; (2) that Aikens asked defendant for consent to search the vehicle because, as he testified at the evidentiary hearing, he did not think there was probable cause at the time to conduct a warrantless search of the vehicle; (3) that, in a revealing statement before beginning the inventory search, Aikens told the back-up agent that he was going to search the vehicle for anything illegal; (4) that in this conversation with the back-up agent, Aikens seemed to brag about the fact that although defendant had denied consent to search the vehicle, Aikens was going to search the vehicle anyway by conducting an inventory search; (5) that Aikens and the back-up agents took extensive pictures and records of the firearms and ammunition that were found but seemingly did not take as much interest in the rest of the inventory report; (6) that Aikens included the firearms on an SP-165 Form,⁴ which is a form used to inventory property acquired as evidence; and (7) that the investigative report of the traffic stop, as detailed in an SP-102 Form,⁵ lists the firearms as property recovered and seized pursuant to Code 13, which is interdiction, instead of pursuant to Code 8, which is vehicle inventory. These facts indicate Aikens' bad faith in conducting the inventory search, which makes the search unconstitutional. Pursuant to the fruit of the poisonous tree doctrine,⁶ defendant also seeks to suppress the incriminating post-Miranda statements he made to the ATF agents regarding the firearms.

The government opposes the motion and argues that Aikens conducted the inventory search in good faith and according to the police department's mandatory policy. Contrary to defendant's assertions, the government states that the totality of the circumstances surrounding the traffic stop overwhelming illustrates that Aikens acted in good faith in conducting the inventory search. Aikens was courteous and polite to defendant during all stages of the traffic

⁴ The SP-165 Form completed by Aikens was introduced into evidence by the government as an exhibit at the evidentiary hearing. See Government's Exhibit 3, Dkt. # 29, Ex. 3.

⁵ The SP-102 Form completed by Aikens was introduced into evidence by defendant as an exhibit at the evidentiary hearing. See Defendant's Exhibit 1, Dkt. # 29, Ex. 4.

⁶ See Wong Sun v. United States, 371 U.S. 471 (1963).

stop, arrest, and inventory search. His 10-75 inquiry was part of his standard procedure during all traffic stops and was a well-founded inquiry based on his interdiction training and experience. Aikens' request for consent to search defendant's vehicle was also common practice among law enforcement agents. Instead of bragging to the back-up agent about his authority to conduct an inventory search, the government asserts that Aikens was simply recounting his conversation with defendant and informing the back-up agent about what he was going to do next, as required by police department policy. Moreover, the government argues that Aikens' comment about searching for anything illegal in the vehicle was simply a slip of the tongue, not a reflection of his true intent to conduct an investigatory search. In fact, the video of the traffic stop shows Aikens performing a standard inventory search with the appropriate SP-158 Form and, upon discovery of the firearms and ammunition, conducting the necessary tasks to secure what was then evidence of a possible crime. The government states that Aikens properly completed the SP-158 Form and that the inclusion of the firearms on the other investigatory and inventory forms, the SP-165 and SP-102 Forms, was simply a standard part of police department procedure. Even if Aikens' inventory search was unconstitutional, the government argues in the alternative that the search was constitutional because Aikens had probable cause to search defendant's vehicle without a warrant under the automobile exception to the Fourth Amendment's warrant requirement because he smelled burnt marijuana.

III

“The Fourth Circuit generally requires police to secure a warrant before conducting a search.” United States v. Banks, 482 F.3d 733, 738 (4th Cir. 2007) (quoting Maryland v. Dyson, 527 U.S. 465, 466 (1999)). Evidence obtained in violation of this rule may be suppressed pursuant to the exclusionary rule. Banks, 482 F.3d at 738. However, “[a] warrantless search is

nevertheless valid, and the evidence obtained from the search admissible, if the search falls within one of the narrow and well-delineated exceptions to the Fourth Amendment's warrant requirement." Id. (internal quotations omitted); United States v. Matthews, 591 F.3d 230, 234 (4th Cir. 2009). The exception to the Fourth Amendment's warrant requirement that is applicable in this case is the inventory search exception. See Matthews, 591 F.3d at 234.

"Police officers frequently perform inventory searches when they impound vehicles or detain suspects." Id. at 235. A proper inventory search "is merely 'an incidental administrative step following arrest and preceding incarceration,'" the purpose of which is to "protect the arrestee from theft of his possessions, to protect the police from false accusations of theft, and to remove dangerous items from the arrestee prior to his jailing." Banks, 482 F.3d at 739 (quoting Illinois v. Lafayette, 462 U.S. 640, 644 (1983)). For the inventory search exception to apply, "the search must have be[en] conducted according to standardized criteria, such as a uniform policy department policy, and performed in good faith . . ." Matthews, 591 F.3d at 235 (internal citation and quotations omitted). The existence of standardized criteria "may be proven by reference to either written rules and regulations or testimony regarding standard practices." Id. Such standardized criteria "must sufficiently limit a searching officer's discretion to prevent his search from becoming 'a ruse for a general rummaging in order to discover incriminating evidence.'" Id. (quoting Florida v. Wells, 495 U.S. 1, 4 (1990)). Furthermore, these standardized search criteria must be administered in good faith, which means that the purpose of the inventory search cannot be to "gather incriminating evidence against the owner." Banks, 482 F.3d at 739. Thus, "an inventory search conducted pursuant to standardized procedures is valid 'so long as the purpose of the inventory is . . . not to gather incriminating evidence against the owner.'" Id. (quoting United States v. Brown, 787 F.2d 929, 932 (4th Cir. 1986)).

In this case, defendant concedes that, because he was speeding, Aikens had a valid reason to stop his vehicle. Defendant further concedes that because there was an outstanding warrant for his arrest for assault, Aikens had a valid reason to arrest him. With no one else to drive defendant's car, it was permissible for the vehicle to be impounded, thus requiring Aikens to prepare an inventory of all the valuable property in the vehicle. Defendant does not dispute that this inventory search of his car was conducted pursuant to standardized procedures and search criteria, as required by the applicable police department policy. What defendant does dispute, however, is Aikens' good faith while conducting the standardized inventory search of the vehicle.

The court finds that the inventory search in this case was conducted according to standardized procedures that sufficiently limited Aikens' discretion in order to prevent the search from becoming a general investigatory search for incriminating evidence. The Virginia Department of State Police's vehicle impoundment and inventory policy, the policy by which Aikens was bound, states that an inventory search "will be performed each and any time a vehicle is impounded," the purpose of which shall be to "protect the owner's property while the owner is in custody," "protect the police against claims of lost or stolen property," and "protect the police and public from physical harm from potentially dangerous contents of a seized vehicle or other personal property." Government's Exhibit 1, Dkt. # 29, Ex. 1, p. 1, ¶¶ 1-2. The department policy requires that the inventory search be conducted promptly, generally at the scene of the arrest, after there is a lawful basis to have custody of the vehicle, in a reasonable manner, and with a careful examination of the exterior and interior of the vehicle, including the engine, trunk, and any containers that might contain property. Id. at p. 1-3, ¶¶ 3, 5. The policy further requires that an SP-158 Form be completed during the inventory search. Id. at p. 3, ¶ 5.

The video of the traffic stop and inventory search in this case shows Aikens complying with the standardized criteria set forth in this department policy: Aikens had a lawful basis to take custody of the vehicle; he conducted the inventory search promptly and at the scene of the traffic stop; he examined the exterior and interior of the vehicle in a reasonable manner, including the glove compartment and trunk of the vehicle where the firearms and ammunition were found; and he completed an SP-158 Form and other required department forms based on the evidence found during the search. Because the inventory search in this case was appropriately performed in a standardized and limited manner, the disputed issue is whether Aikens acted in good faith.

Even though the inventory search in this case was conducted pursuant to a mandatory department policy setting forth standardized search criteria, the search is unconstitutional, and the evidence found as a result of the search subject to exclusion, if Aikens performed the search in bad faith as a pretext for a general investigatory search for incriminating evidence. However, based on the totality of the circumstances, both from the video of the traffic stop and from Aikens' testimony at the evidentiary hearing, and the relevant Fourth Circuit Court of Appeals case law, it is clear that Aikens acted in good faith while completing the inventory of defendant's vehicle.

In United States v. Johnson, No. 11-5049, 11-5050, 2012 WL 3538876 (4th Cir. Aug. 17, 2012), the Fourth Circuit held that an inventory search was conducted in good faith according to standardized procedures when, prior to beginning the search, the officer asked the suspects "if there was anything inside the vehicle that he should be concerned about, such as weapons or drugs" and then ultimately failed to complete an inventory form. Id. at *2, *4. The officer did not complete the inventory form because the search was interrupted when two of the suspects fled, which "resulted in the assumption of responsibility for the vehicle being switched from one

law enforcement agency to another,” but the court held that this “did not invalidate the inventory search or the discovery of the evidence” as a result of that search. Id. at *4.

In United States v. Stitt, No. 09-4401, 382 F. App’x 253, 2010 WL 2294588 (4th Cir. June 8, 2010), cert. denied, 131 S. Ct. 580 (2010), the Fourth Circuit held that the inventory search was constitutional and was not a pretext for an investigatory search even though the officer suspected that he would find incriminating evidence in the vehicle. Id. at 256. The officer testified that, based on his observations of the defendant in his vehicle before pulling him over, he “believed that when he began the [inventory] search there was contraband in the center console of the [car].” Id. The court held that simply because the officer “might have had additional legal grounds to search the [vehicle] apart from the inventory search does not render the inventory search invalid.” Id.

In United States v. Murphy, 552 F.3d 405 (4th Cir. 2009), the inventory search was held constitutional even though the search was not completed at the scene of the arrest before the vehicle was towed. Id. at 412-13. This fact was relied on by the defendant to assert that the officers acted in bad faith and were really just conducting an investigatory search, arguing that the “officers’ failure to complete the search at the scene of the traffic stop gives rise to an inference of bad faith, in that it demonstrates that the officers were merely rummaging for incriminating evidence when they continued searching the vehicle’s contents at the Sheriff’s Department.” Id. at 412. The court held that the inventory search was valid because although the defendant argued that the search was conducted in bad faith, “he points to no evidence to support his claim, aside from the fact that the officers decided to complete the inventory search at the Sheriff’s Department after the vehicle was towed.” Id. The court noted that “[t]he officers’ decision to complete the inventory search of the vehicle’s contents at a different

location . . . was entirely reasonable under the circumstances. The stop occurred in the early morning hours along a busy interstate highway[,]” and the Supreme Court of the United States “has held that inventory searches may be conducted at locales other than the initial scene of arrest.” Id. at 412-13; see Lafayette, 462 U.S. at 645-46 (upholding inventory search of person and belongings conducted at police station).

In United States v. Brown, No. 03-4404, 81 F. App’x 457, 2003 WL 22795181 (4th Cir. Nov. 24, 2003), “[t]he district court found that even though a better practice might have been to record all items removed from a vehicle on the inventory list, the omission of evidentiary items from the inventory list did not give rise to an inference of bad faith on the part of the police.” Id. at 458. The Fourth Circuit held that the district court “did not clearly err when it found the inventory search was done in good faith. Accordingly, under the totality of the circumstances, the administrative inventory search was not unreasonable.” Id.; see also United States v. Stanley, No. 00-4289, 4 F. App’x 148, 150, 2001 WL 98368, at *1 (4th Cir. Feb. 6, 2001) (“Any omissions from the inventory list created from the search of [the defendant’s] car were not sufficient to create an inference of bad faith on the part of police.”).

Finally, in United States v. Williams, No. 92-5248, 7 F.3d 228, 1993 WL 375785 (4th Cir. Sept. 24, 1993), the inventory search was held constitutional even though the officers had called for a drug dog while searching the vehicle. Id. at *1, *3. The defendant argued that this indicated that the officers were actually seeking evidence instead of performing an inventory search. Id. at *1. However, the drug dog was called to the scene before the inventory search began because the defendant had engaged the officer’s in a high-speed chase before the inventory search, and the evidence sought to be suppressed (a gun and a beeper or pager) was not found because of the drug dog’s alerts. Id. at *1-2. Moreover, the fact that the officers suspected

that the vehicle might be stolen when they started the search does not invalidate the inventory search. Id. at *2. “An officer’s expectation of uncovering evidence of crime will not vitiate an otherwise proper inventory search.” Id. The Fourth Circuit held that the “district court did not err in finding that the evidence at the suppression hearing pointed to a valid inventory search, permitting the introduction into evidence of the gun and pager, though there was some evidence that officers had mixed motives in their search of the automobile.” Id. *3.

In this case, unlike the officers in Johnson, Murphy, and Brown, Aikens promptly started and finished the inventory search of defendant’s vehicle at the scene of the arrest and correctly and fully completed the SP-158 Form, including all of the appropriate property, as required by mandatory department policy. While the firearms were also included on the SP-165 and SP-102 Forms as inventory of evidence seized pursuant to interdiction, Aikens testified that these forms were simply completed in addition to the SP-158 Form, pursuant to further department policy. The same goes for the efforts made by Aikens and the back-up agents to document and properly store the firearms and ammunition once they were found. These items, once discovered during the inventory search, were properly treated as evidence of a crime and were preserved as such. The other conduct upon which defendant relies to prove Aikens’ bad faith is Aikens’ 10-75 inquiries, the fact that Aikens sought defendant’s consent to search the vehicle, and Aikens’ alleging bragging attitude and statement that he was going to search for anything illegal during his conversation with the back-up agent before beginning the inventory search. While these facts in isolation could indicate some form of bad faith, when viewed within the totality of the circumstances surrounding the traffic stop, these discrete comments and actions pale in comparison to Aikens’ other, more prevalent conduct in the video, which clearly illustrates his good faith. Unlike the officers in Williams who called a drug dog to the scene of the search,

leading the court to concede that the officers had mixed motives in conducting the inventory search, the isolated statements and actions relied upon by defendant in this case do not indicate a similar mixed motive on the part of Aikens. Finally, like the officers in Stitt and Williams, the fact that Aikens suspected that he would find illegal items in defendant's car does not invalidate the otherwise proper inventory search.⁷

IV

The traffic stop in this case was legitimate because defendant was speeding. Given the outstanding arrest warrant against him, defendant's arrest was justified. Because there was no one else to drive defendant's car, Aikens was required to impound the vehicle and conduct an inventory search pursuant to police department policy. The mandatory inventory search policy promulgated by the Virginia Department of State Police appropriately sets forth standardized procedures and search criteria that adequately restricted Aikens' discretion in conducting the inventory search of defendant's vehicle. Furthermore, Aikens performed the inventory search in

⁷ At the evidentiary hearing, defense counsel referenced two cases from the Eighth Circuit Court of Appeals in support of his argument that evidence of bad faith is the lynchpin when analyzing the constitutionality of an inventory search. While the court agrees that evidence of bad faith is important, the Eighth Circuit cases referenced by defense counsel are distinguishable from the facts of this case and do not sway the court regarding Aikens' good faith under the totality of the circumstances. In United States v. Taylor, 636 F.3d 461 (8th Cir. 2011), not only did the officer not comply with the police department's standardized inventory procedure by failing to adequately and fully complete the appropriate inventory form, but the officer also testified that the reason she initiated the traffic stop was because she suspected criminal activity. Id. at 464-65. The Eighth Circuit noted as follows:

Officer Gillespie testified that the basis for the traffic stop, the arrest, the towing of the vehicle, and the inventory search was the officer's belief that Taylor had narcotics in his vehicle. She also testified that she would not have arrested Taylor, impounded the vehicle, or inventoried the contents of the truck if not for her belief that the vehicle contained evidence of a narcotics crime. This testimony leads us to conclude that the search was conducted because police believed they would find evidence of narcotics in Taylor's truck, and thus the inventory was merely a pretext for an investigatory search.

Id. at 465. In United States v. Rowland, 341 F.3d 774 (8th Cir. 2003), law enforcement suspected criminal narcotics activity before initiating the traffic stop, they did not comply with the applicable standardized inventory policy because they only recorded items on the inventory form that could be used as possible evidence, they called a drug-sniffing dog to the scene of the traffic stop, the suspects were not placed under arrest at the time of the inventory search, and the officers testified that "the search was partly conducted to investigate the possibility [that the suspects] might be trafficking in narcotics." Id. at 799-80. In this case, Aikens initiated the traffic stop solely based on the fact that defendant was speeding and not based on any suspicion of other criminal activity, and his conduct in conducting the inventory search does not contain nearly the same indicia of pretext as the officers in Taylor and Rowland.

good faith and not as a pretext for an unconstitutional investigatory search. The firearms and ammunition were discovered during the execution of this proper inventory search, so the evidence is not subject to exclusion under the Fourth Amendment. Moreover, because the firearms and ammunition were found in a constitutional manner, the subsequent, post-Miranda statements made by defendant to ATF agents are also not subject to exclusion under the fruit of the poisonous tree doctrine. Accordingly, **IT IS ORDERED** that defendant's **Motion to Suppress (Dkt. # 20)** is **DENIED**, and the firearms, ammunition, and incriminating statements at issue in this case shall not be excluded from evidence pursuant to Fourth Amendment principles.

The Clerk is directed to send a copy of this Memorandum Opinion and accompanying Order to defendant and all counsel of record.

Entered: September 12, 2012

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge