

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: SEARCH OF ONE DEVICE AND
TWO INDIVIDUALS UNDER RULE 41

No. 25-sw-82 (ZMF)

ORDER

The government seeks an amended search warrant to obtain a buccal swab of [REDACTED] and search [REDACTED] smartphone. The Court GRANTED the request for the buccal swab and DENIED the request to search [REDACTED] phone.

I. BACKGROUND

The history of this search warrant is memorialized in this Court's prior order rejecting the originally requested search warrant. *See* ECF No. 4.

On May 5, 2025, the government emailed the Court a courtesy copy of an amended application for a search warrant to take a buccal swab from [REDACTED] and search [REDACTED] smartphone.¹ The amended application included additional information about the circumstances leading to [REDACTED] arrest. This included grand jury testimony from an officer at the scene of the arrest. [REDACTED]

[REDACTED]

[REDACTED]

¹ The government indicated that this was an urgent request.

██████████ The government provided no additional information regarding the search of the phone.

On May 6, 2025, the Court informed the government that it had found probable cause for the buccal swab search, but not for the phone search. On May 6, 2025, the government filed the amended search warrant application, and the court swore it out. This opinion memorializes the reasons for its decision.

A. Probable Cause To Seize ██████████ DNA

Probable cause is hard to define, but I know it when I see it. With the additional evidence now before the Court, there is probable cause to believe ██████████ committed a § 922(g) violation.

The fact remains that the videos show a melee that a factfinder could not reasonably believe showed who dropped the firearm.² But that is a question left for another day, not now.

Thus, the Court approved the application to take a buccal swab from ██████████.

² The Justice Manual states that the U.S. Attorney should only commence prosecution if he believes “that the admissible evidence will probably be sufficient to obtain and sustain a conviction. . . . [This] sets forth the longstanding threshold requirement from the *Principles of Federal Prosecution* that a prosecutor may commence or recommend federal prosecution only if he/she believes that the person will *more likely than not* be found guilty *beyond a reasonable doubt* by an unbiased trier of fact and that the conviction will be upheld on appeal.” U.S. Dep’t of Just., Just. Manual § 9-27.220 (available at <https://www.justice.gov/jm/jm-9-27000-principles-federal-prosecution#9-27.220>) (emphasis added). The undersigned’s review of the evidence is that it is more likely than not that ██████████ will be found not guilty.

B. No Probable Cause To Search [REDACTED] Phone

The request to search [REDACTED] phone remains constitutionally infirm. The government's amended application adds nothing new for this part of its request. The Court is still left with the boilerplate language that is inadequate based on my training and experience. Thus, there remains no nexus between this alleged possessory crime and [REDACTED] phone. And "[t]he absence of a nexus is the absence of probable cause." *Lane v. D.C.*, 211 F. Supp. 3d 150, 176 (D.D.C. 2016).

III. CONCLUSION

The PIN for unlocking phones is not simply parroting "training and experience" over and over again.

Date: May 7, 2025



ZIA M. FARUQUI
UNITED STATES MAGISTRATE JUDGE