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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. STEPHEN PAULSEN, Defendant and Appellant.	B282025 (Los Angeles County Super. Ct. No. GA092525)

APPEAL from a judgment of the Superior Court of Los Angeles County. Suzette Clover, Judge. Affirmed.

James E. Blatt for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Idan Ivri and Gregory B. Wagner, Deputy Attorneys General, for Plaintiff and Respondent.

Stephen Paulsen (defendant) pleaded no contest to possession of an assault weapon. (Pen. Code, § 30605, subd. (a).)[1] He appeals from the trial court's denial of his request to hold a hearing on his motion to traverse a search warrant pursuant to *Franks v. Delaware* (1978) 438 U.S. 154 (*Franks*). He also challenges the trial court's prior denial of his motion to suppress evidence. We find no error and affirm.

STATEMENT OF THE CASE

The October 2, 2015 indictment charged defendant with receiving a large-capacity magazine (count 1; § 32310, subd. (a)); possessing a destructive device (count 2; § 18710, subd. (a)); possessing ingredients to make a destructive device (count 3; § 18720); transferring a handgun without using a licensed firearms dealer (count 4; § 27545); and possessing an assault weapon (count 5, § 30605, subd. (a)).

After a preliminary hearing defendant filed a motion and motion to set aside the information pursuant to section 995. Defendant argued that the search warrant failed to establish probable cause and good faith did not justify the search. The trial court denied the motion.

On June 2, 2016, defendant filed a motion to traverse the search warrant and to suppress evidence pursuant to *Franks*. A supplemental motion was thereafter filed, and on October 19, 2016, the trial court denied the motion.

On January 30, 2017, defendant pleaded no contest to possession of an assault weapon (count 5). The parties agreed that the prosecutor would move to dismiss the remaining counts after resolution of this appeal.

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[1] All further statutory references are to the Penal Code unless otherwise noted.

Defendant was placed on probation for three years, including a term of 180 days in jail. Defendants firearms were ordered destroyed if his appeal is unsuccessful.

On April 10, 2017, defendant filed his timely notice of appeal of the denial of his motion to quash and traverse the search warrant, denial of his request for a *Franks* hearing, and denial of his motion to set aside the information pursuant to section 995.

FACTUAL AND PROCEDURAL BACKGROUND

Initial arrest

On January 30, 2014, at approximately 11:30 p.m., seven and a half year veteran Pasadena Police Officer Matthew Griffin responded to a possible domestic disturbance at defendant's residence on South Marengo Street. Officer Griffin had been called to defendant's residence before, on January 10, 2014, regarding a disturbance between defendant and his neighbor. Defendant's neighbor was arrested then.

During the previous incident, Officer Griffin noted that there were two doors to defendant's residence. One faces east onto Marengo Street, and the other faces south into a driveway. Officer Griffin had knocked on the east door, and defendant emerged from the south door. At that time, defendant informed Officer Griffin that he usually did not answer the east door.

When Officer Griffin arrived at the residence on January 30, 2014, he approached the south door, based on his knowledge of which door defendant would answer. As he approached, Officer Griffin looked inside and saw defendant on his couch. He did not observe any other people inside and did not see anything unusual. The officer knocked, but did not identify himself as a police officer. Defendant came to the door pointing a bright light at the officer. Officer Griffin thought that the light was attached

to a firearm because of the location of the light and because most tactical flashlights are bright.

Officer Griffin moved out of the line of fire, put his hand on his gun and identified himself as a police officer. The door opened quickly and defendant's hands poked out. Officer Griffin called for assistance and handcuffed defendant. Officer Griffin was not sure whether someone else was inside the door with the gun. When other officers arrived, Officer Griffin intended to make a protective sweep of the residence to determine if anyone else was inside.

As he entered the apartment, Officer Griffin saw a Glock 22, .40-caliber handgun with an attached streamlight M6 flashlight, on a shelf near the south door. The flashlight was high-intensity. The weapon was loaded with a 15-bullet capacity magazine plus one round in the chamber. Officer Griffin arrested defendant for assault with a deadly weapon on a police officer.

At the scene Officer Griffin questioned defendant without providing *Miranda* warnings.[2] Defendant stated that he had other weapons. Officer Griffin expressed to his fellow officers a desire to take all of defendant's guns away from him.

No assault charge based on this incident was filed against defendant.

Search warrant

Officer Griffin sought to obtain a search warrant to further search defendant's apartment. It was Officer Griffin's first time getting a search warrant, so he spoke with a senior officer and several supervisors to guide him as to what should be in the search warrant application.

The search warrant affidavit asked to search defendant's residence and safe for all firearms, ammunition, gun-related

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[2] *Miranda v. Arizona* (1966) 384 U.S. 436, 475.

items and other weapons. Officer Griffin attested that he found a loaded Glock 22, .40-caliber semiautomatic handgun inside the doorway during a protective sweep, and the firearm's serial number "was later checked via NCIC [a federal gun registry database], and it was found to be an unregistered firearm." During the protective sweep, officers saw another firearm on a shelf, multiple gun boxes, large amounts of ammunition, and a safe commonly used to store firearms. Defendant told Officer Griffin that he had a firearms license, but a search revealed only that he had a Curio and Relic federal license (curio license). Officer Griffin explained that a curio license only permits one to own guns that are 50 years old or older. Officer Griffin wrote that he believed defendant's residence "may contain firearms that are unregistered and are illegal for [defendant] to possess." He sought to inspect defendant's firearms to determine if he "possesses firearms or firearms parts illegally or has unregistered firearms in his possession."

The first attempt to have a judge approve the search warrant was unsuccessful. Language was then added indicating the age of the Glock, as follows:

> "Sgt. Beene contacted Alcohol, Tobacco, and Firearms (ATF) agent Michele Starky. She performed a record check of [defendant] and found that he only possessed a 'Curio and Relic' type 3 license. This license permits [defendant] to collect guns 50 years old or older only. ATF special agent David Hamilton confirmed the Glock 22 is newer than 50 years old as Glock only began handgun production in the early 1980s."

The revised warrant was then signed and issued.

Officers not including Officer Griffin, executed the search warrant. The search uncovered numerous firearms, large-capacity ammunition magazines, and explosives.

Motion to suppress evidence

Defendant's motion to suppress evidence was heard on April 10, 2015. Officer Griffin testified that he did not lie when preparing the search warrant. The court inquired whether it is illegal to possess a nonoffending firearm within a residence if it is unregistered. The prosecutor took the position that the possession of the Glock was indicative of an illegal transfer, because there was no record of the gun ever being transferred to the defendant. The defendant's license only allowed him to acquire guns that were 50 years old or older. Defendant would have had to gone through a licensed dealer to properly acquire the Glock.

The hearing was continued to May 8, 2015. Officer Griffin testified that he had discussed the search warrant with his superiors who had proofread it. At the time that he prepared the search warrant, Officer Griffin thought it was illegal for an individual to have an unregistered firearm in his home. Officer Griffin consulted an ATF officer to collect information on the extent of defendant's curio license, and concluded that defendant's license did not allow him to possess the Glock. Officer Griffin was aware that the Glock was a "new firearm . . . newer than 50 years old or older." Officer Griffin stated, "I know that in the State of California they need to be registered." It was Officer Griffin's understanding that California mandates all firearm transactions be through a dealer with a record of sale. Thus, Officer Griffin believed it was illegal for defendant to have an unregistered new firearm.

The court noted that the search warrant did not indicate that a search was run in the California database, Automated Firearm System (AFS), which was the only database which would

include all transactions through a licensed firearm dealer.[3] The People argued that Officer Griffin likely did not realize which database he was referring to in the search warrant, and "didn't word it appropriately."

The trial court found that the search warrant was invalid on its face. It was unclear, and the officer did not adequately explain why he believed there was any firearm violation. Limiting itself to the four corners of the search warrant, the court concluded that the problem was there was no reference to AFS. The reference to the NCIC was insufficient, as "it is the AFS that records all transactions through a licensed firearm [dealer]. It is not through the NCIC." Nowhere was it stated in the search warrant that one can only access the NCIC through AFS. While the defendant's curio license limited him to possess firearms older than 50 years, "the search warrant within the four corners did not establish the elements necessary to find that an illegal transfer had taken place."

The court then turned to the good faith exception found in *United States v. Leon* (1984) 468 U.S. 897 (*Leon*). The court found it significant that Officer Griffin testified that he still believed that the possession of an unregistered firearm is illegal. Officer Griffin also attested to his belief that the defendant's possession of an unregistered gun newer than 50 years old on his curio license was illegal. Officer Griffin genuinely believed the search warrant was valid on its face. The court found that this

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[3] AFS is a California-run system that is used for the registration of applications for newly purchased firearms, as well as crime guns. NCIC is a federal system run by the Federal Bureau of Investigation which only lists crime guns and firearms that have been reported stolen. Thus, the court noted, a gun could have been lawfully transferred through a firearms dealer and there would be no NCIC record.

was the "epitome of good faith." The court found that Officer Griffin did not make intentional misrepresentations in the search warrant. The warrant was not so obviously lacking in probable cause that no reasonable officer could rely on it. The court noted that the "subtleties of the AFS system, of the NCIC, . . . it's an area that I think is understandably very confusing."

The court therefore denied the defense motion to suppress based on the *Leon* good faith exception.

995 motion, renewed motion to suppress and request for *Franks* hearing

After defendant was held to answer, he moved to set aside the information under section 995; renewed his motion to suppress evidence and traverse the search warrant; and requested a *Franks* hearing. The section 995 motion was heard and denied on July 26, 2016. The court found that the previous finding of good faith was dispositive. The court acknowledged an apparent mistake of law, as well as the finding that the officer acted in good faith. Even if the officer made a misstatement of the law, which the court accepted, defendant's burden for obtaining a *Franks* hearing was not met. Given the previous factual finding that the officer committed no intentional misrepresentations, the court did not believe a reckless disregard for the truth could be found in this case. On October 19, 2016, the request for a *Franks* hearing was denied.

On January 30, 2017, defendant entered his no contest plea to possession of an assault weapon. On March 8, 2017, he was sentenced and his notice of appeal was thereafter timely filed. A certificate of probable cause was also issued.

DISCUSSION

I. Standards of review

Review of a ruling denying a *Franks* hearing is de novo. (*People v. Benjamin* (1999) 77 Cal.App.4th 264, 271.)

As to the denial of defendant's motion to suppress, we review findings of fact under a substantial evidence standard, but review the application of the law to the facts de novo. (*People v. Ayala* (2000) 23 Cal.4th 225, 255.)

II. Denial of *Franks* hearing

A. Legal principles applicable to a Franks *hearing*

In *Franks*, the United States Supreme Court held that "where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant" in a warrant affidavit, "and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request." (*Franks, supra*, 438 U.S. at pp. 155-156; *People v. Hobbs* (1994) 7 Cal.4th 948, 974.)

> "In the event that at that hearing the allegation of perjury or reckless disregard is established by the defendant by a preponderance of the evidence, and, with the affidavit's false material set to one side, the affidavit's remaining content is insufficient to establish probable cause, the search warrant must be voided and the fruits of the search excluded to the same extent as if probable cause was lacking on the face of the affidavit."

(*Franks, supra*, 438 U.S. at p. 156.)

The *Franks* court was clear that the scope of its rule is limited. (*Franks, supra*, 438 U.S. at p. 167; see also *People v. Scott* (2011) 52 Cal.4th 452, 484 (*Scott*) ["A defendant has a limited right to challenge the veracity of statements contained in an affidavit of probable cause made in support of the issuance of a search warrant"].) The court reaffirmed the general rule that there is a presumption of validity with respect to the affidavit

supporting the search warrant. (*Franks*, at p. 171; *Scott*, at p. 484.) A *Franks* hearing is only warranted where there are allegations of deliberate falsehoods or of reckless disregard for the truth, and those allegations are accompanied by an offer of proof. "Allegations of negligence or innocent mistake are insufficient." (*Franks*, at p. 171.)

B. Relevant firearms laws

Defendant's contention that Officer Griffin made a statement with reckless disregard for the truth in his affidavit requires a discussion of several firearms laws.

Section 27545 is found in a category of crimes relating to the sale, lease, or transfer of firearms. It provides that "[w]here neither party to the transaction holds a dealer's license . . . the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer . . . ." This is known as the private party transfer law, and is referred to as the "PPT law."

When a transaction occurs pursuant to section 27545, it is recorded and stored in AFS. Pursuant to section 28255, the dealer must notify the Department of Justice of the transaction "with sufficient information to identify the purchaser and the firearm that the purchaser took possession of." Section 28160 lists the information that must be included in a registration of a firearms transfer. A violation of the PPT law involving a handgun is punishable as either a misdemeanor or felony. (§ 27590, subd. (c)(5).)

The federal government grants a license to collect curio and relic firearms through a curio license (18 U.S.C. § 923(b)-(c).), which does not qualify as a "dealer's license" within the meaning of the PPT law. (See § 26700 [requirements for obtaining a dealer's license].) Under federal law, a curio or relic is a firearm that is "of special interest to collectors by reason of some quality

other than is associated with firearms intended for sporting use or as offensive or defensive weapons." A curio may also be described as one that was "manufactured at least 50 years prior to the current date, but not including replicas thereof." (27 C.F.R. § 478.11 (2018).)

C. Not err to deny defendant's request for a* Franks *hearing

Defendant takes issue with the information Officer Griffin included in response to the judge's initial refusal to sign the warrant. Defendant contends that the statement of law which Officer Griffin submitted on the warrant was in error, as it proclaimed that a person with a curio license can only possess old weapons. By making this statement, defendant argues, Officer Griffin attested that because the Glock was a newer weapon, it was not lawfully possessed by defendant, who only had a curio license. Defendant contends this was a misstatement of law, which misled the judge. Defendant takes issue with the trial court's determination that Officer Griffin made a good faith statement of his understanding of the law. Defendant cites *District of Columbia v. Heller* (2008) 554 U.S. 570 for the proposition that the Second Amendment protects an individual's right to possess a firearm unconnected with service in the militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. (U.S. Const., 2d Amend.)

Further, defendant contends, Officer Griffin recklessly omitted material information regarding the AFS record of firearm transfers.

We begin our *Franks* analysis with the presumption that the search warrant was valid. The burden is on defendant to show misstatements material to the determination of probable cause. (*Benjamin, supra*, 77 Cal.App.4th at pp. 271-272.) In order to meet that burden, the defendant must show a

misstatement of fact that was deliberately false or made with reckless disregard for the truth. (*People v. Lamas* (1991) 229 Cal.App.3d 560, 567.) The defendant must make an offer of proof providing the evidentiary basis for his attack on the affidavit. (*Benjamin*, at p. 272.) "'"Affidavits or otherwise reliable statements of witnesses should be furnished," or an explanation of their absence given. [Citation.]' [Citations.]" (*Ibid.*)

Defendant has failed to meet his burden of proof supporting the necessity of a *Franks* hearing. First, defendant has failed to point out a misstatement of fact. Instead, he claims that Officer Griffin misstated the law. Specifically, defendant takes issue with Officer Griffin's purported statement that "a person with a Curio license can only possess old weapons." However, Officer Griffin did not make that statement.

In the application for the warrant, Officer Griffin attested that ATF agent Michele Starky performed a record check of defendant and discovered that he "only possessed a 'Curio and Relic' type 3 license." Officer Griffin informed the court that "[t]his license permits [defendant] to collect guns 50 years old or older only." It is unclear in what way this statement was legally incorrect. Section 923(b) of title 18 of the United States Code specifies that it applies to persons "desiring to be licensed as a collector." It further provides, "Any license granted under this subsection shall only apply to transactions in curios and relics." (*Ibid.*; see 27 C.F.R. § 478.11 (2018).) Officer Griffin's statement that defendant's license only permitted him to collect guns 50 years old or older thus appears to be accurate.

Second, defendant has failed to make a substantial preliminary showing that Officer Griffin acted in reckless disregard of the truth. Defendant's obligation was to provide an offer of proof supported by witness testimony contradicting a factual statement made by Officer Griffin. Defendant has not

done so. Instead, defendant asserts that Officer Griffin should have known of the rights provided under the Second Amendment. However, Officer Griffin's declaration in support of the warrant did not purport to address Second Amendment rights. Officer Griffin described the type of license defendant possessed and what such a license permits. Officer Griffin testified to his good faith belief that the defendant's curio license did not permit defendant to possess the Glock. Officer Griffin noted his understanding that in California, firearms need to be registered. Thus, Officer Griffin believed it was illegal for defendant to have an unregistered, new firearm. Officer Griffin's testimony shows a sufficient understanding of the law, and a reasonable application of that law to the situation. The warrant affidavit thus shows no reckless disregard for the truth.

Further, the record supports the trial court's determination that the omission of reference to the AFS search was unintentional error on the part of Officer Griffin. Officer Griffin consulted various superiors and an ATF agent while drafting the search warrant. The court noted that "it took . . . both parties quite a bit of time to explain to the court . . . the subtleties of the AFS system." The court described this area of the law as "very confusing." Officer Griffin's attempts to understand and explain the law in this area support the trial court's specific factual finding that Officer Griffin did not intentionally misrepresent anything.

Because defendant failed to make the required showing of a false statement made knowingly and intentionally, or with reckless disregard for the truth, the trial court properly denied defendant's request for a *Franks* hearing.

III. Denial of initial suppression motion

A. Applicable law

The Fourth Amendment grants all citizens the right to "'be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.'" (*United States v. Calandra* (1974) 414 U.S. 338, 346.)[4] Evidence obtained in violation of the Fourth Amendment generally cannot be used in a criminal proceeding against the victim of the illegal search and seizure. (*Calandra*, at p. 347.) However, "the exclusionary rule has never been interpreted to proscribe the use of illegally seized evidence in all proceedings or against all persons." (*Id.* at p. 348.) "The extent to which the exclusionary rule is justified by its deterrent effect varies with the degree of law enforcement culpability." (*Herring v. United States* (2009) 555 U.S. 135, 144.) Thus, "[t]o trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system." (*Ibid.*) This is because the Fourth Amendment's purpose is to "'deter deliberate, reckless, or grossly negligent conduct, or in some circumstances recurring or systemic negligence.'" (*People v. Robinson* (2010) 47 Cal.4th 1104, 1124.)

In *Leon*, the United States Supreme Court established that there is a good faith exception to the exclusionary rule where "police act in objectively reasonable reliance on a search warrant issued by a detached and neutral magistrate. [Citation.]" (*People*

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[4] In keeping with the Fourth Amendment's protection against unreasonable searches and seizures, section 1525 provides that a search warrant "cannot be issued but upon probable cause, supported by an affidavit, naming or describing the person to be searched . . . and particularly describing the property, thing, or things and the place to be searched."

v. Nguyen (2017) 12 Cal.App.5th 574, 586; citing *Leon, supra*, 468 U.S. 897.) "Application of the good faith exception requires a factual presentation of the officers' activity, which is then measured against a standard of objective reasonableness. [Citation.]" (*People v. Gotfried* (2003) 107 Cal.App.4th 254, 265.) "This objective standard 'requires officers to have a reasonable knowledge of what the law prohibits.' [Citation.]" (*Ibid.*)

The *Leon* court specified that the good faith exception should generally apply where "an officer acting with objective good faith has obtained a search warrant from a judge or magistrate and acted within is scope." (*Leon, supra*, 468 U.S. at p. 920.) "'[O]nce the warrant issues, there is literally nothing more the police [officer] can do in seeking to comply with the law.' [Citation.]" (*Id.* at p. 921, citing *Stone v. Powell* (1976) 428 U.S. 465, 498 (Burger, C.J., concurring).) The *Leon* court also enumerated circumstances that can negate a finding of good faith. Those include:

> "(1) the magistrate or judge issuing the warrant was misled by the affiant's deliberately false statements in the affidavit; (2) the issuing magistrate wholly abandoned his judicial role; (3) the search warrant affidavit was manifestly unsupported by probable cause; and (4) the warrant exhibited blatant or obvious defects upon its face, etc. [Citations.]"

(*People v. Dantzler* (1988) 206 Cal.App.3d 289, 294, fn. 4, citing *Leon, supra*, 468 U.S. at p. 923.)

The *Leon* court clarified that suppression remains the proper remedy if "the officers were dishonest or reckless in preparing their affidavit or could not have harbored an objectively reasonable belief in the existence of probable cause." (*Leon, supra*, 486 U.S. at p. 926.)

B. No err in denying the suppression motion

In this matter, the trial court found that Officer Griffin did not sufficiently explain why he believed there was a firearm violation. However, the trial court declined to apply the exclusionary rule based on the good faith exception found in *Leon*.

Defendant argues that Officer Griffin's ignorance of the law amounted to reckless conduct, and that Officer Griffin had no basis for a conclusion that defendant's possession of the Glock was unlawful. Defendant points out that Officer Griffin included no facts in his affidavit regarding how defendant obtained the Glock, leaving the only rational conclusion that Officer Griffin acted out of personal animus.

Defendant is correct that an officer must have a reasonable knowledge of the law. (*People v. Gotfried, supra*, 107 Cal.App.4th at p. 265 [finding that well-trained officer "knew or should have known that the limited corroboration [of unknown tipster's information] was insufficient"]; *People v. Nguyen, supra*, 12 Cal.App.5th at p. 587 [finding that, upon discovering that outbuilding was a separate residence, officers should have known that the law required them to cease their search].) However, an officer may rely on a reasonable mistake of law. (*Heien v. North Carolina* (2014) __ U.S. __ [135 S.Ct. 530, 536].) In *Heien*, a police officer's reasonable belief that a faulty brake light constituted a violation of the law justified an investigatory stop. (*Id.* at p. 534.) The denial of defendant's motion to suppress evidence of the drugs seized from the defendant's car was therefore appropriate. (*Id.* at pp. 539-540.) *Heien*, illustrates that government officials must act reasonably not perfectly. (*Id.* at p. 536.) Mistakes of law, like mistakes of fact, must be those of reasonable men. (*Ibid.*) The concept of reasonable suspicion arises from an understanding of both the facts and the law, and

reasonable mistakes of law, like those of fact, can justify a certificate of probable cause. (*Id.* at p. 537.)

Here, as set forth above, Officer Griffin did not think he was mistaken as to the legality of the Glock, and he appeared to understand the scope of a curio license. His affidavit statement, "This license permits [defendant] to collect guns 50 years old or older only," was not legally inaccurate. Officer Griffin understood that the age of the Glock took it out of the scope of defendant's federal firearms license. Officer Griffin further understood the registration requirements for firearms, and made a reasonable effort to determine the Glock's status. Officer Griffin's affidavit thus demonstrated a reasonable understanding of firearms laws. Contrary to defendant's arguments, Officer Griffin did not make a direct statement that a person with a curio license can only possess old weapons. Instead, Officer Griffin performed a database search and consulted with federal agents before reasonably concluding that the Glock was unregistered and illegal. Officer Griffin consistently testified to his belief that everything in the search warrant was accurate, thereby supporting the trial court's determination that he was "an officer acting with objective good faith" within the scope of a search warrant from a judge or magistrate. (*Leon, supra*, 468 U.S. at p. 921.)

Officer Griffin apparently made a mistaken reference to the wrong firearms database within his affidavit. As explained above, this can be a confusing area of the law (it took some time for the parties to explain to the trial court). Officer Griffin's failure to reference the AFS record, or his possible confusion regarding the AFS database versus the NCIC database, was therefore a reasonable mistake. (*Heien, supra,* 135 S.Ct. at p. 532.)

Defendant relies on *People v. Willis* (2002) 28 Cal.4th 22 (*Willis*) as support for his position that the purported mistake of law in this case requires application of the exclusionary rule. In *Willis*, police and a state parole officer conducted a warrantless search under the erroneous belief that the defendant was still on parole and subject to a warrantless search condition. The good faith exception to the exclusionary rule did not apply. (*Id.* at pp. 25-26). The erroneous information regarding the defendant's parole status was provided by a parole officer. The Supreme Court determined that a parole officer bears little resemblance to a judicial officer or court clerk. Instead, the parole officer acted as an adjunct to the law enforcement team. (*Id.* at p. 40.) Thus, the threat of exclusion can be expected to alter a parole officer's behavior, and was properly applied to exclude the evidence. (*Ibid.*) Because the parole officer was acting like a police officer, seeking to uncover evidence of illegal activity, the officer should have been aware that unconstitutionally seized evidence could be suppressed in a criminal trial. (*Id.* at p. 41.) The good faith exception did not apply where law enforcement was collectively responsible for an inaccurate record that resulted in an unconstitutional search. (*Id.* at p. 49.)

The facts before us are distinguishable. Here, Officer Griffin relied upon a detached and neutral judge -- not an individual acting as a law enforcement officer. Further, the officers who searched defendant's residence did not conduct a warrantless search, but acted in "objectively reasonable reliance on a search warrant issued by a detached and neutral magistrate." (*People v. Nguyen, supra*, 12 Cal.App.5th at p. 586, citing *Leon, supra*, 468 U.S. 897.) Thus, *Willis* does not convince us that the good faith exception was inapplicable here.

The purpose of the exclusionary rule is primarily to "deter deliberate, reckless, or grossly negligent conduct." (*People v.*

Robinson, supra, 47 Cal.4th at p. 1124.) The record reveals no such conduct in this matter. Thus, defendant's motions were properly denied.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, P. J.
LUI

_____, J.
HOFFSTADT