

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 9 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RANDALL D. MCREYNOLDS, AKA  
Randy Del McReynolds,

Defendant-Appellant.

No. 21-30205

D.C. Nos.

2:10-cr-00026-WFN-1

2:10-cr-00026-WFN

MEMORANDUM\*

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RANDALL D. MCREYNOLDS, AKA  
Randy Del McReynolds,

Defendant-Appellant.

No. 21-30206

D.C. Nos.

2:11-cr-00027-WFN-1

2:11-cr-00027-WFN

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RANDALL D. MCREYNOLDS, AKA  
Randy Del McReynolds,

Defendant-Appellant.

No. 21-30207

D.C. Nos.

2:21-cr-00028-WFN-1

2:21-cr-00028-WFN

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

RANDALL D. MCREYNOLDS, AKA  
Randy D. McReynolds, AKA Randy Del  
McReynolds,

Defendant-Appellant.

Appeal from the United States District Court  
for the Eastern District of Washington  
Wm. Fremming Nielsen, District Judge, Presiding

Submitted December 5, 2022\*\*  
Seattle, Washington

Before: McKEOWN, MILLER, and H.A. THOMAS, Circuit Judges.

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\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Randall D. McReynolds appeals his conviction and sentence for possession of a firearm and ammunition by an individual convicted of a felony, 18 U.S.C. §§ 922(g)(1), 924(a)(2), as well as related revocation judgments and sentences for violations of his supervised release terms. The district court denied McReynolds's motion to suppress the fruits of a probation search conducted while he was on supervised release. On appeal, McReynolds contends that the search violated his Fourth Amendment rights.

We review the district court's denial of a motion to suppress de novo and any underlying factual findings for clear error. *See United States v. Kvashuk*, 29 F.4th 1077, 1085 (9th Cir. 2022); *United States v. Lara*, 815 F.3d 605, 608 (9th Cir. 2016). We affirm.<sup>1</sup>

1. McReynolds contends that the district court applied the wrong substantive standard under the Fourth Amendment in denying his motion to suppress. The district court did not err in applying the reasonable suspicion standard to McReynolds's claim.

McReynolds's supervised release terms included a search condition that plainly required him to "submit [his] person, residence, office, or vehicle to a search, conducted by a U.S. probation officer, at a sensible time and manner, based

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<sup>1</sup> As the parties are familiar with the facts and procedural history of this case, we do not recount them in detail.

upon reasonable suspicion of contraband or evidence of violation of a condition of supervision.” Longstanding Supreme Court precedent establishes that, where an individual on supervised release is subject to such a probation search condition, reasonable suspicion suffices to justify a warrantless search of the individual’s home under the Fourth Amendment. *See United States v. Knights*, 534 U.S. 112, 121 (2001).

2. McReynolds next argues that the reasonable suspicion standard should not govern because the judgments did not “clearly or unambiguously” inform him of the location subject to the search condition. *See Lara*, 815 F.3d at 610. This argument fails.

The relevant judgments “clearly expressed the search condition,” which required McReynolds to “submit [his] . . . residence . . . to a search . . . based upon reasonable suspicion of contraband.” *See Knights*, 534 U.S. at 119. McReynolds signed the judgments and acknowledged that his probation officer reviewed the relevant conditions with him.<sup>2</sup>

3. Applying the reasonable suspicion standard here, the probation search of McReynolds’s home was reasonable under the Fourth Amendment. The

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<sup>2</sup> To the extent McReynolds argues that the search exceeded the scope authorized by the condition, that argument lacks merit: The search term here “expressly authorized searches of [McReynolds’s] ‘place of residence,’ which was precisely what the officers searched” and, ultimately, where they found contraband. *See Lara*, 815 F.3d at 610 (discussing *Knights*, 534 U.S. at 114–15).

probation officers had reasonable suspicion to search the home based on three factors: (1) a tip from Summer Bush, McReynolds's former romantic partner, that McReynolds possessed firearms in his home and was actively using methamphetamine; (2) McReynolds's missed urinalysis (UA) test; and (3) McReynolds's criminal history involving firearms and drugs.

First, as to the tip, the weight accorded to an informant's tip varies with certain "indicia of reliability." *See United States v. Vandergroen*, 964 F.3d 876, 879–80 (9th Cir. 2020) (listing such indicia). Here, Bush's tip bore several indicia of reliability: (1) Bush provided her name and phone number rather than remaining anonymous, *see id.* at 879; (2) Bush conveyed "the basis of h[er] knowledge"—namely, her recent affair with McReynolds during which she observed firearms in his home and McReynolds using methamphetamine, *see id.*; and (3) the probation officer was able to corroborate some of the information Bush provided, *see Foster v. City of Indio*, 908 F.3d 1204, 1214 (9th Cir. 2018) (officer's corroboration of tipster's statement was indicative of reliability).

Second, after receiving Bush's fairly reliable tip, Officer Cross ordered McReynolds to report for a UA test, and he failed to timely comply. According to testimony from the suppression hearing, probation generally treats a missed test as a positive test because a delay in reporting compromises the integrity of the testing process. Therefore, the missed test, at the very least, supports a reasonable

suspicion that McReynolds possessed contraband and had violated his release conditions.<sup>3</sup>

Third, and finally, the nature of McReynolds's criminal background involving guns and drugs further bolsters reasonable suspicion for the search here. *See United States v. Rowland*, 464 F.3d 899, 908 (9th Cir. 2006).

Because the search of his residence was justified by reasonable suspicion, the district court did not abuse its discretion in denying McReynolds's suppression motion. And because McReynolds's challenge to his conviction, revocations of supervised release, and sentences depends on successful suppression, the district court's judgments in these consolidated appeals are, in all respects,

**AFFIRMED.**

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<sup>3</sup> What is more, the missed UA test—and its inference of positivity—further corroborated Bush's report that McReynolds was actively using methamphetamine.