NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2016 KA 1528

STATE OF LOUISIANA

VERSUS

SHANNON MARIE BRITE

Judgment Rendered: JUL 12 2017

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Appealed from the
Twenty-Second Judicial District Court
In and for the Parish of St. Tammany
State of Louisiana
Suit Number 559627

Honorable Raymond S. Childress, Presiding

* * * * * *

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BEFORE: WHIPPLE, C.J., GUIDRY, AND McCLENDON, JJ.

Whipple, C.J., dissents and assigns reasons.

GUIDRY, J.

Defendant, Shannon M. Brite, was charged by bill of information with obstruction of justice, a violation of La. R.S. 14:130.1(A)(1) (count 1), and possession of a schedule I controlled dangerous substance (heroin), a violation of La. R.S. 40:966(C)(1) (count 2).[1] Defendant pled not guilty and moved to suppress the evidence against her.[2] The trial court denied the motion to suppress. Following a jury trial, defendant was found not guilty on count 1 but guilty as charged on count 2. Defendant filed motions for new trial and postverdict judgment of acquittal, both of which the trial court denied. The trial court sentenced defendant to eight years at hard labor. Thereafter, the state filed a habitual offender bill of information, alleging defendant to be a fourth-felony habitual offender.[3] Defendant denied the contents of the habitual offender bill, and following a hearing, the trial court later adjudicated her to be a fourth-felony habitual offender.[4] The trial court sentenced defendant as a fourth-felony habitual offender to twenty years.[5] Defendant now appeals, alleging five assignments of error, including one related to the trial court's denial of her

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[1] Also charged in the same instrument was codefendant Courtney L. Allen, who pled guilty as charged to count 2. Ms. Allen's conviction and sentence are not at issue in the instant appeal.

[2] No written motion to suppress appears in the record, but the trial court held a suppression hearing the day before defendant's trial started.

[3] The predicate offenses were alleged as follows: 1) a September 21, 2004 conviction for possession of a schedule IV controlled dangerous substance (alprazolam) under 22nd JDC (St. Tammany Parish) docket number 383277; 2) a July 7, 2005 conviction for possession of a schedule II controlled dangerous substance (cocaine) under 22nd JDC (St. Tammany Parish) docket number 396389; 3) a December 1, 2008 conviction for possession of a schedule I controlled dangerous substance (MDMA) under 24th JDC (Jefferson Parish) docket number 07-4471; and 4) November 4, 2010 convictions for possession of a schedule I controlled dangerous substance (MDMA), possession of a schedule III controlled dangerous substance (hydrocodone), possession of a schedule IV controlled dangerous substance (diazepam), and possession of a legend drug (soma) without a prescription under 22nd JDC (St. Tammany Parish) docket number 444271.

[4] The trial court determined that the state failed to prove the alleged predicate conviction from Jefferson Parish.

[5] The trial court actually held two habitual offender sentencing hearings. In the first, the trial court sentenced defendant to fifteen years at hard labor, under the mistaken belief that she was only a third-felony habitual offender. The trial court does not appear to have ordered the underlying sentence vacated, nor did it order the mistaken third-felony offender sentence vacated.

motion to suppress. Finding that assignment of error to have merit, we reverse the trial court's ruling on the motion to suppress, reverse defendant's conviction that was dependent upon the inadmissible evidence, vacate the habitual offender adjudication and all sentences, and remand for further proceedings.

FACTS

On January 9, 2015, Laura Cressy was working as a manager at the Clarion Inn and Suites Conference Center on La. Hwy. 190 in Covington. Cressy had received complaints from some of the hotel's guests concerning increased traffic coming from Room 409, which was registered to defendant. Cressy searched Facebook and found a page purportedly belonging to defendant.[6] This purported profile page indicated that defendant was offering "rub downs" in Covington. Believing that defendant might be engaged in prostitution, Cressy contacted the police.

St. Tammany Parish Sheriff's Deputy Gerald Tanner, Jr. responded to the hotel with two additional officers serving as backup. The officers spoke to Cressy and received a printout of the purported Facebook profile, and one of the officers received a master key from the hotel's general manager. Deputy Tanner and his backup went to Room 409, hoping to speak with its occupants. Upon arriving at Room 409, Deputy Tanner covered the peephole and knocked on the door. One of the occupants asked who was at the door, and Deputy Tanner knocked again and announced himself to be with the St. Tammany Sheriff's Office. At that time, Deputy Tanner heard what he characterized as frantic and immediate movement, muffled voices, and furniture moving. At that time, one of the backup officers, Corporal Mark Liberto, attempted to make entry to Room 409 with the master key. However, the door's latch mechanism was engaged, and the room's door opened

[6] Prior to trial, defendant moved to exclude this evidence on the ground that it could not be authenticated. The trial court's admission of this evidence is the subject of assignments of error 2-4, the discussion of which is pretermitted.

only a few inches. With the door ajar, Deputy Tanner saw a female, later identified as defendant, walking from an area he eventually discovered to be one of the suite's bathrooms. Deputy Tanner also heard the sound of a flushing toilet. Defendant approached the door and shut it briefly to disengage the metal latch and allow the officers to enter. Upon entering the suite, Deputy Tanner had everyone in the room sit on the couch and then went immediately to the area of the bathroom from which defendant was walking, where he found the relevant evidence seized in this case, including spoons (one of which was in the toilet), syringes, and a plastic wrapper and plastic baggies later determined to contain residual heroin and cocaine.

MOTION TO SUPPRESS

In her first assignment of error, defendant contends that the trial court erred in denying her motion to suppress. She argues that Deputy Tanner and the other officers exceeded the scope of a "knock and talk" investigation and that no exceptions to the warrant requirement justified the search of her hotel suite.

The Fourth Amendment to the United States Constitution and Article I, § 5 of the Louisiana Constitution protect people against unreasonable searches and seizures. Whether the Fourth Amendment protects an individual from a warrantless search rests on whether the individual can demonstrate a reasonable expectation of privacy against government intrusion. See Katz v. United States, 389 U.S. 347, 361, 88 S.Ct. 507, 516, 19 L.Ed.2d 576 (1967) (Harlan, J., concurring). A defendant adversely affected may move to suppress any evidence from use at a trial on the merits on the ground that it was unconstitutionally obtained. La. C. Cr. P. 703(A). The state bears the burden of proving admissibility when a defendant files a motion to suppress evidence seized without a warrant. La. C. Cr. P. art. 703(D).

A trial court's ruling on a motion to suppress the evidence is entitled to great weight because the court had the opportunity to observe the witnesses and weigh the credibility of their testimony. State v. Lowery, 04-0802, p. 8 (La. App. 1st Cir.

12/17/04), 890 So. 2d 711, 718, writ denied, 05-0447 (La. 5/13/05), 902 So. 2d 1018. Correspondingly, when a trial court denies a motion to suppress, factual and credibility determinations should not be reversed in the absence of a clear abuse of the trial court's discretion, *i.e.*, unless such ruling is not supported by the evidence. See State v. Green, 94-0887, p. 11 (La. 5/22/95), 655 So. 2d 272, 281. However, a trial court's legal findings are subject to a de novo standard of review. See State v. Hunt, 09-1589, p. 6 (La. 12/1/09), 25 So. 3d 746, 751.

Evidence relevant to the suppression issue was presented both at the pretrial suppression hearing and at defendant's trial on the merits.[7] At the suppression hearing, Laura Cressy testified regarding guests' complaints of increased foot traffic from Room 409, and she described that she investigated defendant's purported Facebook profile, which advertised "rub downs." Cressy testified that she was informed defendant had approached a member of her staff, Edwin Griffin, Jr., about performing massages in her room. Cressy agreed with the state's characterization that Griffin was "solicited for possible prostitution." Because of this combined information, Cressy decided to call the police for assistance.

Griffin testified only at trial regarding his interaction with defendant. He described that he spoke with defendant a few times, and she informed him that she offered "therapeutic massages" for between $100 and $200, which he believed to be expensive. Griffin stated that he did not report his conversations with defendant to management but only to a front desk employee, with whom he laughed about the interaction. Griffin testified that he did not feel as though he had been solicited in any way and that he was asked to write a report regarding his conversation with defendant only after her arrest. Griffin stated that he was unaware of any of the guests' complaints.

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[7] In determining whether the ruling on defendant's motion to suppress was correct, we are not limited to the evidence adduced at the hearing on the motion. We may consider all pertinent evidence given at the trial of the case. State v. Chopin, 372 So. 2d 1222, 1223 n.2 (La. 1979).

Deputy Tanner described that he arrived at the hotel and immediately spoke to Cressy about the complaints, at which time he also received the printouts of the purported Facebook profile. Deputy Tanner contacted central dispatch and was informed that defendant had a criminal history of prostitution and drug use. Central dispatch also informed Deputy Tanner that defendant had either "narcotics wants" or warrants from California and Georgia. However, at the time he went to defendant's hotel suite, he was "waiting to hear back if there was going to be extradition." Deputy Tanner specifically testified at the suppression hearing that he did not believe he had the right to arrest defendant at the time he went to her hotel room; his intention was only to speak with her.

When he arrived at Room 409, Deputy Tanner first knocked on the door and covered its peephole. When the suite's occupants asked who was at the door and stated they would not open the door without such information, Deputy Tanner knocked again and announced himself as the St. Tammany Parish Sheriff. After that announcement, Deputy Tanner began to hear the frantic movement from inside the room. Deputy Tanner testified that he believed the occupants could be arming themselves or destroying evidence, so Corporal Liberto used the key to attempt to open the door. Because the door was latched, it opened only a few inches. Through that crack, Deputy Tanner saw defendant exiting the bathroom and heard the toilet flushing. When defendant came to the door, Deputy Tanner "told" her to open it. Defendant informed him that she had to close the door first so that she could unlatch and open it, which she did. When the officers entered the room, the backup officers stayed with the room's occupants while Deputy Tanner "went directly to the bathroom." At the suppression hearing, Deputy Tanner described that he went directly to the bathroom "[b]ecause the toilet flushed and [he] had reason to believe that they were trying to destroy narcotics or contraband." At trial, Deputy Tanner agreed with the state's characterization of his actions as a "protective sweep," which

he said he performed "[t]o find other occupants in the room, as well as [to prevent] the possible destruction of evidence." Both at the suppression hearing and at trial, Deputy Tanner conceded to conducting a search, which he described as beginning when the door was opened.

In denying the motion to suppress, the trial judge stated first that had the hotel suite been "someone's home," he might view the situation differently. From there, the trial court stated:

> But since the whole basis of the police contact with the defendant came about due to the management at the hotel where she was staying and their concerns based upon complaints made by other guests, as well as apparently one of the employees whose [sic] indicated that he had been solicited caused him to call the police, to begin with.
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> And when the police arrived, they were provided with information that was out there in the public domain on Facebook and such which caused them to conduct their own investigation.
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> And if they received notice from dispatch that there were outstanding warrants on the defendant, at that point in time, I think that they had a reasonable belief that they should contact – make contact with this defendant to identify her.
>
> And if there were outstanding warrants, then they could do that. They could enforce those warrants. Not to mention the fact that, based upon the management at the hotel, there were concerns that illegal activity was taking place in the room that they had rented to the defendant.
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> And certainly, they were within their rights to have the police come out and do an initial investigation.
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> So for all those reasons, I think that the search was appropriate. I[']m going to deny the Motion to Suppress and we can proceed tomorrow.

A "knock and talk" investigation involves officers knocking on the door, identifying themselves as officers, asking to talk to the occupant about a criminal complaint, and eventually requesting permission to search the house. If successful, it allows police officers who lack probable cause to gain access to a house and conduct a search. Federal and state appellate courts that have considered the question, including the United States Court of Appeals for the Seventh Circuit, have concluded that a "knock and talk" procedure does not, per se, violate the Fourth

Amendment. State v. Warren, 05-2248, p. 6 (La. 2/22/07), 949 So. 2d 1215, 1221-22.

Though the "knock and talk" procedure is not automatically violative of the Fourth Amendment, it can become so. The constitutional analysis begins with the knock on the door. The prevailing rule is that, absent a clear expression by the owner to the contrary, police officers, in the course of their official business, are permitted to approach one's dwelling and seek permission to question an occupant. Warren, 05-2248 at p. 6, 949 So. 2d at 1222. The constitutional protection provided in the Fourth Amendment also applies to hotel rooms. See Hoffa v. United States, 385 U.S. 293, 301, 87 S.Ct. 408, 413, 17 L.Ed.2d 374 (1966); Stoner v. State of California, 376 U.S. 483, 490, 84 S.Ct. 889, 893, 11 L.Ed.2d 856 (1964).

In the instant case, there is little question that Deputy Tanner and his backup officers were within their rights to attempt a "knock and talk" investigation at defendant's hotel suite. However, when the officers attempted to make forced entry into the suite using a master key, the encounter elevated from a simple investigation to an attempted search. Once defendant opened the door for the officers and Deputy Tanner rushed in to the bathroom, the situation evolved into a full-blown warrantless search. In order to prevent suppression of the fruits of this warrantless search, the state had the burden of proving an exception to the warrant requirement. It failed to do so.

First, while the state does not appear to have relied upon a consent argument at the suppression hearing, we note that such an argument would not be valid. Ordinarily, there is a clear distinction between the police detaining a suspect on the street as authorized by La. C. Cr. P. art. 215.1 and the police knocking on a suspect's door. When stopped on the street, a suspect has no choice but to submit to the authority of the police. When the door is opened in response to a knock, it is a consent of the occupant to confront the caller. There is generally no compulsion,

force, or coercion involved in the latter situation. See State v. Sanders, 374 So. 2d 1186, 1188 (La. 1979). A search conducted pursuant to consent is an exception to warrant and probable cause requirements. See State v. Johnson, 98-0264, p. 5 (La. App. 1st Cir. 12/28/98), 728 So. 2d 885, 887. However, a consent to search is only valid when it is freely and voluntarily given by a person who possesses common authority or other sufficient relationship to the premises or effects sought to be inspected. See United States v. Matlock, 415 U.S. 164, 171 n.7, 94 S.Ct. 988, 993 n.7, 39 L.Ed.2d 242 (1974). The state bears the burden of proving that the consent has been freely and voluntarily given. State v. Owen, 453 So. 2d 1202, 1206 (La. 1984). Here, while defendant ultimately opened the door for the police, she did so only after Corporal Liberto made the initial forced entry and Deputy Tanner "told" her to open the door. Defendant's action in opening the door after this partial entry and pursuant to this direction is insufficient to support an inference that she freely and voluntarily consented to any level of search.

A second exception to the warrant requirement is exigent circumstances, which the state did rely upon at the suppression hearing. Exigent circumstances are exceptional circumstances which, when coupled with probable cause, justify entry into a protected area that, without those exceptional circumstances, would be unlawful. State v. Hathaway, 411 So. 2d 1074, 1079 (La. 1982). The Supreme Court has defined "exigent circumstances" as "a plausible claim of specially pressing or urgent law enforcement need." Illinois v. McArthur, 531 U.S. 326, 331, 121 S.Ct. 946, 950, 148 L.Ed.2d 838 (2001). Exigent circumstances may arise from the need to prevent the offender's escape, minimize the possibility of a violent confrontation which could cause injury to the officers and the public, and preserve evidence from destruction or concealment. State v. Brisban, 00-3437, p. 5 (La. 2/26/02), 809 So. 2d 923, 927-28.

An officer needs both probable cause to search *and* exigent circumstances to justify a non-consensual warrantless intrusion into private premises. Brisban, 00-3437 at p. 5, 809 So. 2d at 927. Probable cause for a search exists when facts within the officer's knowledge and of which he has reasonable and trustworthy information are sufficient to justify a reasonable man in the belief that the place to be searched will contain the object of the search. State v. Ragsdale, 381 So. 2d 492, 495 (La. 1980). To justify a warrantless entry, the exigent circumstances must be known to the officers "at the time of the warrantless entry" and cannot be based on evidence discovered during the search. Warren, 05-2248 at p. 10, 949 So. 2d at 1224. Thus, it was incumbent on the state to prove that the officers had probable cause to believe that the room contained contraband or evidence of a crime and that they possessed this knowledge when they made entry into the room.

At the time Deputy Tanner and the other officers approached defendant's hotel suite, they had relatively limited information concerning any potential criminal offenses being committed. The officers had been informed by Cressy of guests' complaints, given a purported Facebook page advertising "rub downs," and had run defendant's driver's license for a limited criminal history check. Dispatch informed Deputy Tanner that defendant had either "wants" or warrants in California and Georgia, but by his own admission, he had no intent to arrest defendant. Deputy Tanner intended initially to investigate the hotel manager's complaints regarding possible prostitution activities. However, the officers had at most a reasonable suspicion of this type of behavior. Besides defendant's criminal history, the officers had no knowledge, nor even a stated suspicion, of drug-related activities. Deputy Tanner believed his search to begin with the failed entry using the master key. Notably, it was during this time – with the slightly cracked door – that Deputy Tanner heard the toilet flushing. While Deputy Tanner testified to hearing frantic movements when the door was closed, the fact that he did not hear the toilet flushing

until the door was opened (at which time defendant was visible) leads to a conclusion that this discovery did not occur until an unlawful entry was made.

In sum, while Deputy Tanner might have expressed a fear that contraband was being destroyed because of the "frantic movements," he had no probable cause of any criminal activity to make entry pursuant to the exigent circumstances exception to the warrant requirement. See State v. Scallion, 07-0966, pp. 10-11 (La. App. 3rd Cir. 2/20/08), 976 So. 2d 822, 829-30 (finding no exigent circumstances exception where officers had no prior knowledge of drug-related activities at the defendant's residence and the officers' only observations were of panicked movements of silhouettes upon knocking at the door). Further, to the extent defendant's criminal history of drug use plus the flushing toilet might be argued as sustaining a finding of probable cause of current drug possession, the evidence presented at the suppression hearing and at trial indicates that the sound of the flushing toilet was not discovered until the unlawful entry was made. Therefore, the state did not sustain its burden of demonstrating both probable cause and exigent circumstances that were known by the officers prior to their entry. As a result, the search was not properly conducted pursuant to the exigent circumstances exception to the warrant requirement.

A final potential justification for upholding the search is that of a protective sweep. A protective sweep is a quick and limited search of a premises, incident to an arrest and conducted to protect the safety of police officers and others. It is narrowly confined to a cursory visual inspection of those places in which a person might be hiding. Maryland v. Buie, 494 U.S. 325, 327, 110 S.Ct. 1093, 1094, 108 L.Ed.2d 276 (1990).

In upholding a police officer's ability to conduct a protective sweep, the Louisiana Supreme Court in State v. Guiden, 399 So. 2d 194, 199 (La. 1981), cert. denied, 454 U.S. 1150, 102 S.Ct. 1017, 71 L.Ed.2d 305 (1982), in quoting from

United States v. Agapito, 620 F.2d 324, 336 (2d Cir.), cert. denied, 449 U.S. 834, 101 S.Ct. 107, 66 L.Ed.2d 40 (1980), stated the following:

> The reasonableness of a security check is simple and straightforward. From the standpoint of the individual, the intrusion on his privacy is slight; the search is cursory in nature and is intended to uncover only "persons, not things." Once the security check has been completed and the premises secured, no further search [-] be it extended or limited [-] is permitted until a warrant is obtained. From the standpoint of the public, its interest in a security check is weighty. The delay attendant upon obtaining a warrant could enable accomplices lurking in another room to destroy evidence. More important, the safety of the arresting officers or members of the public may be jeopardized. Weighing the public interest against the modest intrusion on the privacy of the individual, a security check conducted under the circumstances stated above satisfies the reasonableness requirement of the Fourth Amendment. [Citations omitted.]

In the instant case, three factors weigh against a finding that Deputy Tanner's actions were in the nature of a protective sweep. First, Deputy Tanner stated a clear intent not to arrest defendant and expressed an uncertainty about his authority even to do so; rather, he intended to investigate. Second, while the state alleges in its brief that defendant was "wanted" in California and Georgia, it failed to prove that Deputy Tanner in fact possessed any lawful authority to arrest pursuant to this alleged status. In pertinent part, La. C. Cr. P. art. 213(A)(4) allows a peace officer to arrest a person without a warrant when he has received positive and reliable information that a peace officer of another state holds an arrest warrant for a felony offense. In the instant case, the state failed to demonstrate whether the attachments from California and Georgia were "wants" or warrants, much less whether they were for felony offenses. Thirdly, Deputy Tanner admitted that his immediate entry into the bathroom was both to check for occupants *and* to locate evidence that could be destroyed. Finally, after the supposed "protective sweep" and once all of the occupants were secured, the state presented no evidence that the officers attempted to secure a search warrant. Instead, they proceeded to conduct a thorough search of the entire suite despite any

possible continuing danger. Therefore, the warrantless search of defendant's hotel suite cannot be justified by calling it a "protective sweep."

The state failed to affirmatively show that the search of the hotel suite was justified under any exception to the warrant requirement. The "knock and talk" investigation evolved too quickly from a mere investigation into a full search. Defendant's actions cannot be said to have granted the officers any consent to search. There was no probable cause to support a claim of exigent circumstances. Finally, Deputy Tanner's actions exceeded those justified by a true protective sweep of the hotel suite because the search focused primarily upon things, not people, and the scope was expanded beyond what was necessary to secure officer safety and preservation of evidence.

The search of the hotel suite violated defendant's constitutional rights and, under the facts presented, warrants application of the exclusionary rule barring the drug evidence seized as a result of the search. We therefore reverse the ruling of the trial court and grant defendant's motion to suppress, as well as the conviction that was dependent upon the inadmissible drug evidence. The habitual offender adjudication and all sentences are vacated, and the case is remanded to the trial court for further proceedings.[8]

DENIAL OF MOTION TO SUPPRESS AND CONVICTION REVERSED; HABITUAL OFFENDER ADJUDICATION AND SENTENCES VACATED; REMANDED FOR FURTHER PROCEEDINGS.

[8] Defendant did not challenge the sufficiency of evidence on appeal, but did so in a motion for postverdict judgment of acquittal. Nonetheless, the entirety of evidence, both the admissible and *inadmissible*, was sufficient to support defendant's conviction. See State v. Hearold, 603 So.2d 731, 734 (La. 1992). Accordingly, she is not entitled to an acquittal.

STATE OF LOUISIANA

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WHIPPLE, C.J., dissenting.

I respectfully disagree with the majority herein. Here, the defendant argues, and the majority agrees, that the deputies who responded to a complaint of possible prostitution at a hotel exceeded the scope of a "knock and talk" investigation. The majority concludes that no exceptions to the warrant requirement justified their entry and search of her hotel suite, under the attendant facts and information known to the officers (which included, *inter alia*, the fact that the officers knew that the defendant was already wanted in two states under outstanding warrants). In my view, after considering the totality of the circumstances, which we are required to do, exigent circumstances existed herein to justify the warrantless entry.

As noted in the majority opinion, the record reflects that: Laura Cressy, the hotel manager had received multiple complaints from hotel guests concerning the increased traffic from the defendant's room; Cressy found the defendant's Facebook page, which indicated that the defendant was offering "rub downs" in Covington, after which Cressy contacted the police; and the responding deputies "ran her name" and were informed by dispatch that the defendant had outstanding warrants in California and Georgia, which they confirmed. When the deputies knocked on the defendant's door and announced themselves as police officers, they heard "frantic" and immediate movement, muffled voices, and furniture moving. After deputies partially opened the door with a master key, they saw a female, who was later identified as the defendant, hurriedly walking from a bathroom and heard the sound of a toilet flushing.

As set forth in Payton v. New York, 445 U.S. 573, 603, 100 S. Ct. 1371, 1388, 63 L.Ed.2d 639 (1980), "[i]f there is sufficient evidence of a citizen's participation in a felony to persuade [an officer] that his arrest is justified, it is constitutionally reasonable to require him to open his doors to the officers of the law." As recognized in Payton, "an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within."

Moreover, this court recently re-examined the standard which a reviewing court must apply to determine the correctness of a trial court's decision relative to the suppression of evidence. State v. Wells, 2008-2262 (La. 7/6/10), 45 So. 3d 577, 580-581. Initially, the State bears the burden of proving the admissibility of the evidence seized without a warrant when the legality of a search or seizure is placed at issue by a motion to suppress evidence. LSA-C.Cr.P. art. 703(D). Further, the trial court's ruling on the matter must be afforded great weight and will not be set aside unless there is an abuse of discretion. State v. Wells, 45 So. 3d at 581. Thus, when a trial court makes findings of fact based on the weight of the testimony and the credibility of the witnesses, a reviewing court owes those findings great deference, and may not overturn those findings unless there is no evidence to support those findings. State v. Thompson, 2011-0915 (La. 5/8/12), 93 So. 3d 553, 563.

After reviewing the testimony and evidence herein, the trial court determined: (R. 134)

> And if they received notice from dispatch that there were outstanding warrants on the defendant, at that point in time, I think that they had a reasonable belief that they should contact – make contact with this defendant to identify her.
>
> And if there were no outstanding warrants, then they could do that. They could enforce those warrants.

Considering the great deference owed to the trial court's factual findings based on the weight of the testimony and credibility of witnesses, and the totality of the circumstances presented herein, I find no error by the trial court in denying the defendant's motion to suppress. Accordingly, I would affirm the trial court's denial of the defendant's motion to suppress, which I deem to be legally correct, and affirm the defendant's conviction, habitual offender adjudication, and sentence.

For these reasons, I respectfully dissent.