

FILED 6 SEP 16 8 53 USDC-ORP

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF OREGON
PORTLAND DIVISION

<p>UNITED STATES OF AMERICA</p> <p>Plaintiff;</p> <p>v.</p> <p>Shawna Cox</p> <p>Defendant</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Case No. 3:16-cr-00051-BR-7</p> <p>MOTION TO SUPPRESS</p> <p>ALL EVIDENCE PURPORTEDLY FOUND IN FLASH DRIVES OR OTHER MOBILE DEVICES ON DEFENDANT’S PERSON AT THE TIME OF ARREST</p>
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COMES NOW Shawna Cox with this motion to suppress all evidence alleged to have been found in any flash drives or other mobile devices taken from the Defendant’s person at the time of arrest.

During a hearing before the District Court on Wednesday, 24, 2016, the prosecution announced an intention to introduce evidence obtained without warrant from a flash drive or flash drives taken from the person of the Defendant.

Pursuant to the Fourth Amendment and the Supreme Court’s ruling in Riley v. California, 134 S. Ct. 2473 (2014). and other cases, any such evidence must be excluded from trial.

A brief in support of this motion will accompany this Motion.

Respectfully submitted,

Dated _____

Shawna Cox

I, _____ hereby swear, certify and attest, that on _____ I caused a true copy of this document to be sent to all parties of record in this case, via the Court's electronic filing system.

Signed _____ Dated _____

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<p>UNITED STATES OF AMERICA</p> <p>Plaintiff;</p> <p>v.</p> <p>Shawna Cox</p> <p>Defendant</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Case No. 3:16-cr-00051-BR-7</p> <p>BRIEF IN SUPPORT OF SHAWNA COX'S</p> <p>MOTION TO SUPPRESS ALL EVIDENCE</p> <p>PURPORTEDLY FOUND IN FLASH DRIVES OR</p> <p>OTHER MOBILE DEVICES ON DEFENDANT'S</p> <p>PERSON AT THE TIME OF ARREST</p>

The Fourth Amendment to the Constitution establishes the rights of American citizens to be free from unreasonable searches and seizures by the government. U.S. Const. Amend. 4. A warrantless search is per se unreasonable unless it is justified by an exception to the general rule. *Horton v. California*, 496 U.S. 128, 133 (1990).

In June 2014, the Supreme Court handed down *Riley v. California*, 134 S. Ct. 2473 (2014), a landmark decision in which the Court ruled that search warrants are required whenever law enforcement officers want to search a mobile device.

Riley was a rare unanimous decision. It imposed a broad rule that all warrantless mobile device searches are categorically unreasonable.

In open court during the week of August 21, 2016, the United States indicated an intent to use files or other evidence purportedly found on a flash drive device (or multiple devices) taken from the person of the Defendant at the time of her arrest in January 2016. The Government suggested it might use such evidence for one of several purposes, including as evidence to support the Government's theory that the Defendant opposed or opposes the BLM or another Government agency.

A search "cannot be justified as incident to that arrest . . . if the 'search is remote in time or place from the arrest.'" *United States v. Chadwick*, 433 U.S. 1, 15 (1977) (quoting *Preston v. United States*, 376 U.S. 364, 367 (1964)); see also *Chimel v. California*, 395 U.S. 752, 763 (1969) (holding search of entire house incident to an arrest was unreasonable because it "went far beyond the petitioner's person and the area from within which he might have obtained" a weapon or other thing to affect an escape).

The search-incident-to-arrest exception to the warrant requirement is justified "by the need to seize weapons and other things which might be used to assault an officer or effect an escape, as well as by the need to prevent the destruction of evidence of the crime." In this case, the flash drives allegedly on the Defendant's person could not have furthered any escape attempt or assault on the part of the Defendant. Nor did the United States have any need to open or search the device(s) without first obtaining a warrant (if a warrant was even lawfully obtainable).

ACCORDING to well-established and settled Fourth Amendment law, all evidence from any flash drives or mobile devices purportedly found on the Defendant must be suppressed and excluded.

RESPECTFULLY SUBMITTED,



Dated Sept. 6, 2016

CERTIFICATE OF SERVICE

I, Shauna Cox, the undersigned, do hereby certify and attest that on Sept. 6, 2016, I caused the foregoing document to be sent, via CM/ECF electronic service, to all parties in this case.

Signed Shauna Cox Dated Sept. 6, 2016