IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v. **Case No. 2:12-cr-20020-JPM**

MONICA WILLIAMS,

Defendant.

REPORT AND RECOMMENDATION ON DEFENDANT'S MOTION TO SUPPRESS EVIDENCE

Before the Court is Defendant Monica Williams' Motion to Suppress Evidence. (Docket Entry "D.E." #217). The instant motion was referred to the United States Magistrate Judge for Report and Recommendation. (D.E. #237).[1] For the reasons set forth herein, the Court RECOMMENDS that an evidentiary hearing is not appropriate because the allegations in Defendant's motion, even if proven true, would not justify the relief requested in the motion. Accordingly, the Court further RECOMMENDS that Defendant's Motion to Suppress Evidence be DENIED.

I. Introduction

On May 18, 2012 Defendant filed the instant Motion to Suppress Evidence asserting that law enforcement officers violated the knock-and announce rule when they entered the residence at 4106

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[1] The Motion to Dismiss for Unclean Hands and Entrapment, which was filed in the same document as the Motion to Suppress Evidence (D.E. #217), is not referred to the United States Magistrate Judge.

Berrybrook Cove in Memphis, Tennessee pursuant to a search warrant. Defendant asserts that she "mistakenly believed the police to be intruders due to not hearing them knock and announce their purpose." Defendant further claims that it was this startling entry that led her to fire a shot at the officers, an offense for which she is now being prosecuted. In response, the Government states that "numerous marked police cars" with activated sirens surrounded Defendant's residence to execute the warrant and that officers knocked and announced their presence and waited for over thirty seconds to be permitted entry. The Government asserts that, only when it was apparent that either no one was going to answer the door or no one was at home, officers breached the door and forcibly entered.

II. Analysis

As a threshold issue, the Court will consider whether an evidentiary hearing is warranted in the instant case. Rule 41 of the Federal Rules of Criminal Procedure provides that the Court "shall receive evidence on any issue of fact necessary to the decision of the motion." Fed. R. Crim. P. 41(e). The Sixth Circuit has held that an evidentiary hearing should not be granted simply as a matter of course, but only when the allegations of the motion, if proven, would justify relief. *United States v. One 1965 Buick*, 392 F.2d 672, 678 (6th Cir. 1968). The Court is not required to permit the presentation of evidence which would have no effect on its ruling of law. *United States v. Simmons*, 569 F. Supp. 1155 (M.D. Tenn. June 20, 1983) (quoting *United States v. Frazier*, 584 F.2d 790, 794 (6th Cir. 1978)). Under such circumstances, the Court may view the facts in the light most favorable to the movant and consider whether these facts would justify relief as a matter of law. *Id.*

In the instant case, it is first worth noting that neither Defendant nor the Government expressly requested that an evidentiary hearing be held on the instant motion. Upon review of the

substance of the motion and the response, it is undoubtedly true that there is a contested issue of fact—namely, Defendant argues that officers did not knock and announce their presence, and the United States asserts that they did properly do so. However, this dispute of fact is irrelevant to the determination of the motion. Even if the Court presumes that Defendant's version of the facts is accurate, the Supreme Court concluded in *Hudson v. Michigan*, 547 U.S. 586 (2006), that the exclusionary rule categorically does not apply to violations of the knock-and-announce rule. *Id*. at 594. Following *Hudson*, the Sixth Circuit has concluded that it is "unnecessary to resolve the witnesses' conflicting testimony to determine whether there was a knock-and-announce violation" because, "regardless of whether there was a violation, the Supreme Court has held that the exclusionary rule does not apply in this setting." *United States v. Smith*, 526 F.2d 306, 311 (6th Cir. 2006). Relying upon *Hudson* and *Smith*, at least one District Court has had occasion to determine that an evidentiary hearing is not necessary "to decide which parties' version of the facts," as the motion "must be dismissed as a matter of law" because suppression is not an appropriate remedy for the violation of the knock-and-announce rule. *See, e.g. United States v. Rivera*, 2009 WL 2512849, at *1 (N.D.Ohio Aug. 17, 2009).[2]

Defendant acknowledges that the *Hudson* Court, "at first glance, seems to destroy the exclusionary rule remedy to knock and announce cases," but argues that the *Hudson* court

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[2] Likewise, other District Courts have held an evidentiary hearing on motions to suppress, particularly when there were multiple alleged grounds for suppression in addition to a knock-and-announce violation, but held following the hearing on the motion to suppress that the knock-and-announce issue could be determined as a matter of law. *See*, *e.g. United States v. Johnson*, 574 F. Supp. 2d 154, 157 (D.D.C. 2008) (holding that, with respect to the movant's contention that a knock-and-announce violation occurred, "[a]s a matter of law, even if it were true, it would not lead to suppression of the evidence gathered during the search" pursuant to the Supreme Court's pronouncement in *Hudson* that the exclusionary rule is not an applicable remedy).

nonetheless referenced the rule's aim to protect human life and limb. For this reason, Defendant argues that "this is exactly the type of case" that requires the remedy of suppression due to Defendant's alleged uncertainty of the identity of the individuals entering her home and violent response. However, Defendant's argument is misplaced. The Supreme Court did acknowledge that the knock-and-announce rule intends to protect life, limb, property, and privacy, but further concluded "the rule has never protected one's interest in preventing the government from seeing or taking evidence described in a warrant." *Hudson*, 547 U.S. at 594. Therefore, while the Supreme Court cites the concerns raised by Defendant, the Court expressly states that other remedies, such as civil actions or internal police discipline, are the appropriate responses for any such violations; however, even if a violation of the knock-and-announce rule did occur, as was the case in *Hudson*, the Supreme Court has concluded that suppression of evidence is not the appropriate remedy.

III. Conclusion

For the reasons set forth herein, the Court RECOMMENDS that an evidentiary hearing is not appropriate on Defendant's Motion to Suppress, and the Court further RECOMMENDS that Defendant's Motion to Suppress be DENIED.[3]

DATED this 23rd day of July, 2012.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE

[3] The Magistrate Judge had previously set a hearing on the instant motion for July 27, 2012 at 9:30 a.m. This hearing is hereby cancelled in accordance with this Report & Recommendation.

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.