



## USA v. Lee et al.

2019 | Cited 0 times | D. Minnesota | September 19, 2019

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

United States of America, Plaintiff, v. Roberto Lee (01), Defendant.

Case No. 19-cr-0168 (MJD/HB)

REPORT AND RECOMMENDATION

HILDY BOWBEER, United States Magistrate Judge

This case is before the undersigned United States Magistrate Judge on Defendant Roberto Lee's Motion to Suppress Evidence [Doc. No. 94]. The case has been referred to the undersigned for resolution of pretrial matters pursuant to 28 U.S.C. § 636 and District of Minnesota Local Rule 72.1. Lee moves to suppress the search and seizure of a duffel bag recovered on March 8, 2019. [See Doc. No. 94.] At the motion hearing, the Government argued that Lee had not established a legitimate expectation of privacy in the duffel bag, which had been abandoned before it was seized and searched. Lee responded that he did not intend to introduce any evidence at the hearing, but he declined to withdraw his motion to suppress evidence. To challenge a government search under the Fourth Amendment, a defendant must establish that the government violated his reasonable expectation of privacy when it conducted the search. *United States v. Douglas*, 744 F.3d 1065, 1069 (8th Cir. 2014). Lee "bears the burden of proving he had a legitimate expectation of privacy that was violated by the challenged search and seizure." *United States v. Kiser*, 948 F.2d 418, 423 (8th Cir. 1991). Lee must show both that he had a subjective expectation of privacy in the duffel bag and that the expectation is objectively reasonable. *Id.* Lee has not met either prong of the test. His failure to establish a legitimate expectation of privacy in the duffel bag is fatal to his motion to suppress evidence, and the Court recommends that the motion be denied.

Based on all the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that Defendant Roberto Lee's Motion to Suppress Evidence [Doc. No. 94] be DENIED.

Dated: September 19, 2019 s/ Hildy Bowbeer HILDY BOWBEER United States Magistrate Judge

NOTICE Filing Objections: This Report and Recommendation is not an order or judgment of the



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District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under D. Minn. LR 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. D. Minn. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in D. Minn. LR 72.2(c). Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.

