

United States Court of Appeals
For the Eighth Circuit

No. 18-1829

United States of America

Plaintiff - Appellee

v.

Terry Lee Carlson, Sr.

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: March 11, 2019

Filed: May 3, 2019

[Unpublished]

Before GRUENDER, BENTON, and GRASZ, Circuit Judges.

PER CURIAM.

After his conditional guilty plea and sentencing on one count of production of child pornography in violation of 18 U.S.C. § 2251(a) and (e), Terry Lee Carlson, Sr.,

appeals the district court's¹ denial of his motion to suppress evidence. Carlson sought to suppress evidence gained through a warrant issued in the United States District Court for the Eastern District of Virginia. We have previously held the same warrant was void *ab initio* because it violated the Fourth Amendment. *See United States v. Horton*, 863 F.3d 1041, 1049 (8th Cir. 2017), *cert. denied*, 138 S. Ct. 1440 (2018). However, we also held the *Leon* good faith exception applied to Federal Bureau of Investigation (“FBI”) agents’ use of the warrant. *See id.* at 1052 (citing *United States v. Leon*, 468 U.S. 897 (1984)). We disagree that Carlson’s “new” arguments supporting suppression in this case are truly new because *Horton* previously addressed whether the FBI agents should have known the warrant was invalid. *See id.* As our sister circuit has stated, the Department of Justice training manual and the efforts to amend Fed. R. Civ. P. 41 do not change the applicability of the *Leon* good faith exception to this warrant. *See United States v. Werdene*, 883 F.3d. 204, 218–19 & n.12 (3d Cir. 2018). We see no error in the district court’s decision to follow *Horton*. Accordingly, we affirm. *See* 8th Cir. R. 47B.

¹The Honorable John R. Tunheim, Chief Judge, United States District Court for the District of Minnesota.