



NYU | LAW

# MOOT COURT BOARD

United States,  
Plaintiff,

-against-

Michael Flores,  
Defendant.

Memorandum of Law

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## **QUESTIONS PRESENTED**

- (1) Whether the Fourth Amendment requires at least reasonable suspicion for forensic cell phone searches conducted at the border.
- (2) Whether, absent a warrant, border agents can obtain evidence of past and future crimes at the border without violating the Fourth Amendment.

## **STATEMENT OF FACTS**

Michael Flores, a twenty-one-year-old United States citizen and university student, spent his spring break in Mexico, where he visited family, including his ninety-year-old grandmother. Upon his return to the U. S., Flores was randomly selected by U. S. Customs and Border Protection (“CBP”) officers to have his phone searched at the border.

Flores was taken to a secondary inspection area by CBP officers. Though no drugs were found on his person or in his luggage, the officers informed Flores of their intention to search the contents of his phone. One officer ordered Flores to provide his phone’s password, stating that “if he had nothing to hide,” he should unlock it. Flores refused to unlock his phone, citing privacy concerns. As a result, CBP confiscated the phone for a forensic search.

The forensic cell phone search took a month and resulted in an 896-page report containing extensive personal data, including contacts, emails, texts, media files, web history, GPS locations, embarrassing selfies, and more. Flores’s phone was returned two months later.

During the examination, CBP officers discovered evidence suggesting Flores’s potential involvement in the illicit sale of “Feliz.” Feliz is a mild hallucinogenic drug similar to marijuana that the U.S. government classified as a Schedule I controlled substance in 1967.<sup>1</sup>

Using the forensic search to establish probable cause, officers searched Flores’s dorm. They arrested him for possession of a controlled substance and felony sale, with a mandatory minimum sentence of five years in prison. *See* 21 USC § 841(a)(1) (listing the mandatory minimum sentences for the possession of controlled substances).

In response, Flores filed a motion to suppress the evidence obtained against him, arguing that the search lacked the necessary reasonable suspicion and exceeded the permissible scope of a legitimate border search under the Fourth Amendment.

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<sup>1</sup> This classification is widely recognized as stemming from racial biases targeting Mexican immigrants. The resulting law enforcement campaigns disproportionately targeted Mexican communities, leading to widespread arrests and negative stereotyping.

## **PROCEDURAL POSTURE**

Before trial, Defendant filed motions to suppress evidence obtained from his electronic device at the border, as well as any evidence derived from the initial search.

The district court ruled that individualized suspicion is not required during border searches because national security concerns outweigh individual privacy interests. Moreover, the court determined that border agents are authorized to search for evidence of any potentially harmful material entering the country, including digital contraband. Alternatively, the district court held that the CBP officers relied on a good faith basis to search Flores's phone. Therefore, the evidence obtained from Defendant's smartphone search was deemed admissible. Flores pleaded guilty for the sale and possession of Feliz but reserved his right to appeal on the motion to suppress.

On appeal, the Court of Appeals for the Fourteenth Circuit reversed the district court's decision, granted Flores's motion to suppress, and vacated his conviction. It held that the search violated the Fourth Amendment's prohibition against unreasonable searches and seizures. The court held that forensic cell phone searches at the border require individualized suspicion that the phone contains digital contraband and emphasized the unique privacy interests a defendant has in the contents of their cell phone.

The Government appealed the Fourteenth Circuit's decision to the Supreme Court on two grounds. First, it argued that the Fourth Amendment does not require individualized suspicion to conduct a forensic cell phone search at the border and that the scope of a permissible search includes *any* evidence of criminal activity. Second, the Government argued that the CBP officers conducted the search in good faith and therefore the motion to suppress must be denied.

In reviewing a motion to suppress, factual findings are assessed for clear error, while the application of the law to these facts is subject to de novo review.

## **SUMMARY**

### **I. Appellee Will Argue that Individualized Suspicion Is Required for Forensic Cell Phone Searches at the Border, the Scope of a Border Search Should Be Limited to Digital Contraband, and the Good Faith Exception Does Not Apply.**

Defendants can present two key arguments in this case regarding border searches of cell phones. First, they may assert that individualized suspicion is essential for conducting forensic searches of cell phones at the border. *United States v. Montoya de Hernandez* established the reasonable suspicion standard for highly intrusive searches at the border, 473 U.S. 531, 541 (1985), and Defendant can argue the search

of a phone is highly intrusive. In *Riley v. California*, the Supreme Court emphasized the unique privacy interests implicated by the search of a cell phone. 573 U.S. 373, 393 (2014). In Flores’s case, where there was no individualized suspicion of a crime, a forensic cell phone search cannot be conducted absent a warrant.

Second, Defendant can argue that warrantless searches at the border must be limited in scope to purposes directly related to border protection. While some circuits have found warrantless cell phone searches permissible, Defendant will likely emphasize that these searches should be restricted to instances where there is a clear connection to border-related concerns. See *United States v. Kolsuz*, 890 F.3d 133 (4th Cir. 2018) (applying the border exception to the exportation of illegal firearms because the crime had a sufficient nexus to the border). Defendant will argue that the circumstances of his case, devoid of any suspicion of border-related crimes, did not justify the warrantless forensic search of his phone. Flores’s crime of campus drug dealing does not involve government interests in protecting national security and is unrelated to the U.S. border. Additionally, Defendant can highlight the Ninth Circuit’s ruling in *United States v. Cano*, which distinguished between the government’s interest in seizing digital contraband as opposed to *evidence* of contraband. 934 F.3d 1002, 1014 (9th Cir. 2019). For example, text messages about international drug smuggling would not themselves be contraband, but child pornography itself would be contraband. In *Cano*, the court limited the scope of the border exception to searches for digital contraband. *Id.*

Furthermore, Defendant will oppose applying the good faith exception to the exclusionary rule in this case. Despite variations in circuit rulings, Defendant will point out that a 2018 CBP Directive requires reasonable suspicion for border searches, and there was no reasonable suspicion here. U.S. Customs & Border Prot., CBP Directive No. 3340-049A, 4–5 (2018). As more circuits recognize the requirement of reasonable suspicion, Defendant will argue that the evidence obtained from Flores’s phone should be suppressed.

## **II. The Government Will Argue that Individualized Suspicion Is Not Required, the Scope of the Border Search Includes Evidence of a Crime, and in the Alternative, the Good Faith Exception Applies.**

First, the Government will argue that individualized suspicion is not required at the border for forensic cell phone searches. Second, the Government will contend that the border exception extends beyond merely intercepting contraband and extends to preventing anything harmful from entering the country. The Government will emphasize the paramount interest in protecting territorial integrity over individual privacy concerns. The Government will argue that national security concerns justify searches for evidence of criminal activity rather than just searches for digital contraband.

Drawing on rulings from the First and Eleventh Circuits, the Government will underscore the historical context and legal framework surrounding border searches, arguing for an expansive interpretation of the border search exception. *See Alasaad v. Mayorkas*, 988 F.3d 8, 20 (1st Cir. 2021); *United States v. Haley*, 743 F.2d 862, 865 (11th Cir. 1984). Moreover, the Government will oppose the Ninth Circuit’s narrow interpretation of the border exception to only justify a search for digital contraband, arguing that this would undermine the state’s interest in detecting border-related crimes. The Government will maintain that the search of Defendant’s phone was justified and lawful under the border search exception.

Finally, the Government will argue that this search falls within the good faith exception, asserting that the officers acted in reliance on the historic expansiveness of the exception and the Eleventh Circuit’s ruling in *United States v. Touset*. 890 F.3d 1227, 1235 (11th Cir. 2018). Despite the CBP’s issued guidance, U.S. Customs & Border Prot., CBP Directive No. 3340-049A, 4–5 (2018), some circuits have held that reasonable suspicion is not a constitutional requirement for a reasonable border search. Because the CBP officers reasonably relied on established precedent, the evidence should not be suppressed under the exclusionary rule.

## **DISCUSSION**

### **I. The Level of Suspicion Required for Border Searches of Electronic Devices**

Circuits are split on the level of suspicion required for forensic cell phone searches at the border. Both the Fourth and Ninth Circuits agree that officers must have reasonable suspicion to conduct such searches. *See United States v. Aigbekaen*, 943 F.3d 713, 719 (4th Cir. 2019); *United States v. Cano*, 934 F.3d 1002, 1016 (9th Cir. 2019). In contrast, the Eleventh Circuit, in *United States v. Touset*, held that border agents do not need individualized suspicion. 890 F.3d 1227, 1231 (11th Cir. 2018). Meanwhile, in *United States v. Smith*, a federal district court held that forensic cell phone searches require a warrant based on probable cause, as the border exception does not apply to cell phones. 673 F. Supp. 3d 381, 389 (S.D.N.Y. 2023).

#### **A. Defendant Will Argue that Individualized Suspicion Is Required Because Forensic Cell Phone Searches Are Highly Intrusive.**

The crux of the Fourth Amendment is reasonableness, and searches conducted absent probable cause and a warrant are deemed presumptively unreasonable unless they are subject to an exception. *Katz v. United States*, 389 U.S. 347 (1967). A major exception to the general warrant requirement is the border exception, which recognizes the sovereign authority of Congress and the Executive to search persons and property at the border, whether coming into or going out of the country. *United States v. Ramsey*, 431 U.S. 606, 616 (1977). Thus, border searches “are reasonable simply by virtue of the fact that they occur at the border.” *Id.* However, the

government typically must demonstrate a reasonable suspicion when it seeks to conduct a nonroutine search. *United States v. Montoya de Hernandez*, 473 U.S. 531, 541 (1985). The Supreme Court has applied the “reasonable suspicion” standard to situations involving “more personally offensive searches,” such as a body cavity search of an individual detained at the border suspected of smuggling contraband in their alimentary canal. *Id.*

Defendant will argue that individualized suspicion is necessary for conducting a forensic search of a cell phone. In the modern era, individuals are rarely found without their cell phone, and a thorough search of one’s phone is arguably more personally offensive than a strip search due to the amount of information contained within. In *Riley v. California*, the Supreme Court stated that cell phones contain data that differs qualitatively from physical records or objects; for example, features like “internet search and browsing history” may potentially reveal private details about the user, such as medical information. 573 U.S. 373, 395 (2014). Though *Riley* focused on searches incident to lawful arrests, its reasoning seems applicable to cell phone searches at the border. *See id.* at 382. Applying the balancing test from *Riley*, which evaluates individual interests in privacy and the government’s interest in security, the court in *Smith* concluded that the privacy interest outweighed the state’s interest at the border. 673 F. Supp. 3d at 395.

The *Smith* court explained that the government’s interest in cell phone data is weaker than its interest in physical contraband, as preventing the phone from entering the country may not stop its data from entering. *Id.* at 396. Moreover, a traveler’s interest in the data on their phone is stronger than their interest in their baggage, as a phone contains “a digital record of more information than could likely be found through a thorough search of the person’s home, car, office, mail, and phone, financial and medical records, and more besides.” *Id.* at 395. The court noted “[n]o traveler would reasonably expect to forfeit privacy interests in all this simply by carrying a cell phone when returning home from an international trip.” *Id.*

The Fourth Circuit, following *Riley*, has held that the government may rely on the border search exception to conduct a search only in limited circumstances. *United States v. Nkongho*, 107 F.4th 373, 382 (4th Cir. 2024). Specifically, the government must demonstrate “individualized suspicion of an offense that bears some nexus to the border search exception’s purposes of protecting national security, collecting duties, blocking the entry of unwanted persons, or preventing the export or import of contraband.” *Aigbekaen*, 943 F.3d at 723. In essence, the Fourth Circuit requires a connection between the suspected crime and the border. *Id.* at 721. For example, suspicion of drug smuggling would justify a forensic search of a cell phone at the border, but suspicion of insurance fraud would not. In Flores’s case, however, there was no reasonable suspicion, making the search unreasonable under the Fourth Circuit’s standard.

Defendant will argue that the Government lacked reasonable suspicion to conduct the search. The Supreme Court defines reasonable suspicion as “articulable facts that criminal activity ‘may be afoot,’” clarifying that it cannot be based on “inchoate and unparticularized suspicion or a ‘hunch.’” *United States v. Sokolow*, 490 U.S. 1, 7 (1989). Upon searching Flores and finding no evidence of criminal activity, officers lacked reasonable suspicion that his phone would contain evidence of a border crime violation. Therefore, the forensic search violated Flores’s Fourth Amendment rights.

**B. The Government Will Argue that No Individualized Suspicion Is Required Because National Security Outweighs Privacy Interests at the Border.**

The Government will argue that no suspicion is required for the search. It will emphasize the significance of the sovereign’s interest in protecting its borders, grounded in the Government’s “inherent authority to protect, and a paramount interest in protecting, its territorial integrity.” *United States v. Flores-Montano*, 541 U.S. 149, 153 (2004). Further, “not only is the expectation of privacy less at the border than in the interior, the Fourth Amendment balance between the interests of the Government and the privacy right of the individual is also struck much more favorably to the Government at the border.” *Montoya de Hernandez*, 473 U.S. at 539–40 (holding that even nonroutine searches, such as body cavity searches, do not require a warrant at the border).

The Government will also minimize the privacy interests in a cell phone at the border. Travelers “crossing a border . . . [are] on notice that a search may be made” and “they are free to leave any property they do not want searched—unlike their bodies—at home.” *Touset*, 890 F.3d at 1235 (quoting *United States v. Hidalgo-Gato*, 703 F.2d 1267, 1271 (11th Cir. 1983)). Inconvenient screening procedures are reasonable under the border exception, including unpacking electronic devices, separating and limiting liquids, removing shoes, and walking through a full-body scanner. See *Corbett v. Transp. Sec. Admin.*, 767 F.3d 1171, 1174 (explaining that a traveler must walk through a scanner or undergo a pat-down in airports).

The Government will distinguish *Riley* by explaining that *Riley* applies to searches incident to arrest. *Riley*, 573 U.S. at 396. The rationale for the search incident to arrest exception is premised on protecting officers and preventing evidence destruction, rather than on addressing border crime. *Id.* at 383. Therefore, while searching a cell phone during an arrest does not protect evidence or enhance officer safety, cell phone searches at the border do further the Government’s interest in preventing unwanted persons or contraband from entering the country. *Id.* Given the volume of travelers passing through our nation’s borders, warrantless electronic device searches are essential to the border search exception’s purpose of ensuring that the Executive branch can adequately protect the border. Border officials are

“charged . . . with protecting this Nation from entrants who may bring anything harmful into this country.” *Montoya de Hernandez*, 473 U.S. at 544. As the Eleventh Circuit held, “[b]order searches have long been excepted from warrant and probable cause requirements, and the holding of *Riley* does not change this rule.” *United States v. Vergara*, 884 F.3d 1309, 1312–13 (2018).

Although the Supreme Court has required reasonable suspicion for the prolonged detention of a person until she excreted the contraband that she was suspected of “smuggling . . . in her alimentary canal,” or submitted to an x-ray or rectal examination, it has never applied this requirement to property. *See Montoya de Hernandez*, 473 U.S. at 541. Nor has the Court “been willing to distinguish . . . between different types of property.” *See Touse*, 890 F.3d at 1233. Regardless of how extensive a search of property may be, the Court has never required heightened suspicion for invasive property searches. The Court held in *Flores-Montano* that the Government may “remove, disassemble, and reassemble a vehicle’s fuel tank” at the border without any suspicion. 541 U.S. at 155. The Court explained that “dignity and privacy interests of the person being searched . . . simply do not carry over to vehicles.” *Id.* at 152. Although it may intrude on the privacy of the owner, a forensic search of an electronic device is a search of property, and thus does not require suspicion.

## **II. The Scope of Searches Permitted Under the Border Search Exception**

Circuits are split regarding the permissible scope of searches under the border search exception. The Ninth Circuit limits the scope of these searches to digital contraband. *See United States v. Cano*, 934 F.3d 1002, 1013 (9th Cir. 2019). In contrast, the Fourth Circuit allows searches for evidence of a crime, if the crime being investigated has a “nexus to the border.” *United States v. Kolsuz*, 890 F.3d 133, 143 (4th Cir. 2018). Meanwhile, the Eleventh Circuit permits searches for evidence of any crime, regardless of its relation to the border. *See United States v. Touse*, 890 F.3d 1227 (11th Cir. 2018).

### **A. Defendant Will Argue that the Scope of the Exception Should Only Extend to Digital Contraband.**

The Supreme Court has stated that warrantless searches “must be limited in scope to that which is justified by the particular purposes served by the exception.” *Florida v. Royer*, 460 U.S. 491, 500 (1983). Defendant will argue that the scope of the search should be limited to a search for digital contraband. As the Ninth Circuit in *Cano* explained, the origins of the border search exception existed to prevent contraband from entering the country. 934 F.3d at 1013. Since CBP lacked any suspicion that Flores’s phone contained contraband such as child pornography, the search was an impermissible violation of the Fourth Amendment.

While the Government has an interest in protecting the border’s integrity and preventing illicit substances or contraband from entering the country, preventing the



entry of a cell phone into the country will not necessarily prevent the entry of the cell phone's data. *Cano*, 934 F.3d at 1014. While an individual crossing the border may have diminished privacy interests, carrying a cell phone does not forfeit those interests entirely. In 2019, the Ninth Circuit held that border officials may conduct warrantless searches of cell phones "only to determine whether the phone contains contraband," such as explicit images of child sexual abuse. *Id.* at 1018. However, it is questionable whether the Government's interest in interdicting such "digital contraband" on a specific device is comparable to its interest in physical contraband. Since the search of Flores's phone was not for "digital contraband," the search does not fall within the border exception. *Id.* Searches for evidence relating to a crime, like the one in this case, require a warrant, as the Government's interest in obtaining evidence at the border is not materially different from elsewhere. *Id.* at 1020.

In *Kolsuz*, the Fourth Circuit required that there be a nexus between the Government's border protection interests and the search. 890 F.3d at 143. Defendant may contend that, under this standard, the warrantless search conducted here lacked justification, as his lack of possession of drugs negated reasonable suspicion of border-related criminal activity. Had the officers confronted Flores anywhere other than the border, they would not be permitted to conduct a forensic search of his phone without a warrant. *See Riley v. California*, 573 U.S. 373, 401 (2014) (holding that cell phone searches conducted incident to an arrest require a warrant); *see also Katz v. United States*, 389 U.S. 347, 357 (1967) (holding that "searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment"). Suggesting that a citizen loses their Fourth Amendment rights simply by going on vacation and returning back home is unreasonable. *See Kolsuz*, 890 F.3d at 138 (explaining that "[e]ven at the border, however, the Government's authority is not without limits" since "[t]he 'ultimate touchstone' of the Fourth Amendment . . . remains 'reasonableness'").

Moreover, Defendant will argue that the Eleventh Circuit downplayed the qualitative distinction between phones and other property searches highlighted by the Court in *Riley*. *See Tousey*, 890 F.3d at 1235 ("[W]e fail to see how the personal nature of data stored on electronic devices could trigger this kind of indignity when our precedent establishes that a suspicionless search of a home at the border does not."). Since highly intrusive searches, such as strip searches, require a higher level of suspicion, and cell phones contain troves of sensitive data, forensic cell phone searches at the border must require individualized suspicion as well.

**B. The Government Will Argue that the Exception's Scope Should Include Evidence of Anything Harmful Entering the Country.**

The Government will argue that the Ninth Circuit's approach of limiting digital contraband to material that is itself illegal seems overly restrictive, especially because it effectively limits the warrantless search at the border to images of sexual

abuse. The Government will say this rule is illogical because the border exception “serves to bar entry to those ‘who may bring *anything* harmful into this country . . . whether that be communicable diseases, narcotics, or explosives.” *Alasaad v. Mayorkas*, 988 F.3d 8, 20 (1st Cir. 2021) (quoting *Unites States v. Montoya de Hernandez*, 473 U.S. 531, 544 (1985)).

The Government will argue that the border search exception is not limited to searches for contraband itself but also includes evidence of contraband or a border-related crime. Searching for evidence is vital to achieving the border search exception’s overarching purpose of controlling “who and what may enter the country.” *United States v. Ramsey*, 431 U.S. 606, 620 (1977). This includes “protecting national security, collecting duties, blocking the entry of unwanted persons, [and] disrupting efforts to export or import contraband.” *United States v. Aigbekaen*, 943 F.3d 713, 721 (4th Cir. 2019) (explaining the “purposes” of the border exception). Moreover, a traveler’s privacy interest should not be given greater weight than the “paramount interest [of the sovereign] in protecting . . . its territorial integrity.” *United States v. Flores-Montano*, 541 U.S. 149, 152 (2004). Thus, the search here, aimed at uncovering evidence of border-related crime, was justified.

Further, the Eleventh Circuit adopted a similar approach in *Touset*, holding that border agents could conduct a forensic search of an individual’s cell phone at the border without showing reasonable or individualized suspicion. 890 F.3d at 1235 (holding that no suspicion was necessary to search electronic devices at the border and in the alternative, that border agents had reasonable suspicion to search defendant’s electronic devices). The Government will emphasize the national security concerns at the border and the comparatively limited privacy interests of travelers. The Government will argue that the lack of a reasonable suspicion requirement in two “founding-era statutes,” which allowed customs agents to search vessels before they arrived in the country, evidenced the Framers’ capacious view of the border search exception. *Ramsey*, 431 U.S. at 616–17 (citing Act of July 31, 1789, ch. 5, § 24, 1 Stat. 29, 43). Due to the high volume of travelers and the compelling need for a sovereign to protect its borders, the Eleventh Circuit’s broad scope should be upheld.

### **III. Good Faith**

The good faith exception allows unlawfully obtained evidence to nevertheless be admitted at trial when the government had a good faith belief that its actions were lawful. *United States v. Zodhiates*, 901 F.3d 137, 143 (2d Cir. 2018)

#### **A. Defendant Will Argue that the Good Faith Exception Does Not Apply.**

Finally, Defendant will argue that the good faith exception to the exclusionary rule does not apply. The good faith exception allows unlawfully obtained evidence to be used at trial “when the Government ‘act[s] with an objectively reasonable good-

faith belief that their conduct is lawful.” *Zodhiates*, 901 F.3d at 143 (quoting *Davis v. Unites States*, 564 U.S. 229, 238 (2011) (internal quotation marks omitted)). Generally, exclusion is appropriate “[w]hen the police exhibit ‘deliberate,’ ‘reckless,’ or ‘grossly negligent’ disregard for Fourth Amendment rights [because] the deterrent value of exclusion is strong and tends to outweigh the resulting costs.” *Davis*, 564 U.S. at 239–40.

Although the Eleventh Circuit has held that individualized suspicion is not required to conduct a forensic cell phone border search, *United States v. Touset*, 890 F.3d 1227, 1233 (11th Cir. 2018), a 2018 CBP Directive requires reasonable suspicion, U.S. Customs & Border Prot., CBP Directive No. 3340-049A, 4–5 (2018). Moreover, a growing number of courts have begun to recognize the individualized suspicion requirement for forensic cell phone searches at the border. *See United States v. Kolsuz*, 890 F.3d 133, 144 (4th Cir. 2018) (requiring reasonable suspicion for forensic cell phone searches at the border); *United States v. Cano*, 934 F.3d 1002, 1007 (9th Cir. 2019); *United States v. Smith*, 673 F. Supp. 3d 381, 395 (S.D.N.Y. 2023) (requiring probable cause for forensic cell phone searches at the border). Therefore, the good faith exception does not apply, and the evidence must be excluded.

## **B. Government Will Argue that the Good Faith Exception Precludes Suppression.**

The Government will argue against the suppression of evidence under the good faith exception. They will contend that the officers who requested the search had an objectively reasonable suspicion based on the historically broad nature of the border exception and the Eleventh Circuit’s holding in *Touset*. 890 F.3d at 1232–37 (holding that the Fourth Amendment does not require a finding of suspicion before officers may search electronic devices at the border). Because officers did not act with reckless disregard for the Constitution, the search of Flores’s cell phone meets the criteria for the good faith exception. *Smith*, 673 F. Supp. 3d at 402 (explaining that when officers “could reasonably believe they had a binding lawful basis for seizing and searching a phone,” the good faith exception applies). As Justice Cardozo famously explained, it is one thing for “the criminal . . . to go free because the constable has blundered” and quite another for evidence to be suppressed because an officer has scrupulously adhered to governing law. *People v. Defore*, 242 N.Y. 13, 21 (N.Y. 1926). Excluding evidence in cases where officers act in good faith does not deter police misconduct and imposes substantial social costs. Therefore, the motion to suppress must be denied.

## **CONCLUSION**

The Defendant and the Government have multiple grounds to argue these Fourth Amendment issues. Defendant will contend that the search violated the Fourth Amendment because the CBP officers lacked individualized suspicion. Further, Defendant will assert that the scope of a warrantless search under the

border exception extends solely to digital contraband. The Government will argue that due to strong government interests in protecting national borders, suspicionless searches are permissible under the Fourth Amendment. Alternatively, the Government will contend that good faith precludes suppression.