

FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-14252

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TERRANCE LOUIS,

a.k.a. Terrnce Glover,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:20-cr-20146-BB-1

Before JILL PRYOR, LUCK, and BRASHER, Circuit Judges.

JILL PRYOR, Circuit Judge:

After serving a year in prison for a Florida felony drug offense, Terrance Louis was released from prison and placed in the state's conditional release program. While on conditional release,

he tested positive for cocaine. A no-bond warrant was issued for his arrest, and while executing that warrant, his release supervisor searched his residence and found drugs and a firearm. Louis was arrested, a search warrant was issued, and federal charges were filed.

Louis moved to suppress the evidence found at his home, contending that he was no longer on conditional release when his supervisor executed the search. The district court denied the motion after concluding that he was still on conditional release during the search and that his release supervisor had reasonable suspicion to search his home.

Louis pleaded guilty to unlawfully possessing a firearm. His presentence investigation report said that he was subject to a mandatory minimum of 15 years under the Armed Career Criminal Act (“ACCA”), which requires the government to prove that a defendant has three qualifying convictions before his sentence can be enhanced. *See* 18 U.S.C. § 924(e)(1). Despite Louis’s objections to the ACCA enhancement, the government provided no evidence that he had been convicted of three predicate offenses. Yet, the district court imposed the enhancement anyway.

We affirm the district court’s denial of the motion to suppress. But the district court erred by failing to hold the government to its burden of proving the predicate offenses necessary to apply ACCA, so we vacate Louis’s sentence and remand with instructions for resentencing.

21-14252

Opinion of the Court

3

I. BACKGROUND

A. Louis's Florida Conditional Release

The relevant events started in May 2018, when Louis was sentenced in Florida state court for possession with intent to distribute marijuana. The court sentenced him to a year and a day in prison. He served his sentence as expected.

As his term of imprisonment came to an end, Louis became eligible for Florida's conditional release program. Under Florida law, prisoners who fall into certain categories "shall, upon reaching the tentative release date or provisional release date, whichever is earlier . . . be released under supervision subject to specified terms and conditions." Fla. Stat. § 947.1405(2). Those conditions are set by the Florida Commission on Offender Review (the "Commission"). *Id.* §§ 947.01, 947.1405(2). The Commission is also tasked with determining whether a releasee has violated the conditions of his release and whether such a violation warrants revocation of conditional release. *Id.* § 947.1405(2).

Louis was released from prison on March 29, 2019. Three days later, he signed a Certificate of Conditional Release and Terms and Conditions of Supervision (the "Certificate"). The Certificate explained that Louis would be "under the jurisdiction of the Florida Commission on Offender Review, as if on parole, as provided in Chapter 947, Florida Statutes." Doc. 21-1 at 2.¹

¹ "Doc." numbers refer to the district court's docket entries.

The Certificate laid out the rules and expectations for Louis's conditional release. He was required to report to the Probation and Parole Office soon after his release. He needed permission from his conditional release supervisor before he could move residences, change employment, or leave the county. He was to promptly and truthfully answer all questions asked of him and follow all instructions given by his conditional release supervisor or the Commission. Louis was also prohibited from (1) possessing firearms and ammunition, (2) using or possessing alcohol or intoxicants of any kind, or (3) using or possessing illegal narcotics. To ensure that he was not using prohibited substances, he was required to submit to random drug testing. These are just a few of the restrictions he was subject to under the Certificate.

Relevant here, Louis was subject to a search condition. Not only was his conditional release supervisor allowed to visit him at his residence, but Louis was also required to “[s]ubmit to a reasonable search by a conditional release supervisor, of [his] person, residence[,] or automobile.” *Id.* at 3. In the Certificate, he confirmed his understanding that he would “remain on conditional release until released therefrom by expiration or by Commission order.” *Id.* at 4. Notably, the Certificate explained that Louis would have to abide by its conditions until May 23, 2019, “unless otherwise released or until other action may be taken.” *Id.* at 2. It further informed him that he could be “retaken on a warrant issued by the Commission and be re-imprisoned pending a hearing to determine if [his] conditional release should be revoked.” *Id.* Louis signed every page of the Certificate.

21-14252

Opinion of the Court

5

On May 1, 2019, about three weeks before he was scheduled to complete his conditional release, Louis tested positive for cocaine in a random drug test. The test was confirmed by a toxicology laboratory a week later. His conditional release supervisor recommended that a warrant be issued for his arrest and that he be brought before the Commission. The Commission issued a warrant for his arrest on May 13, 2019. The warrant ordered that he be “retaken and detained for a violation hearing,” further noting that, “[a]s a Conditional Release violator, [Louis was] not bondable under any circumstances.” Doc. 21-4 at 2.

B. Louis’s Federal Prosecution

1. Offense Conduct

On May 16, 2019, a week before Louis’s conditional release term was set to expire, Supervisory Probation Officer LaToya Warren, along with several Miami-Dade police officers, went to Louis’s residence to execute the arrest warrant. Before arriving, Warren spoke to Louis on the phone to confirm that he was home. But he refused to answer the door when she showed up, and he did not answer any more of her phone calls.

Louis’s aunt eventually arrived at the home. Warren explained the situation to her and informed her that a search of the home would be conducted pursuant to Louis’s conditional release status. Louis’s aunt opened the front door and told him to come down. He obeyed. Once he emerged, Warren told him that the officers were about to conduct a compliance search of the residence. The officers patted Louis down and arrested him without incident.

Warren then conducted a warrantless search of the home. She determined which room Louis slept in and conducted a search of the area. The search uncovered contraband items, including suspected marijuana in a brown shopping bag and a firearm placed in the attic right outside Louis's room. Using this information, Miami-Dade police officers obtained a search warrant for the residence and recovered the contraband items from the home. Louis was arrested and returned to state prison.

Following these events, a federal grand jury returned an indictment against Louis. The government superseded the indictment and moved forward with the following charges:

- 1) Count One – Possession of a firearm and ammunition by a convicted felon, in violation of 18 U.S.C. § 922(g)(1); and
- 2) Count Two – Possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a)(1).

Importantly, the superseding indictment stated that Louis was subject to an ACCA sentence enhancement under 18 U.S.C. § 924(e)(1). This subsection provides that a defendant convicted under 18 U.S.C. § 922(g) who has “three previous convictions . . . for a violent felony or a serious drug offense, or both, committed on occasions different from one another” must be sentenced to at least 15 years in prison. 18 U.S.C. § 924(e)(1).

2. Motion to Suppress

Louis filed a motion to suppress the fruits of Warren’s search.² He argued that he was not subject to the conditions of conditional release when she searched his home. In his view, his conditional release agreement was a contract with the State of Florida, one that was materially breached when the Commission took him back into custody. And because the contract was breached before the search occurred, he argued, Warren lacked his consent to conduct a “reasonable search” of his home. Thus, her warrantless search was unconstitutional under the Fourth Amendment.

The district court disagreed. It found that Louis was still on conditional release during the search. Under the terms of his conditional release, the court reasoned, Warren needed only reasonable suspicion to search his home. And given the totality of the circumstances—including Louis’s unresponsiveness and his positive drug test—the court concluded that Warren had reasonable suspicion to conduct the search. Because the search was constitutional, the search warrant the officers obtained in reliance on Warren’s information was also constitutional. The court denied the motion.

² He also moved to suppress the evidence as the fruits of a statement made in violation of the Fifth Amendment, but that argument is not before us on appeal.

3. Presentence Report and Sentencing Hearing

After the district court denied the motion to suppress, Louis pleaded guilty to Count One of the superseding indictment pursuant to a written plea agreement.³ The probation office prepared a draft presentence investigation report, to which Louis filed objections. One of his objections was to the report's assertion that he was subject to ACCA's 15-year mandatory minimum. He pointed out that the draft report failed to identify specific convictions that qualified as ACCA predicate offenses, and he asked that the district court direct either the probation officer or the government "to specify the qualifying convictions so that he [could] properly respond prior to sentencing." Doc. 75 at 4.

After Louis raised this objection, the probation officer prepared a final presentence investigation report ("PSR"). The final PSR listed several offenses that it believed could serve as ACCA predicate offenses. Among these offenses were (1) a Florida conviction for "the sale, manufacture, or delivery of cocaine . . . in relation to criminal activity that occurred on October 3, 1996"; (2) Florida convictions "for possession with intent to sell or deliver cocaine and the sale, manufacture[,] or delivery of cocaine . . . in relation to criminal activity that occurred on October 4, 9[,] and 15 of 1996"; (3) a Florida conviction for "possession with intent to sell or deliver cocaine . . . in relation to criminal activity that occurred on February 12, 1998"; (4) a Florida conviction for "possession with intent

³ In exchange for the guilty plea on Count One, the government agreed to dismiss Count Two.

21-14252

Opinion of the Court

9

to sell or deliver cocaine . . . in relation to criminal activity that occurred on May 25, 1999”; (5) a Florida conviction for “aggravated battery with a weapon causing great bodily harm . . . in relation to criminal activity that occurred on April 24, 2001”; and (6) a Florida conviction for “attempted second degree murder with a firearm . . . in relation to criminal activity that occurred on April 24, 2001.” Doc. 76-1 at 3.

Louis filed supplemental objections to the final PSR. Three are relevant to this appeal. First, he argued that he could not be subject to an ACCA enhancement because the listed cocaine offenses did not qualify as serious drug offenses under the statute. He pointed out that ACCA’s definition of cocaine excluded ioflupane, but Florida law criminalized the substance when he allegedly committed and was convicted of the state offenses. This categorical mismatch, he contended, meant that the Florida cocaine offenses could not serve as ACCA predicate offenses. Second, he argued that Florida attempted second-degree murder was not a violent felony under ACCA. Third, he objected to the paragraphs in the PSR that described his criminal convictions, asserting that the government had the burden of proving the existence of the convictions by a preponderance of the evidence, but it failed to do so. Louis therefore made both legal and factual objections to the PSR.

At Louis’s sentencing hearing, the court considered his objections. It began by acknowledging that “the application of the Armed Career Criminal Act and the predicate felonies remains an objection.” Doc. 94 at 5. Louis told the court that he was relying on

his briefing for the factual objection but would present oral argument on the legal objections. The court heard argument on whether the Florida cocaine offenses listed in the PSR were categorical matches to the federal definition of cocaine. Louis also reiterated his argument that Florida attempted second-degree murder could not be a predicate offense under ACCA.

The court overruled Louis's legal objections, concluding that the offenses in the PSR could serve as ACCA predicates. The district court then asked Louis if "there [were] any other objections," and the following colloquy ensued:

MS. NELSON: Nothing beyond what's in the pleadings, Your Honor.

We -- we maintain the objection that the Government has not proved by a preponderance of the evidence the underlying convictions which support the ACCA enhancement. But, again, that is already briefed and preserved.

THE COURT: All right. Is there anything to be said by the Government with regard to these predicate offenses?

MS. VIGILANCE: No, Your Honor.

THE COURT: All right. Then the Court has overruled the objection.

21-14252

Opinion of the Court

11

If there are no further objections, then the Court accepts the facts contained in the presentence investigation report as well as the probation officer's calculation of the advisory guidelines, which -- let me state that we begin with a base offense level of 24.

Id. at 13. The district court did not address Louis's counsel's statement that his factual objection to the underlying convictions had not been addressed by the government. The court went on to apply the ACCA enhancement.

After hearing argument from both parties about how many months of imprisonment Louis should receive, the court imposed a sentence of 180 months, the minimum sentence under ACCA.

This is Louis's appeal.

II. STANDARD OF REVIEW

We review a district court's ruling on a motion to suppress under a mixed standard of review, reviewing its factual findings for clear error and its application of law to those facts *de novo*. *United States v. Cohen*, 38 F.4th 1364, 1368 (11th Cir. 2022). "A factual finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Eggers v. Alabama*, 876 F.3d 1086, 1094 (11th Cir. 2017) (citation modified). We can affirm a district court's denial of a motion to suppress on any ground supported by the record. *United States v. Barron-Soto*, 820 F.3d 409, 415 (11th Cir. 2016).

We review *de novo* whether a defendant's prior conviction qualifies as a predicate offense under ACCA. *United States v. Harbuck*, 146 F.4th 1073, 1076 (11th Cir. 2025). "We have broad discretion to decide the limits of a remand for resentencing as may be just under the circumstances of the case." *United States v. Sharp*, 21 F.4th 1282, 1285 (11th Cir. 2021) (citation omitted).

III. DISCUSSION

Louis presses two issues on appeal.

First, he challenges the district court's denial of his motion to suppress, reiterating his argument that he was not subject to his conditional release restrictions when his home was searched. Thus, he contends, the warrantless search of his residence violated the Fourth Amendment. We reject this argument because the district court did not clearly err in finding that Louis remained on conditional release when his home was searched, and it did not commit legal error in concluding that the search was supported by reasonable suspicion.

Second, Louis challenges his ACCA sentence enhancement. He argues that the district court erred when it imposed the enhancement without a jury finding, beyond a reasonable doubt, that he committed three predicate offenses on occasions different from one another—a violation of *Erlinger v. United States*, 602 U.S. 821 (2024). He also says that the convictions listed in the PSR cannot serve as predicate offenses under ACCA. He further contends that the court failed to hold the government to its burden of proving the fact of the convictions in the PSR after he objected to them.

Because we agree with this final argument, we vacate his sentence and remand for resentencing without the ACCA enhancement. Thus, we need not reach his other two arguments.

A. The District Court Did Not Err in Denying Louis’s Motion to Suppress.

We begin with Louis’s first issue, that Warren’s warrantless search of his home violated the Fourth Amendment. He asserts that once the Commission issued the no-bond warrant for his arrest, the Certificate’s conditions were no longer in effect. And because he was no longer subject to those restrictions, he reasons, his residence could not be searched without a warrant supported by probable cause.

The Fourth Amendment guarantees “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV. Typically, the government needs a warrant, supported by probable cause, before it can encroach on the privacy protected by the Fourth Amendment. *Griffin v. Wisconsin*, 483 U.S. 868, 873 (1987). But “[j]ust as other punishments for criminal convictions curtail an offender’s freedoms, a court granting probation may impose reasonable conditions that deprive the offender of some freedoms enjoyed by law-abiding citizens.” *United States v. Knights*, 534 U.S. 112, 119 (2001). The same is true for prisoners released on parole. *Samson v. California*, 547 U.S. 843, 848–50 (2006). A warrantless search condition is one restriction that may be imposed on defendants subjected to such forms of supervision. *See Knights*, 534 U.S. at 118; *Samson*, 547 U.S. at 846.

Louis was not on probation or parole during Warren’s search. He was on conditional release. But conditional release, like probation and parole, is “on a continuum of possible punishments ranging from solitary confinement in a maximum-security facility to a few hours of mandatory community service.” *Griffin*, 483 U.S. at 874. Whether Louis found himself on this spectrum of punishment—and thus subject to the search condition in the Certificate—directly informs whether Warren’s warrantless search was reasonable. *See Knights*, 534 U.S. at 119–21. Therefore, to decide whether the search of Louis’s home was reasonable, we must first decide if the district court clearly erred when it found that he was still on conditional release when the search occurred. We turn first to the district court’s factual finding.

1. The District Court Did Not Clearly Err in Finding that Louis Remained on Conditional Release During the Search.

Louis argues that he was not subject to his conditional release restrictions when Warren searched his home. He posits that the Commission’s issuance of the no-bond arrest warrant constituted “other action” under the Certificate, absolving him from the document’s restrictions. The district court was not persuaded by this argument, finding that, according to the Certificate, Louis’s conditional release could be terminated only by the state court or the Commission. And so, the court reasoned, Louis remained subject to the conditions of conditional release even after his arrest. This is the only factual finding that Louis challenges on appeal, as regards his motion to suppress.

We see no clear error in the district court's finding. Louis correctly points out that the Certificate says he will be subject to its conditions "unless otherwise released or until other action may be taken." Doc. 21-1 at 2. But the terms of the Certificate were clear: by signing the document, Louis agreed that he would "remain on conditional release until released therefrom by expiration or by Commission order." *Id.* at 4. He does not argue that either of these conditions was met when he was arrested.

To get around this problem, Louis points us to traditional principles of contract law. He argues that the Certificate he signed assenting to the terms of conditional release was a "contract" between him and the State of Florida. Appellant's Substitute Br. 14. In his view, the state materially breached the contract when it took "other action" by issuing an arrest warrant for him. *Id.* at 24.

We disagree. Even assuming that the Certificate was a contract between Louis and the State of Florida, his argument must fail. "A contract will be read as a whole and every part will be read with reference to the whole. If possible, the contract will be so interpreted as to give effect to its general purpose as revealed within its four corners or in its entirety." 11 Williston on Contracts § 32:5 (4th ed. May 2026 Update); *see also Jones v. Fla. Ins. Guar. Ass'n, Inc.*, 908 So. 2d 435, 456 (Fla. 2005) ("[C]ourts are required to read provisions of a contract harmoniously to give effect to all portions thereof.").

Louis's interpretation runs afoul of this bedrock contract interpretation principle. In his view, the Certificate's use of the

phrase “until other action may be taken” should be interpreted to mean that *any* action by the Commission, including the issuance of an arrest warrant, could terminate his conditional release. But this interpretation would fail to give effect to the entire Certificate, which explicitly provided that Louis would remain on conditional release until either of two things happened: (1) his term of conditional release expired, or (2) the Commission issued an order releasing him. Underscoring this point, and particularly relevant here, the Certificate specifically contemplated that his conditional release would extend beyond an arrest on warrant issued by the Commission. The Certificate warned that, in such cases, he “may be . . . re-imprisoned pending a hearing to determine if [his] conditional release should be revoked.”⁴ Doc. 21-1 at 2. Thus, even if we were to assume that the Certificate was a contract between Louis and the State of Florida, his proffered interpretation diverges from, rather than accords with, traditional principles of contract law.

⁴ Our reading of the Certificate finds support in Florida’s conditional release program statute, as well. The Certificate explained that Louis would be “under the jurisdiction of the [Commission], as if on parole, as provided in Chapter 947, Florida Statutes.” Doc. 21-1 at 2. Chapter 947 sets up a multi-step process for ending a person’s conditional release. Upon receiving notice of an arrest of a releasee charged with violating conditional release, the Commission has 45 days to afford the releasee a hearing. Fla. Stat. § 947.141(3). Following the hearing, the commissioner must make factual findings about the alleged violation. *Id.* § 947.141(4). If a panel of the Commission sustains the charges, the Commission may (1) revoke conditional release, or (2) take some other action expressly permitted by the statute, such as reinstating the original release order or entering some other order as the panel sees fit. *Id.* It is undisputed that no such process had taken place when Warren’s search occurred.

The district court did not clearly err by rejecting this interpretation and finding that Louis remained subject to the requirements of conditional release when Warren searched his home.

2. Warren Had Reasonable Suspicion to Justify Her Search of Louis's Residence.

Having upheld the district court's factual determination, we now turn to its legal conclusion: that Warren had reasonable suspicion to search Louis's home, thus satisfying the Fourth Amendment. We agree with this conclusion, too. We have not previously considered what constitutes a reasonable search of the residence of a Florida conditional releasee subject to a search condition. On the facts of this case, we conclude that reasonable suspicion was enough.

We begin with first principles. "The touchstone of the Fourth Amendment is reasonableness," *Knights*, 534 U.S. at 118, and what may be reasonable in one scenario may be unreasonable in another. To that end, the Supreme Court has explained that "the reasonableness of a search is determined by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests." *Id.* at 118–19 (citation modified). In deciding whether a search is reasonable within the meaning of the Fourth Amendment, we examine the totality of the circumstances. *Samson*, 547 U.S. at 848.

Supreme Court and our own precedent provide useful guidance. In *Knights*, the Court was asked to decide whether a warrantless search conducted pursuant to a California probationer's search condition, supported only by reasonable suspicion, satisfied the Fourth Amendment. 534 U.S. at 114. Applying its Fourth Amendment balancing test to the search at issue, the Supreme Court found it "salient" that the defendant was on probation and subject to a search condition when the search occurred. *Id.* at 118.

The Court began with the first part of the test, the degree to which the search intruded on the probationer's privacy. *Id.* at 119. According to the Court, it was reasonable for the sentencing judge "to conclude that the search condition would further the two primary goals of probation—rehabilitation and protecting society from future criminal violations." *Id.* Moreover, the defendant had been "unambiguously informed" of the condition. *Id.* The Court reasoned that the search condition "significantly diminished" the defendant's reasonable expectation of privacy. *Id.* at 119–20.

The Court then turned to the degree to which the search was needed to promote legitimate governmental interests. *Id.* at 120. Because individuals on probation were more likely to break the law than their law-abiding counterparts, the Court explained, California had a legitimate interest in focusing its attention on probationers' actions. *Id.* at 120–21. The Court held that "the balance of these considerations require[d] no more than reasonable suspicion to conduct a search of this probationer's house." *Id.* at 121.

Although the search condition was of particular importance in *Knights*, we have also found circumstances where a probationer's privacy expectation is sufficiently reduced—requiring only reasonable suspicion for a search of his home—even without an explicit search condition. *United States v. Carter*, 566 F.3d 970, 974–76 (11th Cir. 2009). In *Carter*, the defendant was on probation for violent and drug-related felonies. *Id.* at 974. He did not have a probation condition requiring him to submit to warrantless searches of his home. *Id.* at 975. But he was required to answer all inquiries made by his probation officer and submit to home visits. *Id.* at 974. Upon acquiring reasonable suspicion that he was engaged in criminal activity, his probation officer searched his home without a warrant. *Id.* at 975.

We held that, under those circumstances, reasonable suspicion for the search was all the Fourth Amendment required. *Id.* at 974. Applying *Knights*, we concluded that the defendant's privacy interest in his home was diminished by the condition requiring that he submit to home visits by his probation officer. *Id.* at 975. On the other side of the scales, we found the government's interests “particularly high” given the defendant's “history of drug and violence-related felonies.” *Id.* at 974. Due to his reduced expectation of privacy and the government's “high interest in preventing drug and violence-related crimes,” we upheld the warrantless search of the probationer's home. *Id.* at 975.

The Supreme Court's decision in *Samson*, dealing with warrantless searches of parolees, is also instructive. In *Samson*, the

Court answered a question left open by *Knights*: “whether a condition of release can so diminish or eliminate a released prisoner’s reasonable expectation of privacy that a suspicionless search by a law enforcement officer would not offend the Fourth Amendment.” 547 U.S. at 847. The defendant in *Samson* was on California state parole when a police officer, knowing he was on parole, searched the defendant based solely on his parolee status. *Id.* at 846–47.

In *Samson*, the Court deployed the same balancing test it had used in *Knights* to decide whether the search violated the Fourth Amendment. *Id.* at 848. Noting that parolees, like probationers, were “on the continuum of state-imposed punishments,” the Court observed that they have even lesser privacy expectations than probationers, as “parole is more akin to imprisonment than probation is to imprisonment.” *Id.* at 850 (citation modified). It also noted, as it had in *Knights*, that California imposed a search condition on parolees, a condition of which the defendant was aware and which was imposed on any prisoner who opted for parole. *Id.* at 852. And California’s interests in supervising parolees, as individuals more likely to commit criminal offenses, was “substantial.” *Id.* at 853. Thus, the Court concluded that “the Fourth Amendment does not prohibit a police officer from conducting a suspicionless search of a parolee.” *Id.* at 857.

With this precedent in mind, we turn to the search in this case. The first part of the reasonableness inquiry requires us to as-

sess “the degree to which [the search] intrudes upon [Louis]’s privacy.” *Knights*, 534 U.S. at 119 (citation modified). Here, Louis had a diminished expectation of privacy because he was on conditional release during the search. Like probationers and parolees, conditional releasees are on the “continuum” of state-imposed punishments, giving them a lesser expectation of privacy than law-abiding persons. *See Knights*, 534 U.S. at 119–20; *Samson*, 547 U.S. at 850–52. Under the terms of his release, Louis was required to “[s]ubmit to a reasonable search by a conditional release supervisor, of [his] person, residence[,] or automobile.” Doc. 21-1 at 3. He indicated his awareness of this condition by signing all pages of the Certificate outlining his release conditions. Like in *Knights* and *Samson*, this search condition is a “salient circumstance” that diminished his privacy expectations. Moreover, he was required to permit his conditional release supervisor to visit him at his home, a condition we have found sufficient on its own to diminish a supervisee’s privacy interest. *See Carter*, 566 F.3d at 975.

The second part of the inquiry, “the degree to which [the search] is needed for the promotion of legitimate governmental interests,” *Knights*, 534 U.S. at 119 (citation modified), also weighs in favor of a standard lower than probable cause. As with probation and parole, Florida has substantial, legitimate interests in monitoring those on conditional release. Such individuals, like their proba-

tioner and parolee counterparts, are more likely to commit criminal offenses than those who have never been convicted of a crime.⁵ Persons on conditional release also have greater “incentive to conceal their criminal activities” due to their supervision and the prospect of reincarceration without the procedural protections of trial. *Samson*, 547 U.S. at 849 (quoting *Knights*, 534 U.S. at 120). Further, Florida’s dual interests in reducing recidivism and promoting rehabilitation among conditional releasees support privacy intrusions that the Fourth Amendment would not normally tolerate. *See id.* at 853. The government’s interests are heightened when the supervision arose from a drug conviction, as was the case with Louis. *See Carter*, 566 F.3d at 974.

These considerations lead us to conclude that the Fourth Amendment “requires no more than reasonable suspicion” for the search in this case.⁶ *See Knights*, 534 U.S. at 121. All that is left for us to decide, then, is whether Warren had reasonable suspicion when she searched Louis’s home.

⁵ As the Supreme Court has credited repeatedly, this is “the very assumption” on which such supervisory regimes are premised. *Knights*, 534 U.S. at 120 (quoting *Griffin*, 483 U.S. at 880); *see also Samson*, 547 U.S. at 849, 853–54.

⁶ We do not decide whether a Florida conditional releasee subject to similar restrictions may be searched on a lesser showing, or without any individualized suspicion at all. *Cf. Samson*, 547 U.S. at 847. Because we find circumstances here that are like those invoked by our Court and the Supreme Court in approving of warrantless searches supported by reasonable suspicion, and because reasonable suspicion was readily had in this case, we need not go further.

We have little trouble saying that she did. “Reasonable suspicion consists of a sufficiently high probability that criminal conduct is occurring to make the intrusion on the individual’s privacy interest reasonable.” *United States v. Yuknavich*, 419 F.3d 1302, 1311 (11th Cir. 2005) (citation modified). “When making a determination of reasonable suspicion, we must look at the totality of the circumstances of each case to see whether the detaining officer has a particularized and objective basis for suspecting legal wrongdoing.” *United States v. Perkins*, 348 F.3d 965, 970 (11th Cir. 2003) (citation modified). “The officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Yuknavich*, 419 F.3d at 1311 (citation modified).

Here, Warren had reasonable suspicion to conduct the search. She knew that Louis had recently failed a drug test by testing positive for cocaine. That result was confirmed by a lab test shortly afterward. This was enough to give Warren reasonable suspicion of “legal wrongdoing.” *Id.* (citation modified). Plus, it was reasonable for her to infer that evidence of such wrongdoing might be found in his residence, particularly after he refused to answer the door or return Warren’s calls despite having told her that he was home. So, her search of Louis’s residence was constitutional. Therefore, the district court correctly denied his motion to suppress.

B. The District Court Erred When It Failed to Hold the Government to Its Burden at Sentencing.

We turn now to Louis's sentencing. He challenges his sentence, specifically his ACCA enhancement, with three primary arguments. First, he argues that we should vacate his sentence given the Supreme Court's intervening decision in *Erlinger v. United States*, 602 U.S. 821 (2024). Second, he contends that the prior offenses listed in the PSR are neither serious drug offenses nor violent felonies as contemplated by ACCA. Third, he makes a more fundamental argument: that the district court failed to hold the government to its burden of proving that the convictions in the PSR occurred at all.

We agree with Louis's third argument. When he was prosecuted, a violation of § 922(g) carried a maximum sentence of 10 years in prison. *See* 18 U.S.C. § 924(a)(2) (2018). But ACCA mandated a minimum sentence of 15 years if the government proved that he “ha[d] three previous convictions . . . for a violent felony or a serious drug offense, or both, committed on occasions different from one another.” *Id.* § 924(e)(1).

The government bears the burden of proving that ACCA's conditions are met. *United States v. Lee*, 586 F.3d 859, 866 (11th Cir. 2009). A defendant can admit the facts necessary to impose an ACCA enhancement, *see United States v. Bennett*, 472 F.3d 825, 833–34 (11th Cir. 2006), but he need not do so. If the defendant “challenges one of the factual bases of his sentence[,], the Government has the burden of establishing the disputed fact by a preponderance of the evidence.” *United States v. Rodriguez*, 732 F.3d 1299, 1305

(11th Cir. 2013) (citation modified). This familiar rule applies to the fact of a prior conviction underlying a sentence enhancement. See *United States v. Alicea*, 875 F.3d 606, 608 (11th Cir. 2017). “The burden of proof for establishing that a sentence enhancement is warranted lies with the prosecution and it is the duty of the district court to [e]nsure that the prosecution carries its burden of proof.” *United States v. Hernandez*, 145 F.3d 1433, 1440 (11th Cir. 1998).

The government did not meet its burden below, and the district court did not hold it to account for that failure. Recall the events leading up to Louis’s sentencing: in his first round of objections to the draft PSR, Louis objected to the report’s failure to tell him which convictions qualified him for ACCA. The final PSR included a list of convictions. In his supplemental objections, Louis argued that the government had failed to prove the fact of these convictions by a preponderance of the evidence. And he reiterated this factual objection at sentencing, specifically and unambiguously saying that he “maintain[ed] the objection that the Government has not proved by a preponderance of the evidence the underlying convictions which support the ACCA enhancement.” Doc. 94 at 13.

The burden then fell on the government to prove that Louis had in fact been convicted of the predicate convictions listed in the PSR. The district court was required to hold the government to its burden.

But neither the government nor the district court adhered to their respective obligations. Although the district court asked the

government if there was “anything to be said . . . with regard to these predicate offenses,” the government said nothing. *See id.* The only place the purported predicate offenses appeared in the record was in the PSR, to which Louis objected. The government could have, but apparently chose not to, submit any documentation or testimony to prove them. And even though the government had not done so, the district court applied the ACCA enhancement. That was error. Because the government failed to meet its burden of proving that Louis was in fact convicted of the offenses listed in the PSR, we must vacate his sentence.

In doing so, we remand with instructions that the district court resentence Louis without the ACCA enhancement. “[A] party who bears the burden on a contested sentencing issue will generally not get to try again on remand if its evidence is found to be insufficient on appeal.” *United States v. Washington*, 714 F.3d 1358, 1362 (11th Cir. 2013). Although we are not without discretion, “a remand for further findings is inappropriate when the issue was before the district court and the parties had an opportunity to introduce relevant evidence.” *Id.* (citation modified). “Nothing prevented the government—which was aware of [Louis]’s objection—from putting on evidence concerning [his alleged prior convictions] at the sentencing hearing.” *Id.* Consistent with our prior cases, we decline to permit it another opportunity to do so here. *See id.*; *Rodriguez*, 732 F.3d at 1305–06. Because we remand for resentencing without the ACCA enhancement, we do not address Louis’s other arguments challenging the enhancement.

IV. CONCLUSION

Louis was still on conditional release when his residence was searched. As a conditional releasee, he had a diminished expectation of privacy, requiring his conditional release supervisor to have at most reasonable suspicion before searching his home. Because she had the requisite suspicion, the district court correctly denied Louis's motion to suppress.

The same cannot be said about the court's imposition of the ACCA enhancement. The government failed to respond to Louis's factual objection to the purported predicate convictions. Given his objection, without sufficient proof of the convictions, his sentence could not be enhanced under ACCA. We vacate Louis's sentence and remand for resentencing consistent with this opinion.

AFFIRMED IN PART, VACATED IN PART, AND REMANDED.