

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 18-15258

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D.C. Docket No. 2:18-cr-00020-JES-MRM-1

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

versus

MIGUEL MCSWAIN,

Defendant - Appellee.

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Appeal from the United States District Court  
for the Middle District of Florida

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(August 26, 2020)

Before WILSON, JILL PRYOR, and LAGOA, Circuit Judges.

PER CURIAM:

In this interlocutory appeal from the district court’s order granting in part and denying in part the defendant, Miguel McSwain’s (“McSwain”), motion to suppress evidence, the government argues that the district court erred in finding that the police officers lacked probable cause to arrest McSwain prior to conducting a concededly unconstitutional “knock and talk.” We review a ruling on a motion to suppress under a mixed standard, reviewing factual findings for clear error and the application of the law to the facts *de novo*. See *United States v. Holloway*, 290 F.3d 1331, 1334 (11th Cir. 2002). Moreover, where a district court grants a motion to suppress, we view the record in the light most favorable to the prevailing party, here, McSwain. *Id.* Give these principles, we agree with the district court that the police officers did not have probable cause to arrest McSwain because they could not, prior to and without the benefit of the constitutional violation—the improper “knock and talk,” identify McSwain. Accordingly, we affirm the district court’s order granting in part and denying in part McSwain’s motion to suppress.

**AFFIRMED**