

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,)	
)	
Plaintiff,)	ORDER DENYING DEFENDANT’S
)	MOTIONS TO SUPPRESS
vs.)	
)	Case No. 1:17-cr-16
Redfawn Fallis,)	
)	
Defendant.)	

On January 5, 2017, the Defendant, Redfawn Fallis, was charged in an indictment with civil disorder; discharge of a firearm in relation to a felony crime of violence; and possession of a firearm and ammunition by a convicted felon. See Docket No. 26. A superseding indictment was filed on March 1, 2017. See Docket No. 40. On October 23, 2017, Fallis filed two motions to suppress all evidence and any statements made as a result of the alleged unlawful seizure of her person and the custodial interrogation on October 27, 2016. See Docket Nos. 94 and 96. On November 16, 2017, the Government filed a response in opposition to the motions. See Docket No. 120. On November 24, 2017, Fallis filed a reply. See Docket No. 121. A hearing on the motions to suppress was held before the Court on December 8 and December 11, 2017, in Bismarck, North Dakota. See Docket Nos. 106, 133, and 134. On December 20, 2017, both the Government and Fallis filed post-hearing briefs. See Docket Nos. 142 and 144. For the reasons set forth below, the Court denies Fallis’ motions to suppress.

I. BACKGROUND

In mid-2016, construction began on the Dakota Access Pipeline in North Dakota. The pipeline was designed to transport oil from the Bakken oil fields in North Dakota to a storage hub in southern

Illinois. During the summer of 2016, several hundred anti-pipeline protestors began demonstrating and protesting at the pipeline's construction site in Morton County, North Dakota.

On October 27, 2016, law enforcement officers began attempting to move a group of protestors from an encampment known as the "North Camp" as the camp's occupants were on private land and were blocking Highway 1806. See Docket Nos. 118-1, p. 2 and 118-2, p. 1. Around 6:00 p.m. that day, Pennington County Sheriff's Department deputies Rusty Schmidt and Thadius Schmit were assisting with moving protestors south on Highway 1806 as part of an "arrest team." See Docket No. 118-2, p. 2. The arrest team's responsibility was to stay behind the line, identify "agitators," and arrest them if it was deemed safe to do so. See Docket No. 118-2, p. 2.

At that time, there were over 50 protestors and approximately 100 law enforcement officials from multiple agencies, both within and outside of North Dakota, present on scene. See Docket Nos. 98 and 117-12. Around 6:00 p.m., Fallis arrived at the scene of the protest on an ATV, parked the ATV near the highway, and walked toward law enforcement officers. Deputy Thadius Schmit testified at the suppression hearing that Fallis was wearing a gas mask, a puffy coat, and a backpack. Jacob Jones from the North Dakota Highway Patrol testified at the suppression hearing that he observed Fallis wearing a gas mask and carrying a backpack with a fire extinguisher attached. Deputy Thadius Schmit testified he saw Fallis screaming in the face of a law enforcement officer. Deputy Thadius Schmit also testified he saw a Hennepin County officer push towards Fallis with his baton, Fallis did not get back or listen to the officer's commands, he could hear alarm in the officer's voice, and Fallis continued to scream, yell, and point at officers. Due to Fallis' behavior, Deputy Thadius Schmit identified Fallis as a person who could be arrested. See Docket No. 118-1, p. 3.

Deputy Thadius Schmit testified Fallis began walking down the ditch embankment, parallel with the officers' skirmish line, and continued to yell and scream at law enforcement officers. At that

point, Deputy Thadius Schmit testified that he approached Fallis from behind and attempted to pull her behind the skirmish line to effectuate an arrest. Other officers moved past them to form a barrier around them and the other protestors. See Docket No. 118-1, p. 4. Although law enforcement officers told Fallis to stop resisting, she continued to struggle and resist the officers' arrest attempt. Deputy Thadius Schmit testified that at one point, Fallis wrapped both of her legs around one of Deputy Rusty Schmidt's legs while resisting, and she also spread her fingers to make it difficult to handcuff her.

During the arrest attempt, Fallis' left arm was pinned underneath her, and Deputy Thadius Schmit attempted to grab her left elbow in order to place her arm behind her back so he could handcuff her. See Docket No. 118-1, p. 4. When Deputy Thadius Schmit stopped pulling on her left arm so the other officer could handcuff her right hand, he heard two or three popping sounds. See Docket No. 118-1, p. 4. Deputy Rusty Schmidt also heard two to three gunshots at that time and saw one of the rounds hit the ground next to his leg. See Docket Nos. 118-1, p. 2; 118-2, p. 3; and 118-4, pp. 1-2. Deputy Rusty Schmidt observed what appeared to be a revolver underneath Fallis' stomach and yelled "Gun." See Docket Nos. 118-1, p. 2 and 118-2, p. 3. Deputy Rusty Schmidt told Deputy Thadius Schmit to get his gun on Fallis because he was concerned she would be able to continue shooting. See Docket No. 118-1, pp. 2, 4. Deputy Thadius Schmit put his gun on Fallis' upper back and told her to drop the gun or he was going to shoot her. See Docket No. 118-2, p. 3. Fallis continued to struggle with law enforcement officers and refused to release her grip on the gun; however, Deputy Rusty Schmidt was eventually able to seize the gun from Fallis. See Docket Nos. 118-1, pp. 2, 4 and 118-2, p. 3.

After she was disarmed, Deputy Thadius Schmit testified he was frustrated and approached Fallis and asked "Was all this worth it? Was it worth getting an attempted murder on law enforcement charge?" See Docket No. 118-1, p. 4. Deputy Thadius Schmit testified that Fallis responded by

laughing. Deputy Thadius Schmit testified he did not ask those questions intending to get a response from Fallis.

Trooper Jeremy Buehre of the North Dakota Highway Patrol also testified at the suppression hearing on December 8, 2017. Trooper Buehre was part of the “arrest team” on October 27, 2016, who was attempting to move protestors south toward the protest camp located on federal lands off of Highway 1806. Trooper Buehre was one of several officers who was trying to get Fallis’ arms out from underneath her. Buehre was located on the left side of Fallis when she was struggling on the ground; he was trying to pull her left arm from underneath her when he felt the concussion from the gun and three (3) shots. Following the shooting and subsequent search of Fallis, Trooper Buehre testified Fallis made several comments, namely:

- “What’s the big deal? Anybody can carry a gun;”
- “If I wanted to kill an officer I could have done it and they would be dead;”
and
- “All pigs deserve to die.”

Trooper Jacob Jones testified he heard Fallis make a war whoop and also said she was an “Oglala.”

Trooper Bennett Bitz of the North Dakota Highway Patrol testified at the suppression hearing and said he also heard shots fired while he was standing in the east ditch on Highway 1806. Trooper Bitz testified he observed Fallis being taken to the ground and saw her kicking her legs. Trooper Bitz testified that when Fallis stated, “If I wanted to kill you, I would have shot you in the head” or words to that effect, her comments were not in response to any questioning.

Upon her arrest, Fallis was searched by law enforcement officials to determine if she possessed any other dangerous items; Captain Bryan Niewind of the North Dakota Highway Patrol testified that a black holster was discovered in Fallis’ front left pocket.

Fallis was then turned over to North Dakota Parole Officer Dan Heidbreder. Upon getting her ready for transport, Officer Heidbreder testified at the suppression hearing that Fallis was more thoroughly searched to determine if she had any dangerous items or contraband on her person. Officer Heidbreder testified Fallis was wearing two jackets and inside the inner jacket, he found 12 rounds of live .38 caliber ammunition¹ in two speed strips and three baggies of marijuana and rolling papers.

Officer Heidbreder testified that during the search, Fallis asked him what she was being arrested for, and he responded that she was being arrested for attempted murder of a law enforcement officer. Officer Heidbreder testified that Fallis said she had not tried to kill anyone, but rather was taking the gun out of her pocket when officers tackled her, and the gun went off during the process. Officer Heidbreder testified Fallis also said the officers were lucky no one was hurt and that someone could have been hurt.

Law enforcement officials also searched Fallis' backpack to determine whether there were any dangerous items inside, as well as to inventory the items. Officials found road flares, a can of Raid wasp and hornet spray, a can of pepper spray, metal brass knuckles, and two fixed blade boot knives. See Docket Nos. 22-1; 22-2; and 22-3. Officials also seized a gas mask, the Ruger .38 caliber handgun, and from inside the handgun – two live .38 caliber rounds and three spent .38 caliber rounds. See Docket Nos. 16-3; 16-4; and 118-1, pp. 2, 4.

II. LEGAL DISCUSSION

Fallis argues that all evidence seized and any statements she made to law enforcement officials should be suppressed because she was seized and arrested without a warrant or probable cause, and

¹ The firearm taken from Fallis' person was later identified as a Ruger, model LCR, .38 Special revolver. See Docket Nos. 40 and 118-1, pp. 2, 4.

the remedy for the unconstitutional seizure is suppression of the fruits of the illegal arrest. See Docket No. 94-1. Fallis further argues that any statements or communications she made to law enforcement officials should be suppressed because they were the product of a custodial interrogation which was not preceded by a waiver of her *Miranda* rights. See Docket No. 101.

A. FALLIS' ARREST

Fallis argues she was arrested without a warrant or probable cause; the Government argues there was sufficient probable cause to justify her arrest. It is undisputed Fallis was arrested without a warrant. The question is whether there was sufficient probable cause for law enforcement officers to arrest Fallis.

A warrantless arrest, unsupported by probable cause, violates the Fourth Amendment. Small v. McCrystal, 708 F.3d 997, 1003 (8th Cir. 2013). “Probable cause exists if the totality of facts based on reasonably trustworthy information would justify a prudent person in believing the individual arrested had committed an offense.” Id. “Arresting officers are not required to witness actual criminal activity or have collected enough evidence so as to justify a conviction for there to be a legitimate finding of probable cause to justify a warrantless arrest.” United States v. Winarske, 715 F.3d 1063, 1067 (8th Cir. 2013). Instead, the mere probability or substantial chance of criminal activity, rather than an actual showing of criminal activity is all that is required. Id. Whether probable cause exists depends upon the reasonable conclusion to be drawn from the facts known to the arresting officer at the time of the arrest. Baribeau v. City of Minneapolis, 596 F.3d 465, 474 (8th Cir. 2010). Probable cause may be based on the collective knowledge of all the officers involved. United States v. Briley, 726 F.2d 1301, 1305 (8th Cir. 1984).

The Government asserts Fallis was not arrested for her verbal conduct toward law enforcement officials, but rather for her physical conduct. See Docket No. 120. The Government argues Fallis aggressively approached law enforcement officials wearing a backpack, a gas mask, and possessing a red fire extinguisher that could have been used as a weapon, while screaming and yelling. Deputy Thadius Schmit testified Fallis was told by a law enforcement officer to get back; however, despite the warnings, Fallis did not listen to the officer's commands and instead stayed close to his person while screaming, yelling, and pointing at officers. See Docket No. 118-1, p. 3. The Government argues Fallis' conduct was inciting the crowd of protestors and increasing the risk of danger to everyone involved. The Government also notes other protestors were yelling at law enforcement officers, but they were otherwise compliant, and were not arrested. See Docket No. 120. The Government maintains law enforcement officials could have reasonably concluded sufficient probable cause existed to arrest Fallis for violating any of the following offenses:

- Disobedience of public safety orders during riot conditions (violation of N.D.C.C. § 12.1-25-04);
- Inciting riot (violation of N.D.C.C. § 12.1-25-01);
- Engaging in a riot (violation of N.D.C.C. § 12.1-25-03);
- Physical obstruction of government function (violation of N.D.C.C. § 12.1-08-01);
- Preventing arrest or discharge of other duties (violation of N.D.C.C. § 12.1-08-02);
- Disorderly conduct (violation of N.D.C.C. § 12.1-31-01); or
- Civil disorder (violation of 18 U.S.C. § 231(a)(3))

See Docket No. 120.

Fallis contends the “video footage does not show aggressive behavior on [Fallis’] part.” See Docket No. 94-1, p. 6. However, the Court agrees with the Government that due to the poor quality of the drone video and the distance from the incident, Fallis’ conduct is difficult to observe with sufficient clarity. Further, other portions of videos taken on the ground during the protest

incident do not depict all of what occurred between the protestors, specifically Fallis, and law enforcement officers as the camera is pointed in a different direction immediately preceding her arrest. See Gov. Exhibit 14 and Defendant's Exhibits A and G-2.

Fallis argues she was unlawfully arrested, and the property recovered from her while in police custody is a direct result of the unlawful arrest and should be suppressed. See Docket No. 94-1. The Government argues law enforcement officials had sufficient probable cause to arrest Fallis due to her conduct at the scene; she was lawfully detained and properly searched incident to her arrest; and Fallis' claim that the evidence recovered from the searches is the fruit of an unlawful arrest is without merit. See Docket No. 120. However, the Government also contends that even if the Court determines Fallis' initial arrest was illegal, because she physically resisted the arrest and displayed and discharged a firearm while doing so, this conduct constitutes a new and distinct crime. See Docket No. 120. The Government contends that under Eighth Circuit Court of Appeals' precedent, resistance to an illegal arrest can furnish grounds for a second, legitimate arrest, and even if Deputy Thadius Schmit's first attempt to arrest her was not based on sufficient probable cause, Fallis' resistance to the arrest provided an independent grounds for an arrest. See Docket No. 120.

The Eighth Circuit Court of Appeals has consistently held that resistance to an illegal arrest can furnish grounds for a second, legitimate arrest. See United States v. Schmidt, 403 F.3d 1009, 1016 (8th Cir. 2005); United States v. Collins, 200 F.3d 1196, 1198 (8th Cir. 2000); United States v. Dawdy, 46 F.3d 1427, 1431 (8th Cir. 1995). In *Schmidt*, the defendant moved to suppress evidence gathered in his residence after an officer entered his home without a warrant. 403 F.3d at 1011. While a police officer was attempting to arrest him, Schmidt resisted the arrest and engaged in conduct that led to him being charged with assault of a federal officer. Id. at 1011-12.

On appeal, the Eighth Circuit held that even if the officer's first attempt to arrest Schmidt was invalid, Schmidt's resistance provided an independent grounds for his arrest, citing precedent that "resistance to an illegal arrest can furnish grounds for a second, legitimate arrest." Id. at 1016. The Eighth Circuit further noted the Fourth Amendment "does not bar evidence obtained after Mr. Schmidt committed a new crime," and whether Schmidt was indicted for the new crime does not matter to the Fourth Amendment question so long as he could have been arrested for it as an objective matter. Id. at 1016.

In *Collins*, the defendant moved to suppress evidence arguing the officer illegally detained his luggage. 200 F.3d at 1197. When the officer reached for the defendant's luggage, Collins allegedly "struck" the officer's hand away. Id. When the officer attempted to place Collins under arrest for assaulting a police officer, Collins resisted. Id. The Eighth Circuit Court of Appeals noted this resistance would have provided a reasonable officer with probable cause for arrest under Missouri law. Id. at 1197-98. The Eighth Circuit held that "even though the officer's initial detention of Collins's luggage was invalid and assuming Collins's arrest for assault was also invalid, Collins's 'resistance provided independent grounds for his arrest, and the evidence discovered in the subsequent search[] of his [luggage] is admissible.'" Id. at 1198 (citing *Dawdy*, 46 F.3d at 1431).

In *Dawdy*, in determining whether resistance to an arrest provided an independent grounds for arrest (even after an initial illegal arrest), the Eighth Circuit Court of Appeals held that "a defendant's response to even an invalid arrest or *Terry* stop may constitute independent grounds for arrest." 46 F.3d at 1431. The Eighth Circuit ultimately held that assuming *arguendo* that the officer's initial stop and arrest of Dawdy were invalid, Dawdy's resistance to the arrest provided

independent grounds for his arrest, and the evidence discovered in the subsequent searches of his person and his automobile was admissible. Id.

The parties vehemently disagree as to whether there was sufficient probable cause to initially arrest Fallis. However, regardless of whether there was sufficient probable cause for Fallis' initial arrest, her conduct in physically resisting arrest, including brandishing and discharging a firearm, clearly provided an independent grounds for her arrest. See Schmidt, 403 F.3d at 1016. In Fallis' reply, she argues she "did not resist arrest," and "[t]o any extent that she struggled after being seized, her struggle was the inevitable result of a violent and an overly aggressive and unnecessarily brutal seizure." See Docket No. 121, p. 7. In her post-hearing brief, Fallis argues the North Dakota Century Code provides a defense to an act that would otherwise constitute resisting arrest if the arrest is a warrantless arrest and the officer effecting the arrest is acting unlawfully. See Docket No. 144.

N.D.C.C. § 12.1-08-02 states:

1. A person is guilty of a class A misdemeanor if, with intent to prevent a public servant from effecting an arrest of himself or another for a misdemeanor or infraction, or from discharging any other official duty, he creates a substantial risk of bodily injury to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting the arrest or the discharge of the duty. A person is guilty of a class C felony if, with intent to prevent a public servant from effecting an arrest of himself or another for a class A, B, or C felony, he creates a substantial risk of bodily injury to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting such an arrest.

2. It is a defense to a prosecution under this section that the public servant was not acting lawfully, but it is no defense that the defendant mistakenly believed that the public servant was not acting lawfully. A public servant executing a warrant or other process in good faith and under color of law shall be deemed to be acting lawfully.

Fallis argues that under N.D.C.C. § 12.1-08-02(2), she had “a legal right to resist the unlawful arrest.” See Docket No. 144, p. 16.² Fallis also distinguishes the Eighth Circuit cases, which held resistance to an illegal arrest can furnish grounds for a second, legitimate arrest, based on the fact that the states in which those cases arose did not have a similar statute as North Dakota’s Section 12.1-08-02(2). See Docket No. 144. However, Fallis appears to neglect the language in North Dakota’s statute which states “It is a defense to a prosecution under this section that the public servant was not acting lawfully.” N.D.C.C. § 12.1-08-02(2). Fallis was not charged in this case with a violation of N.D.C.C. § 12.1-08-02(1). Rather, she was charged under federal law with civil disorder; discharge of a firearm in relation to a felony crime of violence; and possession of a firearm and ammunition by a convicted felon. See Docket No. 1. The Court finds that N.D.C.C. § 12.1-08-02(2) does not provide a defense in this case; Fallis’ arguments are unpersuasive and without merit.

It is clear to the Court from hearing all of the evidence presented at the suppression hearing, as well as carefully reviewing the entire record, including the video evidence, that there was more than sufficient evidence demonstrating that Fallis actively and physically resisted arrest on October 27, 2016. The testimony of the following law enforcement officers who testified at the suppression hearing on December 8 and December 11, 2017, clearly evidences Fallis’ resistance to her arrest:

- (1) Captain Bryan Niewind, North Dakota Highway Patrol
 - “Fallis continually resisted”
 - Four officers struggled with Fallis

- (2) Thadius Schmit, Pennington County Sheriff’s Deputy
 - Fallis wrapped her legs around Deputy Rusty Schmidt
 - Fallis spread her fingers to make it difficult to handcuff her
 - She was “actively resisting” and in resisting committed other offenses, i.e., disorderly conduct, preventing arrest or discharge of other duties

² Fallis notes that she does not concede that she resisted arrest; however, she asserts that under North Dakota law she had a right to do so.

- Fallis was “resisting and struggling” as they were trying to grab her left arm
- (3) Jacob Jones, North Dakota Highway Patrol Trooper
- Fallis was “struggling and kicking”
 - “She was resisting so much,” “squirming and non-compliant”
 - “There was a struggle”
 - This was the biggest struggle he has been involved in for the last six years
- (4) Dan Kensinger, Stark County Sheriff’s Deputy
- The officers struggled to pull her arm out from underneath her body
 - Fallis “was not compliant”
 - Fallis was laughing and calling the officers “fucking pigs”
- (5) Jeremy Buehre, North Dakota Highway Patrol Trooper
- He saw officers “wrestling” with a young woman (Fallis) on the ground
 - Fallis was “resistant” and “was not complying with verbal commands”
 - She was “wrestling with the officers”
 - Fallis was “squirming around” and “still resisting”
- (6) Bennett Bitz, North Dakota Highway Patrol Trooper
- He observed Fallis “kicking her legs” as she was struggling with the officers on the ground

Thus, like in *Dawdy*, the evidence law enforcement officers discovered in the subsequent searches of Fallis’ person and backpack is clearly admissible under Eighth Circuit precedent. See Dawdy, 46 F.3d at 1431; see also United States v. Perdoma, 621 F.3d 745, 750 (8th Cir. 2010) (search incident to lawful arrest is an exception to the warrant requirement). In other words, even assuming *arguendo* the initial stop and arrest of Fallis was invalid, her active resistance to the arrest clearly provided an independent grounds for her arrest and subsequent searches. This Court is obligated to follow Eighth Circuit Court of Appeals’ precedent, and the law in the Eighth Circuit is clear and unrefuted as it relates to the issues presented in this case.

B. FALLIS' STATEMENTS AND COMMUNICATIONS

Fallis also argues that any statements and communications, verbal and non-verbal, observed by law enforcement officers during and following her arrest should be suppressed because they were the product of a custodial interrogation and she was not given the *Miranda* warnings. See Docket No. 96. The Government argues Fallis' verbal and non-verbal statements to law enforcement officers were not made in response to interrogation or the functional equivalent of interrogation, and they are not subject to suppression. See Docket No. 120. The Court agrees.

Specifically, Fallis argues she was subjected to custodial interrogation at the scene of her arrest when Deputy Thadius Schmit approached her and asked, "Was all this worth it? Was it worth getting an attempted murder on law enforcement charge?" See Docket Nos. 101, p. 2 and 118-1, p. 4. Fallis argues she had not been informed of her *Miranda* rights at that time. See Docket No. 101, p. 2. In response to Deputy Thadius Schmit's questions, Fallis allegedly laughed. See Docket No. 118-1, p. 4. Fallis argues Deputy Thadius Schmit's questions amounted to custodial interrogation because they were "express questioning" and "reasonably likely to elicit an incriminating response." See Docket No. 101, p. 3. Fallis argues that because she was not informed of her *Miranda* rights before Deputy Thadius Schmit initiated the custodial interrogation, any responses she made, including her alleged laughter, must be suppressed. See Docket No. 101, p. 3.

The basic rule of *Miranda* is that when an individual is taken into custody for questioning, she must be advised of the right to be free from compulsory self-incrimination and the right to the assistance of an attorney. United States v. Griffin, 922 F.2d 1343, 1347 (8th Cir. 1990). "*Miranda* warnings are required when a suspect is interrogated while in custody." United States v. Aldridge, 664 F.3d 705, 711 (8th Cir. 2011). However, not all statements obtained by the police after a person has been taken in custody are to be considered the product of interrogation. Rhode Island v. Innis,

446 U.S. 291, 300 (1980). “[I]nterrogation occurs when a law enforcement officer engaged in ‘either express questioning or its functional equivalent.’” Aldridge, 664 F.3d at 711. The definition of interrogation can extend “only to words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response.” Innis, 446 U.S. at 302 (emphasis in original). Custody occurs either upon formal arrest or under any other circumstances where the suspect is deprived of her freedom of action in any significant way. Griffin, 922 F.2d at 1347. Here, the parties agree Fallis was in custody; however, they dispute whether she was interrogated.

Although Deputy Thadius Schmit asked a direct question to Fallis, namely the “Was it worth it?” questions, the Court finds that it was not the kind of investigative questioning intended to elicit an incriminating response that was at issue in *Miranda*. See United States v. Fleck, 413 F.3d 883, 892 n. 2 (8th Cir. 2005) (officer’s request for a key to a locked bedroom did not likely constitute interrogation as it was not the kind of investigative questioning—intended to elicit an incriminating response—that was at issue in *Miranda*). The Court finds Deputy Thadius Schmit’s questions were more in the line of rhetorical questions, rather than investigative questions intended to elicit an incriminating response. Therefore, the Court finds Fallis’ non-verbal communication of laughter was not the result of interrogation and is admissible. See United States v. Head, 407 F.3d 925, 928 (8th Cir. 2005) (“A statement made by a suspect that is voluntary and not in response to interrogation is admissible with or without the giving of *Miranda* warnings.”).

The Government’s response and the testimony of law enforcement officers at the suppression hearing also outline several spontaneous and voluntary statements Fallis allegedly made during and immediately after her arrest and during the searches of her person. See Docket No. 120, pp. 18-19. The Government argues none of the statements made by Fallis after she was arrested were evoked by law enforcement officers, nor were they in response to interrogation. The Court agrees and finds that

none of Fallis' statements and admissions were made in response to interrogation. Rather, all such statements were voluntary statements made by Fallis which were not in response to any interrogation and are admissible at trial. See Head, 407 F.3d at 928.

III. CONCLUSION

The Court has carefully reviewed the entire record, the parties' arguments, the evidence and testimony presented at the suppression hearing, and the relevant case law. For the reasons outlined above, both of Fallis' motions to suppress (Docket Nos. 94 and 96) are **DENIED**.

IT IS SO ORDERED.

Dated this 22nd day of December, 2017.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court