STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellant,	UNPUBLISHED January 09, 2026 9:17 AM
v	No. 376755 Oakland Circuit Court
FLOYD RUSSELL GALLOWAY, JR., Defendant-Appellee.	LC No. 2019-272265-FC

Before: BOONSTRA, P.J., and O'BRIEN and YOUNG, JJ.

PER CURIAM.

The prosecutor appeals by leave granted[1] a July 15, 2025 order granting defendant, Floyd Russell Galloway's motion to suppress evidence. We affirm.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

This case has been the subject of multiple prior appeals. See *People v Galloway*, 335 Mich App 629; 967 NW2d 908 (2020) (*Galloway I*); *People v Galloway*, unpublished per curiam opinion of the Court of Appeals, issued September 21, 2023 (Docket No. 364083) (*Galloway II*). Galloway is charged with first-degree premeditated murder of Danielle Stislicki, who disappeared on December 2, 2016. *Galloway I*, 335 Mich App at 632-633. This Court previously summarized the facts as follows:

> Defendant was the last person seen with Stislicki. Defendant was acquainted with Stislicki, as they had previously both worked in the MetLife building on Telegraph Road. Defendant had been a security guard there and he was known to seek out, or flirt with, Stislicki. He had sent her flowers once. On the day she disappeared, December 2, 2016, Stislicki had left work at about 5:00 p.m. She was seen in her workplace parking lot talking to defendant. Defendant had the

[1] *People v Galloway*, unpublished order of the Court of Appeals, entered October 6, 2025 (Docket No. 376755).

> hood up on his vehicle as if to indicate that he had car trouble. Defendant was then seen in the passenger seat of Stislicki's vehicle by a coworker as Stislicki was leaving the parking lot and waiting to turn north onto Telegraph Road. Shortly after Stislicki was seen with defendant, her cellphone communicated with the cellular tower nearest to defendant's home in Berkley. Stislicki had made plans to go to dinner with her best friend that evening but failed to attend or respond to any communications. The next day, the friend contacted Stislicki's parents and they went to Stislicki's apartment. Stislicki's parents found Stislicki's vehicle in its normal spot, along with her purse, identification, and credit cards, but Stislicki and her keys were missing. The police were called, and Stislicki was reported missing. [*Id*. at 633.]

As part of the investigation of Stislicki's disappearance, the police questioned Galloway. *Id*. at 634. Again, to borrow from our prior opinion:

> [Galloway] told the police that he had worked every weekday in December, including December 2, 2016, from 3:00 p.m. to 11:00 p.m. He was noticeably shaking at the time. The police later determined that defendant had taken December 2, 2016 off after calling his employer and claiming to have a doctor appointment. Subsequently, the police executed a search warrant at defendant's house and noticed that a patch of carpet had recently been replaced in defendant's bedroom. DNA analysis of carpet adjacent to the replaced patch yielded "very strong support" for the hypothesis that Stislicki was a contributor to the skin-cell DNA on the carpet. It was also discovered that, on December 4, 2016, defendant had purchased a new comforter. Further, it was determined that Stislicki's cellphone had communicated with towers on the route between defendant's house and Stislicki's apartment at about 8:00 p.m. on the night she disappeared—about the same time security cameras captured a vehicle matching the description of Stislicki's moving toward her apartment. . . . Ultimately, defendant was arrested and then bound over on the charge of first-degree premeditated murder of Stislicki. [*Id*. at 634-635.]

In *Galloway I*, this Court affirmed an order excluding certain other-acts evidence. *Id*. at 632, 647. In *Galloway II*, unpub op at 1, the prosecutor appealed by leave granted "an order suppressing evidence derived from a tip that was communicated to the Farmington Hills Police Department in violation of Galloway's attorney-client privilege and right to due process." Former FBI agent, Jim Hoppe, received the privileged information through his role as a polygraph operator for Galloway's defense counsel. *Id*. at 1. Hoppe had then called Troy Chief of Police, Gary Mayer, to share the information, and Mayer provided the information to the Farmington Hills Police without disclosing his source. *Id*. The tip included the following information:

> A caller said the security guard did it. He drove the victims [sic] car from his house in Berkley to her apt., then walked to Tim Horton's at 10 and Halsted where he called Shamrock cab or something that sounds like Shamrock where he received a cab ride to within walking distance from his work where his car was parked. There should be evidence on or in the victims [sic] car. The subject threw the victims [sic] keys in a grassy area by the freeway while walking to Tim Horton's. The fitbit should be near the keys. The victims [sic] cell phone was

> placed in the trash inside Tim Horton's. The victims [sic] body should be inside a beige and brown comforter. Upon further questioning, the caller had no further information and wished to remain anonymous. [*Id*. (quotation marks omitted; alterations in original).]

"FHPD personnel investigated the tip that very evening and recovered Stislicki's keys and Fitbit, as well as surveillance footage of defendant's movements on the night of Stislicki's disappearance." *Id*.

This Court emphasized that "an egregious violation of the attorney-client privilege might be part of a broader claim that the government has violated a defendant's due process rights." *Id*. at 2. It held that the egregious conduct here constituted a due-process violation, *id*. at 7, and that the trial court properly excluded evidence derived from the privileged information, *id*. at 8, although this Court concluded that the suppression order was overly expansive in certain respects. *Id*. at 8-9. This Court remanded the case to the trial court to amend its opinion and order accordingly, but affirmed in all other respects. *Id*. at 9.

II. THE MOTION TO SUPPRESS AT ISSUE HERE WAS PROPERLY GRANTED

A. BACKGROUND

On remand, Galloway filed documents that were treated as a motion to suppress further evidence. Galloway sought to suppress evidence regarding his TCF Bank account and his purchase of a new comforter at Bed Bath & Beyond two days after Stislicki's disappearance. Galloway argued that the evidence was derived from attorney-client privileged information in the tainted tip as well as an unconstitutional seizure of his wallet that contained his TCF Bank card. The wallet was seized during a search of Galloway's home pursuant to a warrant that did not specifically provide for the search or seizure of his wallet.

The prosecutor opposed Galloway's motion and argued that the inevitable-discovery exception to the exclusionary rule applied. The prosecutor argued that the police had already been canvassing financial institutions to find Galloway's bank and would ultimately have found his TCF Bank account, which would have revealed his purchase of a comforter at Bed Bath & Beyond.

The trial court granted Galloway's motion to suppress. It held that the seizure of Galloway's wallet containing his TCF Bank card violated the Fourth Amendment because the search warrant did not provide for the search of Galloway's wallet or financial information. The court found that the prosecutor failed to present evidence establishing that the police inevitably would have discovered the TCF Bank records without the wallet. Although the police had allegedly canvassed some financial institutions, TCF Bank was not among them. The privileged information in the tainted tip was also relied upon in obtaining the evidence at issue. The court thus suppressed evidence concerning Galloway's TCF Bank account and the Bed Bath & Beyond transaction that was discovered through the TCF Bank records. This appeal followed.

B. ANALYSIS

On appeal, the prosecutor argues that the trial court erred in suppressing the evidence of Galloway's TCF Bank account and his purchase of a comforter at Bed Bath & Beyond. The prosecutor does not challenge the existence of the underlying constitutional violations, but argues that the inevitable-discovery exception to the exclusionary rule should apply here. We disagree and instead affirm the trial court.

This Court "review[s] de novo a trial court's ultimate decision on a motion to suppress on the basis of an alleged constitutional violation." *People v Mahdi*, 317 Mich App 446, 457; 894 NW2d 732 (2016) (quotation marks and citation omitted). Any findings of fact are reviewed for clear error, which exists if this Court has a definite and firm conviction that a mistake was made. *Id*. This Court "review[s] de novo the issue whether the Fourth Amendment was violated and the issue whether an exclusionary rule applies." *Id.*

"The United States and Michigan Constitutions protect against unreasonable searches and seizures." *Mahdi*, 317 Mich App at 457, citing US Const, Am IV, and Const 1963, art 1, § 11. "The Michigan Constitution in this regard is generally construed to provide the same protection as the Fourth Amendment of the United States Constitution." *People v Hyde*, 285 Mich App 428, 438-439; 775 NW2d 833 (2009). In general, evidence that was unconstitutionally seized must be excluded at trial. *Id*. at 439. One exception is if the evidence would have been inevitably discovered by the state:

> . . . when information is discovered after the police violate the Fourth Amendment, the evidence should not be suppressed "[i]f the prosecution can establish by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means. . . ." [*Hyde*, 285 Mich App at 439, quoting *Nix v Williams*, 467 US 431, 444; 104 S Ct 2501; 81 L Ed 2d 377 (1984) (alteration in original).]

Michigan caselaw likewise "permits the admission of evidence obtained in violation of the Fourth Amendment if it can be shown by a preponderance of the evidence that the items found would have ultimately been obtained in a constitutionally accepted manner." *Hyde*, 285 Mich App at 439-440; see also *Mahdi*, 317 Mich App at 469 (noting that "[t]he inevitable-discovery doctrine is recognized in Michigan and may justify the admission of otherwise tainted evidence that ultimately would have been obtained" in a lawful manner) (quotation marks and citation omitted). In *Mahdi*, 317 Mich App at 469, this Court elaborated:

> This Court has cited several factors in determining whether the inevitable-discovery rule applies, including (1) whether the legal means were truly independent, (2) whether the use of the legal means and the discovery by the legal means were truly inevitable, and (3) whether application of the inevitable-discovery doctrine could incentivize police misconduct or significantly weaken the protection provided under the Fourth Amendment.

Applying those here, we are unable to conclude that Galloway's TCF Bank account and his transaction at Bed Bath & Beyond would have inevitably been discovered independently of

any constitutional violation. The prosecutor does not identify any evidence that the police were engaged in a canvassing of financial institutions. Rather, the prosecutor cites to its brief filed below in response to Galloway's motion to suppress. A brief is not evidence and the prosecution admits that the documents attached to that brief were not admitted into evidence before the trial court.

Moreover, the prosecution has presented no evidence to support a conclusion that the police would have inevitably discovered Galloway's financial records with TCF Bank, which would have led to evidence of the Bed Bath & Beyond transaction. In its brief below, the prosecution asserted that, on or about December 9, 2016, before the underlying constitutional violations that led the police to the excluded evidence, the police investigated Galloway's financial records and canvassed a dozen different financial institutions. The trial court correctly observed that TCF Bank was not among the multiple financial institutions that the police allegedly canvassed. The prosecutor says that, if Galloway's TCF Bank card had not been found in his wallet that was seized during the search of his home, then the police would have resumed the canvassing of financial institutions. According to the prosecutor, the canvassing would have included TCF Bank, and the police therefore would have inevitably found Galloway's TCF Bank account, which would have led to the transaction at Bed Bath & Beyond.

The prosecutor here has failed to identify evidence to support a conclusion that the TCF Bank account and Bed Bath & Beyond transaction inevitably would have been discovered. The prosecution instead relies on speculative assertions, which are insufficient to satisfy the prosecution's burden. See *Nix*, 467 US at 445 n 5 (stating that "inevitable discovery involves no speculative elements but focuses on demonstrated historical facts capable of ready verification or impeachment"); *Hyde*, 285 Mich App at 446 n 35 (citing *Nix* for the same proposition).

III. CONCLUSION

It was the prosecutor's burden to show by a preponderance of evidence that the information inevitably would have been discovered by lawful means. *Nix*, 467 US at 444; *Hyde*, 285 Mich App at 439-440. The trial court properly concluded that the prosecution did not carry its burden.

Affirmed.

/s/ Mark T. Boonstra
/s/ Colleen A. O'Brien
/s/ Adrienne N. Young