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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 09, 2026 11:30 AM
v	No. 378903 Genesee Circuit Court
MIGUEL JOSEPH PERALES, Defendant-Appellant.	LC Nos. 24-054322-FC; 25-051661-FH

Before: BORRELLO, P.J., and BAZZI and LIEVENSE, JJ.

PER CURIAM.

Defendant, Miguel Joseph Perales, appeals by delayed leave granted[1] the trial court's order denying his motion to suppress evidence obtained from his cell phone pursuant to a search warrant. We reverse and remand for further proceedings consistent with this opinion.

I. BASIC FACTS AND PROCEDURAL HISTORY

This case arises from Perales's alleged assault of the complainant. Perales and the complainant had an on-and-off relationship for several years. He was previously incarcerated for an unrelated offense and released on parole in August 2024. Shortly after his release, Perales got into an argument with the complainant and assaulted her. The next day, police conducted a welfare check at the complainant's residence where they found her severely beaten. The complainant was hospitalized and suffered a traumatic brain injury as a result of the beating.

Perales was arrested on a parole detainer and eventually charged with assault with intent to murder (AWIM), MCL 750.83, and domestic violence, MCL 750.81(2), as a third-offense

[1] *People v Perales*, unpublished order of the Court of Appeals, entered April 22, 2026 (Docket No. 378903).

habitual offender, MCL 769.11.[2] Perales's cell phone was seized during his arrest and on August 26, 2024, the police sought and obtained a search warrant for the contents of his phone (the 2024 warrant). In the affidavit of probable cause, Detective Julie Bemus explained that Perales's cell phone was recovered by parole agents who discovered that the phone contained messages between Perales and the complainant. The 2024 warrant authorized a search of "the entire contents of said cell phone . . . including, but not limited to: any and all photos, videos, music, text messages, contact numbers, call history found inside the above described electronic device." (Emphasis omitted.) It also authorized a search of "[a]ll records associated with" Perales's cell phone number "for the dates of 7/31/2024 to 8/25/2024" from his cellular provider (emphasis omitted).

The following year, on August 12, 2025, the police sought and obtained another search warrant for the contents of Perales's cell phone (the 2025 warrant). In the accompanying affidavit, Detective Bemus explained:

> 12. A previous search warrant was obtained for the contents of Perales'[s] cell phone on 08/26/2024. The cell phone was downloaded using Cellebrite by MSP CCU [Michigan State Police Computer Crimes Unit] soon after and the data was held on an external hard drive from Fenton Police Department. The data downloaded included texts and images from the days leading up to the assault and the day of the assault.
>
> 13. Detective Bemus was asked for the Cellebrite data from Perales'[s] cell phone by Genesee County Prosecutors Office, but the data was found to be lost and no longer existed on the external hard drive where it had previously been.
>
> 14. Since Perales'[s] cell phone was returned from MSP CCU, it has been held in a secure location in Fenton Police Department's property room.
>
> 15. A new download of the information and evidence contained on the suspect's phone is necessary for an upcoming trial. Affiant is now seeking a search warrant for an **iPhone X, Version 16.7.10, Model Number MQCR2LL/A, Serial Number FK1W2V2MJCLF, black in color with a black case.**
>
> 16. The investigation revealed cell phones, and/or electronic storage devices are believed to have been used leading up to, during and after the incident that occurred between Saturday, August 24th at 3:00pm and Sunday, August 25th, 2024 at 2:18pm at [the complainant's residence] which may lead to the identification of suspects and disposition of this investigation/pending case. That based upon all of these circumstances and the investigation which has thus far been

[2] These charges were initiated under Lower Court No. 24-054322-FC. While the assault proceedings were ongoing, Perales allegedly told the complainant to recant her preliminary-examination testimony. Perales was subsequently charged with interfering with a witness, MCL 750.122(7)(b), as a third-offense habitual offender, MCL 769.11, under Lower Court No. 25-051661-FH. The cases were consolidated in the trial court.

> conducted in this case, your Affiant has reasonable and probable cause to and does believe that the aforementioned evidence of Assault with Intent to Murder [the complainant] will be found at the above described location(s) and should be examined and retained for use in all future court proceedings.

The 2025 warrant was issued "to lead in the disposition" of the AWIM charge, and authorized the search as follows:

> **iPhone X, Verison** [sic] **16.7.10, Model Number MQCR2LL/A, Serial Number FK1W2V2MJCLF, black in color with a black case, recovered during the arrest of Miguel Joseph Perales.**
>
> **Including the entire contents of said cell phone—currently in the possession of Detective Julie Bemus and/or fellow officers awaiting the issuance of a search warrant** including, but not limited to: any and all photos, videos, music, text messages, contact numbers, call history, location history and any recoverable deleted information found inside the above described electronic device as well as any evidence which details contact between Miguel Perales and the victim of this case, [the complainant].

The 2025 warrant yielded "SMS messages; call records; videos; photographs; social media; GPS locations and potential witnesses . . . that the Prosecution could use in their direct case against" Perales. Perales subsequently moved to suppress the evidence obtained from the search, arguing that both the 2024 and 2025 warrants were unconstitutional because they failed to meet the particularity requirement under the Fourth Amendment of the United States Constitution. Following argument from the parties, the trial court denied Perales's motion. This appeal ensued.

II. PARTICULARITY REQUIREMENT

Perales argues that the trial court erred by denying his motion to suppress because the search warrants were facially invalid and unconstitutionally permitted the search of his cell phone without any meaningful limitations. We agree that the 2025 warrant failed to satisfy the particularity requirement as described in *People v Carson*, ___ Mich ___; ___ NW3d ___ (2025) (Docket No. 166923).[3]

"This Court reviews de novo questions of constitutional law and a trial court's decision on a motion to suppress evidence." *People v Brcic*, 342 Mich App 271, 277; 994 NW2d 812 (2022). A trial court's factual findings are reviewed for clear error. *People v Clark*, 330 Mich App 392, 415; 948 NW2d 604 (2019). Such findings "are clearly erroneous when this Court is left with a definite and firm conviction that the trial court made a mistake." *Id*.

[3] Because the cellular data retrieved as a result of the 2024 warrant was lost, which necessitated the 2025 warrant that gave rise to the disputed evidence, we deem it unnecessary to analyze the validity of the 2024 warrant.

The Fourth Amendment of the United States Constitution prohibits unreasonable searches and seizures, stating in relevant part that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." US Const, Am IV. The Michigan Constitution similarly provides: "No warrant to search any place or to seize any person or things or to access electronic data or electronic communications shall issue without describing them, nor without probable cause, supported by oath or affirmation." Const 1963, art 1, § 11. "Absent a compelling reason, Michigan courts must construe Const 1963, art 1, § 11 to provide the same protection as that secured by the Fourth Amendment." *Brcic*, 342 Mich App at 277.

Because of the unique features of cellular devices, the Michigan Supreme Court has recognized that "in the context of a cell-phone search, we must jealously guard the requirements of the Fourth Amendment, including the particularity requirement." *Carson*, ___ Mich at ___; slip op at 16. "[A]s with any other search conducted pursuant to a warrant, a search of digital data from a cell phone must be reasonably directed at uncovering evidence of the criminal activity alleged in the warrant . . . ." *People v Hughes*, 506 Mich 512, 538; 958 NW2d 98 (2020) (quotation marks and citation omitted). "A search warrant is sufficiently particular if the description is such that the officer with a search warrant can with reasonable effort ascertain and identify the people and property subject to the warrant." *Brcic*, 342 Mich App at 278 (quotation marks and citation omitted). "Whether a search warrant satisfies the particularity requirement depends on the circumstances and the types of items involved," *id*., and the focus of reviewing a search warrant is for "practical accuracy, as opposed to technical precision," *Carson*, ___ Mich at ___; slip op at 17 (quotation marks and citation omitted).

Our Supreme Court further expounded on the particularity requirement in the context of cell-phone search warrants in *Carson*. While it declined to issue "a per se rule of specificity that applies to all cell-phone searches," it identified certain guidelines for courts to consider. *Id*. at ___; slip op at 19. The Court provided that "a search warrant should be as particular as the circumstances presented permit and consistent with the nature of the item to be searched." *Id*. at ___; slip op at 20. "Specifying the crime under investigation is necessary, but not usually sufficient to ensure adequate particularity in the context of a cell-phone search warrant." *Id*. at ___; slip op at 19. The Court also identified temporal and data-category limitations as means of particularization. *Id*. at ___; slip op at 20-23. "[W]hen information concerning the relevant time frame of the criminal activity exists, this time limitation should be included in the search warrant to ensure adequate particularity." *Id*. at ___; slip op at 21. Further, while "[t]he need for specificity about the types of data expected to be encountered and searched must be weighed against the fact that law enforcement often will not be certain what evidence exists and where it will be located," law enforcement retains "the obligation to provide the most specific description possible and to support a request to search each category of data mentioned in a warrant affidavit." *Id*. at ___; slip op at 22.

In light of the foregoing principles, the 2025 warrant failed to satisfy the particularity requirement. While it specified the crime under investigation as AWIM, the warrant language was too broad to ensure that executing officers could "reasonably direct their search at uncovering evidence related to the criminal activity identified in the warrant." *Id*. at ___; slip op at 21 (quotation marks, citation, and ellipses omitted). The 2025 warrant broadly authorized a search of "the entire contents of said cell phone," which included, but was not limited to "any and all photos,

videos, music, text messages, contact numbers, call history, location history and any recoverable deleted information found inside the above described electronic device as well as any evidence which details contact between Miguel Perales and . . . [the complainant]." (Emphasis omitted.) Notably, this description contains no limiting language related to timeframe or content. While it listed several categories of data to be searched, it did so without limitation and failed to adequately support the request for each specified category. Like the warrant language at issue in *Carson*, the language in the 2025 warrant unconstitutionally "allowed officers to comb through every conceivable type of information on the cell phone limited only, at best, to evidence" that would lead in the disposition of the AWIM charge. *Id*. at ___; slip op at 24.

In denying Perales's motion to suppress, the trial court evaluated the applicability of *Carson*. It first reasoned that *Carson* did not create a bright-line rule prohibiting "general expansive language" or phrases like "any and all." We agree that *Carson* did not prohibit the use of broad or expansive language in a search warrant. See *id*. at ___; slip op at 21-22 (noting that a search warrant may use broad or generic language if accompanied by a sufficiently strong evidentiary showing to establish probable cause). However, the Court did note the problematic nature of the phrase "any and all data," which diminished the force of the limiting language otherwise contained in the warrant at issue. *Id*. at ___; slip op at 18. In this case, the request to search "the entire contents of said cell phone" including "any and all" data across multiple categories without limitation or evidentiary support does not pass constitutional muster (emphasis omitted).

The trial court also reasoned that the affidavit accompanying the search warrant contained "very detailed information" that supported the application. On appeal, the prosecution likewise contends that the warrant is sufficiently particular when read together with the attached affidavit. "[A] facially invalid search warrant *may* be saved by incorporated documents" if the warrant contains appropriate words of incorporation. *Brcic*, 342 Mich App at 279. This Court has held that "appropriate words of incorporation must direct the officers executing a search warrant to refer to an affidavit for guidance and not merely state an affidavit was used to establish probable cause." *Id*. (quotation marks and citation omitted).

The 2025 search warrant provided that "there is reasonable and probable cause set forth in said affidavit and application for search warrant for the issuance of a warrant to search and seize, as prayed for in the attached affidavit and application, for search warrant for the items listed below . . . ." Assuming that the affidavit was appropriately incorporated for consideration, its contents fail to supply any meaningfully limiting instructions or context to aid in particularizing the property to be searched. The affidavit provided that "there are multiple text messages and calls between Perales and [the complainant] on the cell phone," the data downloaded in the initial search "included texts and images from the days leading up to the assault and the day of the assault," and the investigation revealed the cell phone was "used leading up to, during and after the incident that occurred between Saturday, August 24th at 3:00pm and Sunday, August 25th, 2024 at 2:18pm . . . which may lead to the identification of suspects and disposition of this investigation/pending case."

Though the affidavit provides more detail on temporal and data-category considerations, it still fails to enable an officer to "ascertain and identify the people and property subject to the warrant" through reasonable effort. *Brcic*, 342 Mich App at 278 (quotation marks and citation omitted). The affidavit does not direct officers to seek data from particular dates surrounding the

alleged offense and instead vaguely references evidence "leading up to, during and after the incident." And while it identifies the presence of text messages, calls, and images relevant to the case, the warrant itself is explicitly much broader in scope than the listed categories and includes a request to search the entire contents of the cell phone including videos, music, contact numbers, location history, recoverable deleted information, and any evidence detailing contact between Perales and the complainant. Even reviewing the 2025 warrant and attached affidavit through the lens of practical accuracy and common sense, "[t]he lack of instruction on the scope, breadth, or focus of the search shifts the particularity requirement from the warrant, where it belongs, to the executing officer's discretion." *Carson*, ___ Mich at ___; slip op at 18.[4]

In sum, the 2025 warrant constitutes a general warrant of Perales's phone by authorizing the search of nearly any kind of data likely to be found without temporal limitation or adequate evidentiary support. Because the search warrant was facially invalid for its failure to comply with the Fourth Amendment's particularity requirement, the trial court erred by denying Perales's motion to suppress.[5]

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Stephen L. Borrello
/s/ Mariam S. Bazzi
/s/ Andrew J. Lievense

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[4] To the extent it can be argued that the 2025 warrant merely sought to obtain the same evidence that was originally uncovered from the 2024 warrant, we note that the prosecutor represented at the motion hearing that "I guess we didn't get everything we wanted," as a result of the 2024 warrant and that it "commonly send[s] phones back to see if now the technology software has grown to get back into phones." Further, while the 2024 and 2025 warrants are substantially similar, the 2025 warrant is broader in scope, making an additional request for "location history and any recoverable deleted information found inside the above described electronic device as well as any evidence which details contact between Miguel Perales and the victim of this case, [the complainant]."

[5] The prosecution raises several other arguments on appeal including that (1) Perales did not have a reasonable expectation of privacy in the contents of his cell phone given the supervisory conditions of his parole, (2) any invalid portions of the search warrant are severable, and (3) the good-faith exception to the exclusionary rule applies. The prosecution failed to raise these issues in the trial court. While Perales argued that the good-faith exception was inapplicable, the prosecution did not have an opportunity to respond to this argument, and the trial court did not evaluate the issue given its determination that the search warrant was valid. Accordingly, we decline to analyze these issues in the first instance. See *People v Hamacher*, 432 Mich 157, 168; 438 NW2d 43 (1989) (declining to address issues that the prosecution failed to raise until it filed its brief on appeal).