

## UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

### SUMMARY ORDER

**RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1<sup>st</sup> day of October, two thousand twenty-six.

Present:

DENNIS JACOBS,  
RICHARD C. WESLEY,  
MICHAEL H. PARK,  
*Circuit Judges.*

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UNITED STATES OF AMERICA,

*Appellant,*

v.

25-1428

JASON ROBINSON,

*Defendant-Appellee.*

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FOR APPELLANT:

GILBERT REIN (Saritha Komatireddy, Amy Busa, *on the brief*) Assistant United States Attorneys, *for* Joseph Nocella, Jr., United States Attorney for the Eastern District of New York, Brooklyn, NY.

FOR DEFENDANT-APPELLEE:

ASHOK CHANDRAN, Assistant Federal Defender, Federal Defenders of New York, Inc., New York, NY.

FOR AMICUS CURIAE PROJECT FOR  
PRIVACY AND SURVEILLANCE  
ACCOUNTABILITY, INC.:

Gene C. Schaerr, Justin A. Miller, Schaerr  
| Jaffe LLP, Washington, DC.

Appeal from an order of the United States District Court for the Eastern District of New York (Morrison, *J.*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the order of the district court is **REVERSED** and the case is **REMANDED** for further proceedings.

Jason Robinson arrived after international travel at JFK Airport, where border patrol agents manually searched his cell phone and found images of child sexual abuse. Relying on the images discovered during that initial manual search, the government obtained a warrant for the forensic search of his phone and uncovered at least 235 images and 457 videos of child sexual abuse material. Robinson was then indicted on one count of Transportation of Child Pornography, in violation of 18 U.S.C. § 2252(a)(1), and one count of Possession of Child Pornography, in violation of 18 U.S.C. § 2252(a)(4)(B). The United States District Court for the Eastern District of New York granted Robinson’s motion to suppress the evidence obtained during the two searches, concluding that they violated the Fourth Amendment and that no exception to the exclusionary rule applied. We assume familiarity with the underlying facts, the procedural history of the case, and the issues on appeal, to which we refer only as necessary to explain our decision to reverse.

“We review legal conclusions on a motion to suppress evidence de novo and findings of fact for clear error.” *United States v. Caraher*, 973 F.3d 57, 61 (2d Cir. 2020). “Where a defendant’s motion to suppress is granted, we review the evidence in the light most favorable to the defendant.” *United States v. Murphy*, 703 F.3d 182, 189 (2d Cir. 2012).

## I. The Manual Search of Robinson’s Cell Phone

The Fourth Amendment protects “against unreasonable searches and seizures.” U.S. Const. amend. IV. “[A] search must be supported, as a general matter, by a warrant issued upon probable cause,” but “neither a warrant nor probable cause, nor, indeed, any measure of individualized suspicion, is an indispensable component of reasonableness in every circumstance.” *Nat’l Treasury Emps. Union v. Von Raab*, 489 U.S. 656, 665 (1989). The international border presents one such circumstance. “[T]he Fourth Amendment’s balance of reasonableness is qualitatively different at the international border than in the interior. Routine searches of the persons and effects of entrants are not subject to any requirement of reasonable suspicion, probable cause, or warrant.” *United States v. Montoya de Hernandez*, 473 U.S. 531, 538 (1985). Nonetheless, we have held that “more invasive searches, like strip searches,” are nonroutine and “require reasonable suspicion.” *United States v. Irving*, 452 F.3d 110, 123 (2d Cir. 2006). The district court concluded that the border search here was “nonroutine” and that “the government must have a warrant and probable cause to search a cell phone at the border.” *United States v. Robinson*, No. 23-cr-192, 2025 WL 1359352, at \*9 (E.D.N.Y. May 9, 2025). Because the government had neither, the district court concluded that the search violated Robinson’s Fourth Amendment rights.

After oral argument in this appeal, we decided *United States v. Alisigwe*, --- F.4th ----, 2026 WL 2751713 (2d Cir. Sept. 17, 2026), in which we held that “[a manual] search of a traveler’s property at the border—including a cellphone—is a routine search that the government may conduct without suspicion,” *id.* at \*11.<sup>1</sup> *Alisigwe* thus forecloses Robinson’s argument and

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<sup>1</sup> As in *Alisigwe*, the warrantless border search challenged here was a manual one. As a result, “we need not decide whether the use of ‘sophisticated forensic search methods,’ such as ‘the off-site forensic analysis of the phone’s data,’ might qualify as a nonroutine search requiring reasonable suspicion.”

establishes that the government was permitted to conduct a suspicionless search of his phone without a warrant. And because the search did not violate Robinson’s Fourth Amendment rights, the evidence recovered from it should not have been suppressed.<sup>2</sup>

## **II. The Forensic Search of Robinson’s Cell Phone**

The district court also suppressed the evidence recovered during the subsequent forensic search of Robinson’s cell phone pursuant to a warrant. The court reasoned that the warrant was invalid because the facts establishing probable cause came from the border search, which it found was unlawful. And it concluded that the forensic search was not conducted in “good faith reliance on the warrant” because “no reasonable officer could have relied on binding precedent to believe that the search of Robinson’s [cell p]hone at the border was routine and could be conducted ‘even without reasonable suspicion.’” *Robinson*, 2025 WL 1359352, at \*10, 13 (quoting *United States v. Levy*, 803 F.3d 120, 122 (2d Cir. 2015)). Further, the district court held that the warrant affiant, Agent Stepien, had knowingly misled the magistrate judge regarding whether the search of the cell phone “was a routine border search.” *Id.* at \*23–24 (internal quotation marks omitted).

As explained, after the district court’s decision, we held that manual searches of cell phones at the border *are* routine searches that may be conducted “without suspicion,” thus agreeing with every circuit that has considered this question. *Alisigwe*, 2026 WL 2751713, at \*10–11 & n.8. Accordingly, the border search did not violate the Fourth Amendment, the search warrant did not rest on illegally obtained evidence, and there is no need for us to separately consider whether the

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*Alisigwe*, 2026 WL 2751713, at \*11 n.9 (quoting *United States v. Kolsuz*, 890 F.3d 133, 140, 146 n.5 (4th Cir. 2018)).

<sup>2</sup> Because *Alisigwe* holds that no individualized suspicion is required to search a phone at the border, we need not decide whether the search was supported by reasonable suspicion.

good-faith exception applies.<sup>3</sup> The evidence obtained from the forensic search therefore should not have been suppressed.

\* \* \*

We have considered Robinson’s remaining arguments and find them to be without merit. For the foregoing reasons, the order of the district court is **REVERSED** and the case is **REMANDED** for further proceedings.

FOR THE COURT:  
Catherine O’Hagan Wolfe, Clerk of Court

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<sup>3</sup> Even if the question were before us, we would not be inclined to affirm the district court’s conclusion that the good-faith exception did not apply here. The *Alisigwe* decision casts the district court’s factual findings in a different light, and from that vantage point, we could not agree that Agent Stepien “did not act in good faith,” much less that he “knowingly and intentionally omitted what he knew or should have known was material information.” *Robinson*, 2025 WL 1359352, at \*23; *see also United States v. McKenzie*, 13 F.4th 223, 237 (2d Cir. 2021) (“Whether a false statement was material to the probable cause determination is a mixed question of law and fact reviewed *de novo*.”).