

## Not Mine, Not Protected: Eleventh Circuit Holds Property Disclaimer Removes Fourth-Amendment Protections in *United States v. Morgan*

### Description

The United States Court of Appeals for the Eleventh Circuit recently released a decision in *United States v. Morgan*, a case that considers whether the Fourth or Fifth Amendment required excluding the contents of the defendant's cellphone, which he denied owning after it was seized incident to his arrest for drug-trafficking crimes.

### Factual Background

The defendant, Steven Morgan, along with his brother, operated a cocaine smuggling ring where the two would transport cocaine from the Caribbean islands into South Florida. The investigation revealed the details of the operation, explaining that the defendant would first ship jars of shaving gel to his brother who lived on the Caribbean Island, St. Maarten. Morgan's brother would then fit the jars with fabricated bottoms, under which he'd stash cocaine. From there, the defendant's brother would then ship the drug-filled jars back to several South Florida addresses, where Morgan would recover them. The scheme began to fall apart when a K9 unit at a Puerto Rican airport alerted on three packages, which were stashed with nearly two pounds of cocaine in each of them. Aiming to track the source and receiver of the packages, law enforcement agents conducted a controlled delivery. To accomplish this, the officers removed the cocaine and armed the boxes with break-wire beacons and shipped them to their original destinations. When the packages arrived outside the South Florida apartment, the Defendant alongside another individual retrieved them and entered the apartment. The beacon sounded about 15 minutes later, cueing the officers' entry into the apartment. Once inside, the officers saw Morgan standing near the back porch and detained him, discovering a firearm on his person. The officers discovered two cellphones near Morgan: an iPhone and an LG phone. At this point, the defendant was placed in handcuffs, and *Miranda* warnings had not yet been provided to him. One of the officers, Agent Feo then asked him, whether both phones were his. Morgan answered, "yes." Once the defendant was placed inside their vehicle, another officer, Agent Gaviria, read him his *Miranda* rights, and he invoked his rights to silence and counsel. After a few minutes had passed, Gaviria asked Morgan, again, if the two phones that the agents had seized belonged to him. Morgan responded that he was "not sure," and Agent Gaviria then stated that she "wasn't trying to interrogate him or ask him any questions about the case" and that she "just needed to know if they belonged to him so that she could make a note of who the property belonged to in case return was eventually warranted. Morgan responded that "only the iPhone" was his, explaining that he had earlier claimed both phones only due to his shock because of the way that the agents came into the apartment with the guns drawn. He then reiterated, that "only the iPhone was his." Several weeks after seizing it, the agents conducted a warrantless search of the LG phone, finding evidence implicating Morgan in the drug operation including text messages between him and his brother and photos of shipping records and wire-transfer receipts. Approximately 18 months after the controlled delivery, Agent Gaviria called Morgan to arrange a meeting because she wanted to return his property to him. Morgan agreed to meet Gaviria and two other agents at a Homeland Security Investigations office.

## Procedural Posture

Evidence presented at the defendant's suppression hearing suggested that the agents urged Morgan to talk to them despite his repeated attempts to invoke his *Miranda* rights. He eventually spoke to the agents for about two hours and, at the close of the interrogation, was arrested based on a previously obtained warrant. The defendant was charged with conspiring to import 500 or more grams of cocaine, attempting to possess with intent to distribute the same, and possessing a firearm in furtherance of a drug-trafficking crime. After a four-day jury trial, the defendant was convicted on all counts, leading to this appeal. On appeal to the Circuit Court, the defendant advanced five issues; however, this legal update considers only the Court's findings regarding the Fourth and Fifth Amendment issues. When the case reached the Eleventh Circuit, the Court was tasked with deciding *whether either the Fourth or Fifth Amendment required suppression of the LG phone's contents*.

## United States Court of Appeals for the Eleventh Circuit

The United States Court of Appeals for the Eleventh Circuit determined that district court properly admitted the contents of Morgan's LG phone and therefore, affirmed his conviction. The Court explained, because the defendant had abandoned the LG phone, he also surrendered any Fourth Amendment privacy interest in the device. As for the Fifth Amendment, although the defendant's statement was obtained as the product of a *Miranda* violation, the statement was voluntary which rendered the evidence that resulted from it admissible.

The Court began by addressing the Fourth Amendment analysis regarding the admissibility of the contents of the LG cell phone. Citing Eleventh Circuit precedent in *United States v. Hastamoris*, 881 F.2d 1551 (11th Cir. 1989), the Court explained that a person can abandon property by verbally disclaiming ownership of it. In this case, when the defendant was questioned by Agent Gaviria in the police car, Morgan twice, stated that "only the iPhone, not the LG was his, relinquishing any Fourth Amendment privacy interest in the LG's contents. That clear verbal disclaimer was made after he invoked his rights. Although Morgan initially told agents in the apartment that both phones were his, the fact that his later statements reaffirmed ownership of only the iPhone, the district court correctly determined that the Defendant had abandoned his interest in the device.

Next, the Court turned to the Fifth Amendment analysis for admissibility of the LG phone contents. The defendant argued that the statements made to the Agents in violation of his *Miranda* rights, rendered both; the Court's abandonment finding and the content of the phone, inadmissible fruit of the poisonous tree. Drawing on Supreme Court precedent in *United States v. Patane*, 542 U.S. 630 (2004), the Eleventh Circuit disagreed. In *Patane*, the Supreme Court held that a police officer's failure to give a suspect the *Miranda* warnings does not require suppression of the physical fruits of the suspect's unwarned but voluntary statements. As *Patane* demonstrates, the physical fruits stemming from a *Miranda* violation remain admissible provided that the challenged statement was voluntary and uncoerced. Applying *Patane* to this case, the Court explained that Agent Gaviria did not misinform Morgan about his *Miranda* rights and noted that the defendant's answer was made voluntarily, therefore, the fruits of his statement; here, the contents of his LG phone, were found to be admissible. Because the Fifth Amendment did not prevent the district court from basing its abandonment ruling on Morgan's statements in the squad car, the Eleventh Circuit affirmed the district court's decision to admit the LG phone's contents.

## Key Takeaways

In this case, the Court reaffirmed that a suspect's clear verbal disclaimer can amount to abandonment of property and with it, any Fourth Amendment privacy interest. In Morgan's case, his unambiguous statements in the patrol car, that "only the iPhone" was his were enough to treat the LG phone as abandoned and permit admissibility as to its contents. Even if a statement follows a *Miranda* misstep, it may still be admissible so long as it was given voluntarily and without coercion.

***United States v. Morgan*, No. 23-11114 (11th Cir. 2025)**

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