

SEARCHING FOR JARED WISE

I want to talk about Jared Wise.

Jared Wise is a former counterterrorism FBI Supervisory Special Agent who was arrested for crimes related to January 6 on May 1, 2023; he was indicted on civil disorder, assault, and trespassing charges on May 31, 2023.

In June, Wise moved to suppress a May 5, 2022 AT&T warrant and everything derivative of it, based on the theory that the warrant sought evidence of a conspiracy for which it had not presented probable cause (he is represented by Oregon's very good FPD office). The same filing moved to suppress a photo obtained in an April 2023 traffic stop that occurred just weeks before a search of his residence. Finally, it aimed to suppress the search of his home based, in part, on staleness grounds. Then last month, Wise supplemented his suppression motion, this time arguing that a tower dump warrant obtained in January 2021 was an unconstitutional geofence warrant under a recent Fifth Circuit decision.

I took the time to read all this because I've been tracking the geofence challenges that come out of the January 6 investigation (see [here](#), [here](#), [here](#), [here](#), [here](#), [here](#)) and also because I'm fascinated by the former law enforcement types who ended up attacking the Capitol. But between the government's initial response and the response, submitted yesterday, to his supplement, they provide a fascinating picture of the FBI's investigation into one of their own.

The government's response argues this is not about a geofence at all. Rather, the warrant Wise claims was a geofence was instead a tower dump warrant targeting two towers that exclusively serve the interior of the Capitol, basically a search for business records of access to a cell phone tower rather than

location data offered up in response to a voluntary Google service.

The filings together present this timeline of the investigation into Wise.

January 22, 2021 tower dump warrant

April 18, 2021 query of tower dump returns

October 2021 final conversation between Wise and tipster

January 10, 2022 public tip regarding Wise

January 26, 2022 interview in which tipster reveals Wise told him he was at the Capitol

May 5, 2022 AT&T warrant for 1752 and 5104 from November 1, 2020 through February 1, 2021: Disclosed Wise made 62 calls and sent 46 text messages on January 6

November 23, 2022 AT&T warrant for 1752 and 5104 from November 3, 2020 through January 31, 2021: Shows Wise still using phone

April 2, 2023 traffic stop on suspicion of altered VIN

April 12 and 13, 2023 warrant, issued in CAED but never executed

April 18 warrant shows Wise still using phone

April 24, 2023 warrant for Wise's house, car, and person for 1752, 5104, 1512(c)(2), 111, 231, 371, 372: On May 1, FBI seizes:

- Apple iPhone
- Apple MacBook Pro
- Burner LG Phoenix 5 (unopened)
- Clothing from riot

His phone number was collected in the tower dump, but he attracted no individualized attention until someone narced him out in January 2022, at which point they found the cell phone records that he had been in the building

during the 2PM hour on January 6.

At first, the FBI only obtained information to support the two trespassing charges, 1752 and 5104, used with all January 6 suspects. But the affiant of that warrant described that a search might find “help identify co-conspirators or victims,” which is why Wise claimed that this warrant was, “a fishing expedition, hoping to find some evidence of conspiracy when there is no probable cause to believe that one exists.” But, the government noted in response, at that point “the warrant authorized the seizure only of evidence related to the noted offenses.” While the second warrant, dated November 23, 2022, remained focused on the trespassing charges, it noted that,

I know that many persons who came to the Capitol on January 6, 2021, engaged in planning between the time of the November 2020 election and January 6, 2021, and that they communicated with other like-minded individuals about their purpose in coming to the Capitol using their smartphones.

Things got more interesting when – at least as described – a California Highway Patrol officer stopped Wise in April 2023, weeks before a warrant would be issued for his arrest, because the color on his registration did not match the color of the vehicle and, partly because of Wise’s Texas plates, the officer suspected VIN swapping.

The officer decided to make a traffic enforcement stop of the vehicle based on the registration return, which indicated the car’s color was blue, rather than what the officer observed to be grey. The officer knew, based on his training and experience, that there are many vehicles in the state of California that have had their Vehicle Identification Number (VIN) switched in Texas.

Wise undoubtedly believed this was a pretext stop – a stop invented solely to collect information from a suspect. As a former CT officer, he would know how they are used. And so after the officer freed him to leave, Wise got out of his car and started filming the officer.

But after he was told he was free to leave, the defendant became verbally aggressive and irritated with the officer. The defendant insisted he was stopped unlawfully and said there was another reason why the officer made the traffic stop. The officer continued to advise the defendant of the reason for the stop and told him multiple times the stop was over and that he was “free to leave.” As the officer returned to his patrol vehicle, the defendant exited his vehicle, carrying his cell phone, and appeared to be recording the officer and his vehicle. The defendant approached the officer in a slightly aggressive manner and continued to appear upset that he was stopped. The defendant requested the officer’s name and badge number, which the officer then provided. The officer again advised the defendant that the traffic stop was over and he was free to leave. After approximately two minutes, the defendant returned to his vehicle and departed.

That’s when the officer got the picture of Wise’s car, which was used in the affidavit to search Wise’s house, car, and person.

But even if the defendant’s traffic stop was improper, there was no seizure at the time the relevant photograph of the defendant was taken. Indeed, the opposite was true. The traffic stop was conducted, the defendant’s license and registration were checked and returned, and the defendant was told he was free to leave. It was over. See *Arizona v. Johnson*, 555 U.S. 323, 333 (2009)

("Normally, the stop ends when the police have no further need to control the scene, and inform the driver and passengers they are free to leave."); *United States v. Maynard*, 615 F.3d 544, 553 (D.C. Cir. 2010) (holding that the seizure of the defendant was over after the defendant's license and registration was returned and he was told he was free to leave), *aff'd in part sub nom. United States v. Jones*, 565 U.S. 400 (2012). But the defendant did not leave. Instead, after being repeatedly told he was free to leave, the defendant—who has, in other filings, opined that he is in a "unique position to admonish law enforcement," ECF No. 33 at 32 n.8—chose to exit his vehicle, pull out his cell phone, and start recording the officer who had stopped him. It was then that the photograph subsequently used in the search warrant—seen below—was taken. In other words, the defendant voluntarily remained to reprimand a police officer, and now complains when the officer happened to document the scene using a police-issued cruiser camera.

The traffic stop's inclusion in these suppression motions is, legally, superfluous. The government compellingly argues that they got the probable cause information to search the vehicle via other means, including surveillance of Wise and a different picture of his vehicle.

The April 2023 affidavit recites facts tying the vehicle to the defendant: it identifies the vehicle as being registered to the defendant, see Exhibit D at ¶ 2, and it cites surveillance confirming the vehicle's presence at the defendant's residence, see Exhibit D at ¶ 56. But the affidavit never even mentions the April 2, 2024 traffic stop. See generally Exhibit D. Instead, the pertinent photograph appears as part of

an attachment identifying the vehicle to be searched. See Exhibit D at Attachment A. That attachment states “[t]he Vehicle is depicted below” and includes two photographs—only one of which is from the traffic stop.

More importantly, nothing was seized from Wise’s car; there are no fruits of a search to suppress.

On the Fourth Amendment question, this dispute appears to arise from confusion about different technologies and therefore different probable cause formulas. Some of the confusion stems from temporal lapses between the execution of a warrant and queries of data obtained from it.

But what really appears to be going on is that a very paranoid former FBI guy, one who called cops “Nazis” on January 6, believes the FBI is or was investigating him more broadly. He believed in real time and still believes (and he may be right) that when a cop stopped him during his trip to California in April 2023, it was a pretext stop designed to collect more information; there are a good number of other January 6 defendants in which such stops were used.

Ultimately, Wise came to believe “they” were out to get him, “they” were out to investigate a larger conspiracy.

In the end, they were! The search of his house included two conspiracy charges, 371 and 372, among the suspect crimes.

But instead, he’s facing two civil disorder charges for his own actions, allegedly attacking cops.