

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, vs. KORILYN M. WHIPPLE-WRIGHT, Defendant.</p>	<p>3:24-CR-30050-ECS OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION</p>
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Defendant Korilyn M. Whipple-Wright seeks to suppress an answer she gave in response to a question from law enforcement concerning her tribal enrollment status. Doc. 29. The question was asked during an interview initiated by law enforcement and was conducted at the Rosebud Sioux Tribe Adult Correctional Facility, where she was being held. Doc. 42 at 32. Whipple-Wright moved to suppress her response, claiming she should have been apprised of her Fifth Amendment rights as required by Miranda v. Arizona, 384 U.S. 436 (1966), before being asked about her tribal-enrollment status because the question elicited an essential element of the crime charged. Doc. 29. The Government opposed this motion, arguing the tribal-enrollment inquiry was a routine booking question eliciting biographical data. Doc. 30 at 3.

Whipple-Wright's suppression motion was referred to Magistrate Judge Mark A. Moreno, who held a hearing on January 16, 2025, and filed a Report and Recommendation ("R&R") on January 28, 2025, recommending this Court grant Whipple-Wright's Motion to Suppress. Doc. 46. Neither Whipple-Wright nor the United States objected to the R&R, and the time for doing so has now passed.

A district court reviews a report and recommendation under the standards provided in 28 U.S.C. § 636(b)(1), which states that “[a] judge of the court shall make a de novo determination of those portions of the report or specified proposed finding or recommendations to which objection is made. The judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “In the absence of an objection, the district court is not required ‘to give any more consideration to the magistrate’s report than the court considers appropriate.’” Anderson v. Evangelical Lutheran Good Samaritan Soc’y, 308 F. Supp. 3d 1011, 1015 (N.D. Iowa 2018) (quoting Thomas v. Arn, 474 U.S. 140, 150 (1985)). Accordingly, this Court has reviewed the R&R under a clearly erroneous standard of review. See Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir.1996) (per curiam) (explaining that when no objections are filed and the time for filing objections has expired, the district court “would only have to review the findings of the magistrate judge for clear error”).

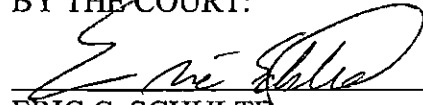
This Court agrees with Judge Moreno’s recommendation. The investigating “agent should [have been] aware that the information sought, while merely for basic identification purposes in the usual case, is directly relevant to the substantive offense charged” in this case. United States v. Armstrong, 39 F.4th 1053, 1057 (8th Cir. 2022) (quoting United States v. McLaughlin, 777 F.2d 388, 391–92 (8th Cir. 1985)). Therefore, finding no clear error, it is hereby

ORDERED that the Report and Recommendation on Defendant’s Motion to Suppress, Doc. 46, is adopted. It is further

ORDERED that Defendant Korilyn M. Whipple-Wright’s Motion to Suppress, Doc. 29, is granted.

DATED this 13 day of February, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Eric C. Schulte", is written over a horizontal line.

ERIC C. SCHULTE
UNITED STATES DISTRICT JUDGE