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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 04-40066-JAR
)	
CAROLINE VIGIL,)	
)	
Defendant.)	
_____)	

**ORDER GRANTING
DEFENDANT’S MOTION TO SUPPRESS**

Defendant Caroline Vigil is charged with two counts of making a false statement in acquisition of a firearm in violation of 18 U.S.C. §§ 922 (a)(6) and 924(a)(2). This matter is before the Court on defendant’s Motion to Suppress Evidence (Doc. 31).

The charges against defendant stem from a search of a residence that she maintained with Lawrence Nielson. Defendant alleges that evidence from the search should be suppressed because the officers executed the search at 4:45 a.m. and failed to knock and announce prior to entering her residence, in violation of the Fourth Amendment’s ban on unreasonable searches and seizures. Lawrence Nielson was also arrested and charged in a separate case, *United States v. Nielson*, D. Kan. No. 04-40068-RDR. A suppression hearing was held in that case. The Court grants the government’s request that this Court take judicial notice of that hearing, as “[t]he facts shall be identical

and in the interests of judicial economy, a further evidentiary hearing would accomplish nothing.”¹

Judge Rogers granted defendant Nielson’s motion to suppress.² The government appealed, and on July 21, 2005, the Tenth Circuit affirmed.³ A motion for rehearing *en banc* was denied on October 12, 2005, and the mandate issued on October 20, 2005.⁴

In affirming Judge Roger’s order granting suppression in the *Nielson* case, the Tenth Circuit took the district court’s view that law enforcement officers failed to demonstrate that they had an objectively reasonable suspicion that knocking and announcing would be dangerous or futile. For the reasons set forth in detail by the Tenth Circuit in *Nielson*, this Court also grants defendant Vigil’s motion to suppress.

IT IS THEREFORE ORDERED BY THE COURT that defendant’s motion to suppress (Doc. 31) is GRANTED.

IT IS SO ORDERED.

Dated this 16th day of November 2005.

S/ Julie A. Robinson
Judge Julie A. Robinson
United States District Judge

¹Government’s Response to Defendant’s Motion to Suppress Evidence (Doc. 32, p. 9 n.7).

²*United States v. Nielson*, 2004 WL 3186011 (D. Kan. Oct. 6, 2004).

³*United States v. Nielson*, 415 F.3d 1195 (10th Cir. 2005).

⁴The government’s motion to stay execution of the mandate was denied on October 31, 2005.