

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-1562

United States of America,

Appellee,

v.

Joshua A. Zardin,

Appellant.

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* Appeal from the United States
* District Court for the
* Western District of Arkansas.
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* [UNPUBLISHED]
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Submitted: July 16, 1999

Filed: July 22, 1999

Before BEAM, LOKEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Joshua A. Zardin appeals the district court's¹ denial of his motion to suppress. After careful review of the record and the parties' submissions, we agree with the district court that the alleged "nighttime" search does not offend the Fourth Amendment, and that Zardin's attack on the search warrant based on Federal Rule of

¹The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas, adopting the report and recommendations of the Honorable Beverly Stites Jones, United States Magistrate Judge for the Western District of Arkansas.

Criminal Procedure 41(a) fails because the search itself was not “federal.”
Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.