

**IN THE ---- COURT OF FULTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA,	:	
	:	
v.	:	
	:	Case No. ----
,	:	
	:	
<i>Defendant.</i>	:	

**FIRST AMENDED AND SUPPLEMENTED MOTION TO SUPPRESS
EVIDENCE AND STATEMENTS OBTAINED UNLAWFULLY BY POLICE**

Comes Now, the above-named Defendant, by and through counsel and hereby files this Amended and Supplemented Motion to Suppress. The Defendant respectfully shows this Honorable Court the following:

WARRANTLESS SEARCH & SEIZURE

-1-

On November 5, 2023, Sgt. D. Chernich of the Georgia State Patrol, Tpr. McNeal of the Georgia State Patrol, Tpr. Justice of the Georgia State Patrol, officers of the of the Glynn County Police Department, officers of the Brunswick Police Department, and other officers not known to the Defendant detained the Defendant and proceeded to interrogate her and search her person and property without a warrant of any kind.

-2-

As a result of the aforesaid warrantless acts by police, Defendant was arrested and is now charged in the above styled action with the vehicular homicide, hit-and-run, DUI, DUI – child endangerment, and other offenses.

-3-

With regard to the warrantless stop of the vehicle and the detention and search of Defendant's person and property by police at the above time and place, Defendant shows as follows:

(a) The police stopped and detained the Defendant without probable cause, without consent and without reasonable and articulable suspicion that the vehicle was engaged in or about to be engaged in criminal activity or was otherwise subject to seizure.

(b) The police detained the Defendant without probable cause, without consent and without reasonable and articulable suspicion that the Defendant was engaged in or about to be engaged in criminal activity.

(c) The police detained the Defendant beyond the time necessary and for purposes unrelated to the initial stop, and such prolonged detention was without probable cause, without consent and without reasonable articulable suspicion of criminal activity.

(d) The police searched the Defendant's person and property without probable cause, without consent, without lawful arrest, without exigent circumstances and without authority under any other recognized exception to the warrant requirement embodied in the State and Federal Constitutions.

(e) The police interrogated the Defendant while she was unlawfully detained, handcuffed and held in police custody and without giving the required Miranda warnings to Defendant prior to such interrogation.

Consequently, any and all evidence gathered, observed, and seized by police as a result of such unlawful actions should be suppressed by the Court, and no testimony, statements, conclusions or other references concerning such matters should be allowed or considered as evidence in the trial of this case.

For the foregoing reasons, the warrantless stop, detention, search and interrogation by police at the above time and place was unreasonable and violated the Defendant's rights under the Fourth, Fifth and Sixth Amendments to the United

States Constitution, Article I, Section I, Paragraph XIII, XIV and XVI of the Georgia Constitution, and the provisions of O.C.G.A. § 17-5-30.

Consequently, any and all evidence gathered, observed, and seized by police as a result of such unlawful actions should be suppressed by the Court, and no testimony, statements, conclusions or other references concerning such matters should be allowed or considered as evidence in the trial of this case.

SEARCH PURSUANT TO A WARRANT

-4-

The Defendant has received discovery that references a search warrant, but the Defendant has not been produced a copy of the search warrant that is the alleged basis for the draw of her blood.

-5-

On or about November 5, 2023, Sgt. D. Chernich of the Georgia State Patrol or other law enforcement officers whose identity is not known to the Defendant sought and obtained a search warrant from a Glynn County Magistrate Court Judge.

With regard to the search warrant referenced above, Defendant shows as follows:

- (a) The search warrant purports to authorize the seizure of the Defendant's blood. However, the search warrant does not authorize the testing of the Defendant's blood.
- (b) A magistrate judge of Glynn County was without authority to authorize a search (testing) of the Defendant's blood in another county. To the best of the Defendant's knowledge, the Defendant's blood was searched and tested in Chatham County at the GBI's Coastal Crime Lab. In order to search the Defendant's blood outside of Glynn County, the State was required to obtain a warrant in Chatham County where the search was performed.

- (c) The search warrant was issued based upon insufficient facts to constitute probable cause for its issuance.
- (d) The search warrant did not authorize the search and testing of the Defendant's blood.
- (e) The search of the Defendant's blood exceeded the scope of the warrant.
- (f) A proper and timely return of the search warrant was not filed.
- (g) The search warrant was impermissibly broad.

-6-

For the foregoing reasons, the search of the Defendant's blood violated the Defendant's rights under the Fourth Amendment to the United States Constitution, Article I, Section I, Paragraph XIII, XIV and XVI of the Georgia Constitution, and the provisions of O.C.G.A. § 17-5-30.

WHEREFORE, the Defendant prays as follows:

(a) That the Court hold evidentiary hearings on this motion outside the presence of the injury and as otherwise deemed appropriate; and,

(b) That the Court allow Defendant to submit written briefs and argument in support of this motion subsequent to any hearing;

(c) That the Court grant the within motion to suppress and prohibit the State from offering evidence concerning any observation of the Defendant made during the illegal stop and detention, any observation of the Defendant made during the Defendant's performance of field sobriety tests, the Defendant's alleged refusal to submit to any field sobriety test/evaluation and/or preliminary breath test, any alleged positive result indicated by a portable breath test machine which the Defendant submitted to during the illegal stop and detention, the defendant's purported refusal to submit to any state-administered chemical test, and the results of any blood test performed upon the Defendant, as well as any statement obtained by police in violation of the Defendant's Constitutional and statutory rights enumerated above; and,

(d) That the Court grant Defendant such other and further relief deemed just and proper in this case.

RESPECTFULLY SUBMITTED, this 8th day of April, 2024.

/s/D. Benjamin Sessions (Secondary Counsel)
D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

SESSIONS & FLEISCHMAN, LLC
3155 Roswell Rd., Ste. 220
Atlanta, Georgia 30305
Tel: (470) 225-7710
ben@thesessionslawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing pleading upon the prosecuting attorney in this case by depositing same in the U.S. Mail with adequate postage affixed thereon to ensure delivery of same to:

Mr. _____ Higgins
District Attorney for the Brunswick Judicial Circuit
701 H Street
Box 301
Brunswick, GA 31520

RESPECTFULLY SUBMITTED, this 8th day of April, 2024.

/s/D. Benjamin Sessions
D. Benjamin Sessions

State Bar No. 141280
Attorney for Defendant

SESSIONS & FLEISCHMAN, LLC
3155 Roswell Rd., Ste. 220
Atlanta, Georgia 30305
Tel: (470) 225-7710
ben@thesessionslawfirm.com