

IN THE ----- COURT OF HOUSTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

vs.

Defendant.

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Case No. -----

**MOTION TO SUPPRESS EVIDENCE
OBTAINED BY SEARCH WARRANT**

COMES NOW, the above-named Defendant, by and through counsel and hereby files within Motion to Suppress, showing this Honorable Court the following:

-1-

On or about -----, Deputy ----- of the ----- County Sheriff's Office sought and obtained a search warrant from a ----- County Magistrate Court Judge.

-2-

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

- (a) The search warrant states "**YOU ARE HEREBY COMMANDED:** TO ENTER, SEARCH, AND SEIZE WITHIN TEN (10) DAYS OF THIS DATE, THE PERSON, PREMISES, OR PROPERTY DESCRIBED ABOVE." 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 Houston 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 DeKalb County.
- (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) A proper and timely return of the search warrant was not filed.
- (f) The search warrant was impermissibly broad.

-3-

For the foregoing reasons, the search and seizure of the Defendant, the Defendant's blood, and the Defendant's medical records 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.

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.

WHEREFORE, the Defendant prays as follows:

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

(b) That the Court allow Defendant to supplement this motion upon receipt of discovery from the State and 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 obtaining the Defendant's blood, any information regarding the Defendant's medical treatment, and the results of any chemical test performed upon the Defendant's blood; and,

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

RESPECTFULLY SUBMITTED, this ----- day of -----, 2023.

/s/D. Benjamin Sessions
D. Benjamin Sessions
State Bar No. 141280
Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing pleadings 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.

RESPECTFULLY SUBMITTED, this ---- day of -----, 2023.

/s/D. Benjamin Sessions

D. Benjamin Sessions

State Bar No. 141280

Attorney for Defendant