

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

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

**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:

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On -----, Officer ----- of the ----- Co. Sheriff's Office detained the Defendant and proceeded to interrogate him and search his person and property without a warrant of any kind. Subsequently, the Officer sought and obtained a search warrant from ----- County Magistrate/State Court.

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

(a) The search warrant was not issued based upon a proper affidavit, and the search warrant was issued based upon insufficient facts to constitute probable cause for its issuance.

(b) The search warrant did not authorize the search and testing of the Defendant's blood.

(c) A proper and timely return of the search warrant was not filed.

(d) The search warrant was impermissibly broad.

(e) The search warrant was issued by a Magistrate Judge of ----- County. The Judge that issued the search warrant purporting to authorize the search of the Defendant's blood and/or urine was without authority to authorize a search conducted in ----- County.

(f) The affidavit submitted in support of the search warrant contained material misrepresentations and/or omitted material facts, and when the misrepresentations are set aside and the omitted facts are included, the affidavit fails to establish probable cause.

(g) The search warrant was not issued upon an oath or affirmation properly administered by the issuing judicial officer, and, to the extent the warrant was issued by video conference, it was not issued in compliance with O.C.G.A. § 17-5-21.1.

(h) The testing conducted upon the Defendant's blood exceeded the scope of the search warrant, which was limited to evidence of the offense of driving under the influence of alcohol under O.C.G.A. § 40-6-391(a)(1).

(i) No copy of the search warrant was left with the Defendant, as commanded by the terms of the search warrant.

(j) The Defendant's blood was not withdrawn by a person qualified to withdraw it and/or was not withdrawn in accordance with accepted medical practices.

(k) The search warrant was sought and obtained through the exploitation of the unlawful warrantless detention, interrogation, and search described in Paragraph 1 above, and the evidence derived therefrom is fruit of the poisonous tree.

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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.

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 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 obtaining the Defendant's blood 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 -----, 202-.

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 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.

Respectfully Submitted, this ----- day of -----, 202-.

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

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