

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

STATE OF GEORGIA,

vs.

-----,

*Defendant.*

:  
:  
:  
:  
:  
:  
:

Case No.: -----

**MOTION TO SUPPRESS EVIDENCE AND STATEMENTS OBTAINED  
UNLAWFULLY BY POLICE**

Comes Now, the above-named Defendant, by and through counsel and hereby files his Motion to Suppress, showing this Honorable Court the following:

-1-

On -----, 2023, the Defendant was stopped, detained, and arrested by Officer ----- of the [identify the agency]. The Defendant has not received the accusation and/or discovery at this time. For the purposes of particularizing this motion, the Defendant incorporates herein the allegations stated in the accusatory document and the State's witnesses. To the best of the Defendant's knowledge, the stop, detention, questioning, and search of the Defendant were 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 driving under the influence and -----.

-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 detained 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.

(b) The police detained 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.

(c) The police searched the Defendant's person, property, and bodily substances (blood, breath, and/or urine) without probable cause, without consent, without a lawful arrest, without exigent circumstances and without authority under any other recognized exception to the warrant requirement embodied in the State and Federal Constitutions.

(d) The police interrogated 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.

(e) If the Defendant submitted to field sobriety testing and/or a preliminary breath test, the Defendant challenges the voluntariness of those acts pursuant to the self-incrimination clause of the Georgia Constitution (Paragraph XVI of the Georgia Constitution).

(f) If the Defendant declined to perform any act, including but not limited to field sobriety tests/evaluations, the Defendant's refusal to perform any act should not be admitted as evidence in the trial of this case pursuant to the self-incrimination clause of the Georgia Constitution (Paragraph XVI of the Georgia Constitution).

(g) The Defendant challenges the voluntariness of all state-administered tests pursuant to the 4<sup>th</sup> Amendment of the United State Constitution and Paragraph XVI of the Georgia Constitution.

(h) If the Defendant refused to submit to a test of his/her blood or urine, the Defendant's refusal should not be admissible pursuant to the Fourth Amendment of the U.S. Constitution.

(i) If the Defendant refused to submit to a test of his/her breath or urine, the Defendant's refusal should not be admissible pursuant to the self-incrimination clause of the Georgia Constitution (Paragraph XVI of the Georgia Constitution).

(j) The Defendant withdrew consent to the search of his/her bodily substances prior to the search of same. The State failed to obtain a search warrant for the testing of the Defendant's bodily substances, as required by the Fourth Amendment of the U.S. Constitution after the Defendant withdrew his/her consent.

-4-

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.

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 the evidence identified above in this motion; 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

## **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