

**STATE OF MICHIGAN
IN THE 72nd DISTRICT COURT FOR THE COUNTY OF ST. CLAIR**

PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

v.

No. [REDACTED]
Hon. Michael L. Hulewicz

[REDACTED]
Defendant.

**MOTION TO SUPPRESS EVIDENCE OBTAINED FROM ILLEGAL
SEARCH AND SEIZURE, MOTION TO DISMISS, AND MOTION FOR
EVIDENTIARY HEARING**

NOW COMES Defendant, [REDACTED], by and through her counsel, JAMES C. THOMAS, and moves this Honorable Court pursuant to the Fourth Amendment of the United States Constitution, and Section 11 of the Michigan Constitution 1963, as well as *People v. Talley*, 410 Mich. 378 (1981), to suppress the evidence of an illegal search and seizure, grant Defendant an Evidentiary Hearing, and dismiss this matter, for the following reasons:

1. The Defendant [REDACTED] is charged with one count of possession of marijuana in violation of MCL § 333.7403(2)(d). This was subsequent to a civil infraction dated August 19, 2013.
2. All evidence supporting the charge was based upon the stop, detention and subsequent search of [REDACTED] vehicle occurring after a traffic stop for an expired tab on the plate on that date.

3. When [REDACTED] was initially stopped, she was asked for her registration. [REDACTED] immediately produced paperwork showing that she had renewed her registration and tab for her plate that morning. She apparently had not affixed the new tab to her plate.

4. After all valid purposes for the traffic stop had been resolved or dissipated, the officer repeatedly asked [REDACTED] whether or not she had anything illegal in the vehicle. When [REDACTED] repeatedly responded that she had not, the officer indicated that he was doing a random drug stop.

5. Finally, after significant time passed, the officer asked [REDACTED] if a drug dog would indicate that drugs were in the vehicle. It was after this that the vehicle was searched and a small wood box with suspected marijuana inside a zippered pocket was found in [REDACTED] purse.

6. Consent to a search is invalid when that consent is obtained by law enforcement actions which exceed the permissible bounds of a stop. *Florida v. Royer*, 460 U.S. 491; 103 S.Ct. 1319 (1983) (fifteen minute seizure not justified although a short Terry Stop was initially justified); see also *People v. Kaigler*, 368 Mich. 281, 295 (1962).

7. An anonymous tip referenced in the police report did not provide probable cause justifying the officer's conduct. *Florida v. J.L.*, 529 U.S. 266, 120 S.Ct. 1375 (2000) (holding an anonymous tip which accurately identified the defendant and where the allegation of the firearm ultimately proved to be accurate was insufficient to justify the seizure).

8. At the time of the threat to bring canines, [REDACTED] had been detained beyond all valid reasons. The search and seizure was without a warrant, without a valid consent, and without probable cause. The conduct of the police officers violated the Defendant's right to be free from unreasonable searches and seizures of her person and of her vehicle. U.S. Const. Ams. IV and XIV; Michigan Const. 1963, Art. 1. Sec. 11.

9. The legality of the search and seizure must be determined based upon the information available to the police at the time the search and seizure was accomplished. *People v. White*, 392 Mich. 404, 418 (1974). "Events subsequent to the seizure may not" be considered in "passing upon the reasonableness of the search." *People v. Dunlap*, 82 Mich. App 171, 174 (1978). A search that bears tainted fruit cannot be used as a justification for an illegal search and seizure.

10. [REDACTED] requests production of Officer Marie Couch, Officer Lindstrom, and any other police officer who claims they were present on the scene on August 19, 2013, at approximately 4:00 PM. In addition, [REDACTED] requests any field notes, 911 or dispatch recordings, and dispatch logs for the event.

WHEREFORE, for the forgoing reasons, Defendant respectfully requests that this Honorable Court grant an Evidentiary Hearing at the conclusion at which it should suppress all physical evidence illegally seized, and dismiss the charge against [REDACTED]

Respectfully Submitted,
JAMES C. THOMAS, P.C.

By: _____
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