

NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

STATE OF NORTH CAROLINA

vs.

**MOTION TO SUPPRESS
(ROAD BLOCK)**

_____,
Defendant.

NOW COMES the Defendant, by and through his attorney, Marcus E. Hill, and moves for suppression of various evidence gathered after the stop and or arrest of the defendant for driving while impaired. The defendant argues as follows:

1. That the road block was constructed improperly in violation of Michigan v. Sitz et. seq. and thus the stop of the defendant was not justified by the road block exception to the fourth amendment nor by reasonable and articulable suspicion and all evidence gathered after said stop should be suppressed.
2. That the road block was set up for general law enforcement purposes in violation of Indianapolis v. Edmonds et. seq. and thus all evidence gathered after the stop of the defendant should be suppressed.
3. That the road block plan was not designed to avoid racial, ethnic, or other bias, or had no numerical or other plan with which to determine cars to stop, or said plan was not followed exclusively and thus the road block violated Delaware v. Prouse et. seq. and thus all evidence gathered after the stop of the defendant at said road block should be suppressed.
4. That there is evidence that cars and individuals were treated differently and that police officer's at the scene had discretion in violation of the North Carolina General Statutes and United States and North Carolina cases and thus all evidence gathered after the stop of the defendants vehicle should be suppressed.
5. That the defendant's turn away from the road block, or the defendant's u-turn was not sufficient evidence to allow the stop of the defendant's vehicle as it did not support

reasonable articulable suspicion or a road block stop. The road block plan does not contain any provisions for stopping turning vehicles or if the plan does contain those provisions, those provisions do not comply with the U.S. Constitution and relevant case law and thus allow impermissible discretion in who was stopped. Thus all evidence gathered after the stop of the defendants vehicle when he turned away from the road block should be suppressed.

6. That there was not a reasonable purpose for the road block and no written guidelines were provided and thus there was too much discretion granted to the officer's at the scene and thus the rules in Prouse were violated.
7. That the road block was set up for an impermissible purpose and thus all evidence gathered after the stop of the defendant's vehicle should be suppressed.
8. That no supervisor gave permission to set up the road block and thus all evidence gathered after the stop of the defendant's vehicle should be suppressed.
9. That the road block plan had insufficient specific guidance to the officers at the scene and thus did not comply with the North Carolina General Statutes and the U.S. Constitution and thus all evidence gathered after the stop of the defendant's vehicle should be suppressed.
10. That the officer did not have a reasonable and articulable suspicion that the defendant was impaired before the officer got the defendant out of his vehicle and required him to submit to field sobriety tests, portable breath tests, and eventually to the intoxilyzer test and thus all evidence gathered after the defendant's exit from the vehicle should be suppressed.
11. That the road block was set up and maintained in violation of the North Carolina General Statutes.
12. That there is no evidence that the defendant's driving was improper prior to his entrance to the road block and thus no evidence concerning his driving should be used by the court or the jury in determining his impairment or in determining probable cause to arrest.
13. The defendant moves that the Court suppress any certificate affidavit, forensic laboratory report or anything resembling the foregoing in any way under the ruling of the United States Supreme Court in Melendez-Diaz, unless the analyst, the person who prepared the report, and person who wrote the report are available to testify at trial.

14. The defendant moves that the Court suppress any evidence unless the State presents each person involved in the chain of custody, and that the witnesses testify to that chain of custody and as to the handling of the sample.
15. The defendant moves that the Court suppress any analysis or the report thereof unless the court rules that the handling of said sample and the chain of custody is proven to the State's standards and is without gaps and the sample was tested by a method and with devices approved by the National Laboratory Standards.

WHEREFORE, THE DEFENDANT PRAYS THAT THE COURT:

1. Suppress evidence gathered by the State.
2. Dismiss the charges against the defendant.
3. For such other and further relief as is just and proper.

This the _____ day of _____, 20_____.

Marcus E. Hill
Attorney for Defendant
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