

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

State of Minnesota,

Court File No.:

Plaintiff,

vs.

**NOTICE OF MOTIONS AND MOTIONS
TO SUPPRESS AND DISMISS**

X [REDACTED] T [REDACTED],

Defendant.

TO: THE STATE OF MINNESOTA AND [REDACTED] CITY ATTORNEY,

PLEASE TAKE NOTICE that at a future contested hearing before the Honorable Presiding Judge of the above-named District Court at the Dakota County Government Center, One Mendota Road West, West St. Paul, Minnesota, Mr. T [REDACTED] by and through his attorney, will move this Court for an Order granting the relief requested in the following Motions.

MOTIONS

Mr. T [REDACTED], through his undersigned counsel, hereby moves the Court for the following Orders:

1. For an **ORDER** suppressing all evidence because State Patrol Trooper [REDACTED] lacked reasonable articulable suspicion to initiate the traffic stop. *State v. Munson*, 594 N.W.2d 128, 136 (Minn. 1999) (an investigatory traffic stop is lawful if the police officer has a reasonable, articulable suspicion that the person stopped is engaged in criminal activity); *State v. Johnson*, 444 N.W.2d 824 (Minn. 1989) (the officer must have objective support for his suspicion).
2. For an **ORDER** suppressing the evidence because Trooper [REDACTED] conducted a pretextual stop. *State v. Hoven*, 269 N.W.2d 849, 852 (Minn. 1978) ("Pretext arrests by the police cannot be used to justify and legitimate otherwise illegal searches and seizures."); *State v. Curtis*, 190 N.W.2d 631, 635 (Minn. 1971) ("Courts uniformly have forbidden the use of a minor traffic offense as a pretext for searches directed at unrelated offenses.").

3. For an **ORDER** suppressing the evidence because Trooper [REDACTED] unlawfully expanded the scope and extended the duration of the traffic stop. *State v. Wiegand*, 645 N.W.2d 125, 136 (Minn. 2002) (“the reasonableness requirement of the Fourth Amendment is not concerned only with the duration of a detention, but also with its scope”).
4. For an **ORDER** suppressing the evidence because Trooper [REDACTED] unlawfully detained Mr. T [REDACTED] during the traffic stop. *State v. Syhavong*, 661 N.W.2d 278, 282 (Minn. Ct. App. 2003) (“Detention of an individual during the routine stop of an automobile, even for a brief period, constitutes a ‘seizure’ protected by the Fourth Amendment.”).
5. For an **ORDER** suppressing the evidence because Mr. T [REDACTED] was subject to a de facto arrest. *State v. Thompson*, 929 N.W.2d 21, 27 n.1 (Minn. Ct. App. 2019) (“In addition, Minnesota caselaw recognizes that a ‘de facto arrest’ may occur if a person has not been formally arrested but effectively has been arrested because the person’s liberty has been restrained to an extent that exceeds the scope of a lawful investigative detention.”).
6. For an **ORDER** suppressing the evidence because Trooper [REDACTED] asked Mr. T [REDACTED] questions unrelated to the reason for the stop as well as asked questions after the stop should have ended, which violated Mr. T [REDACTED]’s Fourth Amendment Constitutional rights. *Syhavong*, 661 N.W.2d at 281–82 (there must be a “a reasonable relationship between the purpose of the stop . . . and [the officer]’s question concerning contraband in the car. During a traffic stop, an officer’s questions must be limited to the purpose of the stop . . . because [the officer]’s question about contraband was not related in scope to the circumstances that justified the stop, the resulting detention and inquiry were unreasonable.”).
7. For an **ORDER** suppressing the evidence because Trooper [REDACTED] lacked probable cause to request consent to search the vehicle. U.S. CONST. amend. IV; MINN. CONST. art. I, § 10; *Syhavong*, 661 N.W.2d at 282 (“Where, as here, a consent to search is given after the original purpose of the stop has been accomplished, the consent is a product of an illegal detention, and evidence subsequently discovered must be suppressed.”).
8. For an **ORDER** suppressing the evidence because Trooper [REDACTED] lacked reasonable articulable suspicion to perform a K9 search and to request consent for the same. *Wiegand*, 645 N.W.2d at 137 (“in order to lawfully conduct a narcotics-detection dog sniff around the exterior of a motor vehicle stopped for a routine equipment violation, a law enforcement officer must have a reasonable, articulable suspicion of drug-related criminal activity”); *Syhavong*, 661 N.W.2d at 282 (nervousness is not indicative of criminal activity).
9. For an **ORDER** suppressing the evidence because Trooper [REDACTED] lacked probable cause to search the vehicle. U.S. CONST. amend. IV; MINN. CONST. art. I, § 10.
10. For an **ORDER** suppressing all of Mr. T [REDACTED]’s statements as violations of *Miranda* and as fruit of the poisonous tree. *Miranda v. Arizona*, 384 U.S. 436 (1966); *Wong Sun v. United States*, 371 U.S. 471 (1964).

11. For an **ORDER** dismissing the case for the foregoing reasons.
12. For an **ORDER** dismissing the case for lack of probable cause as the State will be unable to prove that Trooper [REDACTED] engaged in lawful conduct. Thus, Mr. T [REDACTED] did not engage in any conduct that “obstruct[ed], hinder[ed], or prevent[ed] the *lawful execution* of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense.” MINN. STAT. § 609.50, subdiv. 1(1) (emphasis added).

These Motions are made on all the files and records in the case, the United States and Minnesota Constitutions, the Minnesota Statutes and Rules of Criminal Procedure, the interests of justice, a memorandum of law to be submitted, and upon such other and further points and authorities as may be subsequently presented to the Court.

Respectfully submitted,

RYAN GARRY, ATTORNEY, LLC

Dated: [REDACTED], 2020

s/ Elizabeth Duel

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