

NO. 000000

STATE OF TEXAS) IN THE COUNTY COURT
VS.) AT LAW NUMBER FOUR
JOE SMITH) BEXAR COUNTY, TEXAS

MOTION TO SUPPRESS EVIDENCE

TO THE HONORABLE JUDGE OF SAID COURT:

Joe Smith moves to suppress all evidence obtained as a result of his seizure and arrest, and the search of his person and vehicle, and for good cause shows the following:

I.

On or about October 13, 2022, Officer John Thomas of the San Antonio Police Department stopped a vehicle driven by Mr. Smith, seized him, searched the vehicle and his person, and arrested the defendant for “suspicion of driving while intoxicated.”

II.

There was no reasonable suspicion to stop the vehicle. The arresting officer stated in his police report that he stopped the vehicle because the driver fail[ed] to maintain a single lane of traffic multiple times.” In fact, the officer’s dash camera reveals that the rear tire of the vehicle crossed just over the line one time, and then very briefly. No other vehicle was visible in the lane at that time, and the brief movement was not unsafe in any way. A short time later, with no other lane crossing, the officer activated his overhead lights, Mr. Smith signaled, and exited the highway.

The stop of the vehicle, the seizure and arrest of the defendant, and the search of

his person and vehicle, violated the Fourth and Fourteenth Amendments to the United States Constitution, Article I § 9 of the Texas Constitution, Article 38.23 of the Texas Code of Criminal Procedure, and Chapter 14 of the Texas Code of Criminal Procedure. *See State v. Hardin*, ___ S.W. 3d ___, ___ 2022WL16635303 *8 (Tex. Crim. App. November 2, 2022)(not yet published).

III.

All evidence obtained as a result of these illegal seizures, arrests, and searches, including, but not limited to any observations made by the police officers, any physical evidence seized from the defendant or the vehicle, any photographs, videotapes, or audiotapes obtained, any field sobriety tests administered, any breath, blood, or urine samples taken, and any statements, written or oral, allegedly made by the defendant, must be suppressed pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, Article I § 9 of the Texas Constitution, Article 38.23 of the Texas Code of Criminal Procedure, and Chapter 14 of the Texas Code of Criminal Procedure.

The defendant respectfully moves the Court to set the matter for a pretrial hearing pursuant to article 28.01 of the Texas Code of Criminal Procedure, and, after hearing evidence, that the Court suppress all evidence that was illegally obtained.

Respectfully submitted:

/s/ Mark Stevens

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Attorney for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of defendant's Motion To Suppress Evidence has been electronically delivered to the District Attorney's Office; Paul Elizondo Tower; 101 W. Nueva; San Antonio, Texas, on November 15, 2022.

/s/ Mark Stevens
MARK STEVENS

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ORDER

On this the _____ day of _____, 2022, came on to be considered defendant's Motion To Suppress Evidence, and said Motion is hereby

(GRANTED) (DENIED).

PRESIDING JUDGE