

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

**DEFENDANT’S MOTION TO SUPPRESS EVIDENCE
OBTAINED FROM AN ILLEGAL STOP AND ARREST**

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 the seizure of his blood, on March 7, 2025.

I.

On or about March 7, 2025, Officers Quiroga and Robinson of the San Antonio Police Department stopped a vehicle driven by Mr. Smith, subjected him questioning and field sobriety testing, arrested him for “suspicion of driving under the influence of alcohol,” and obtained a sample of his blood.

II.

There was no *reasonable suspicion* to stop the vehicle. Officer Robinson stated in his affidavit that the traffic stop was initiated after Mr. Smith drifted into an adjacent lane, made an improper lane change, and “appeared to almost hit the side wall.” None of these alleged driving facts are visible on the video recordings made by the officers. No other traffic was anywhere near the vehicle Mr. Smith drove, and no one was endangered

by the driving. A short time after the driving was observed, the officers activated their overhead lights, Mr. Smith signaled, and safely exited the highway. The driving facts described by the officer and shown on the videos did not provide reasonable suspicion to stop the vehicle, and the traffic stop violated the Fourth and Fourteenth Amendments to the United States Constitution, Article I § 9 of the Texas Constitution, Article 38.23(a) of the Texas Code of Criminal Procedure, and Chapter 14 of the Texas Code of Criminal Procedure. *See State v. Hardin*, 664 S.W.3d 867, 878 (Tex. Crim. App. 2022).

III.

In addition to having no reasonable suspicion to initiate a traffic stop, the officers had no *probable cause* to arrest Mr. Smith after that stop was made. Any fair viewing of the officers’s body camera recordings demonstrate that Mr. Smith had not lost the normal use of either his mental or physical faculties — not when performing the field sobriety tests, and not when interacting with the officers. The officers conceded their lack of probable cause when, in response to Mr. Smith’s appropriate and polite questions about what clues he had exhibited that would justify his arrest, they told him it was for “suspicion of driving under the influence of alcohol.” But mere “suspicion” is not probable cause. And it is not a crime for an adult in Texas to drive “under the influence of alcohol.” The arrest of Mr. Smith without probable cause violated the Fourth and Fourteenth Amendments to the United States Constitution, Article I § 9 of the Texas Constitution, Article 38.23(a) of the Texas Code of Criminal Procedure, and Chapter 14

of the Texas Code of Criminal Procedure.

IV.

A specimen of a person’s breath or blood may not be taken unless the officer arresting the person has “*reasonable grounds* to believe the person . . . while intoxicated was operating a motor vehicle in a public place. . . .” TEX. TRANSP. CODE §724.012(a)(1) (emphasis supplied). The seizure of Mr. Smith’s blood without reasonable grounds to believe he was intoxicated violated §724.012(a)(1) of the Transportation Code, and article 38.23(a) of the Code of Criminal Procedure.

V.

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 Defendant or the vehicle; any photographs, videotapes, or audio recordings captured; any field sobriety tests administered; any blood samples obtained, and any statements, written or oral, allegedly made by the Defendant, must be suppressed for the statutory and constitutional reasons just stated.

VI.

Joe Smith 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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CERTIFICATE OF SERVICE

I certify that a copy of Defendant's Motion To Suppress Evidence Obtained From An Illegal Stop And Arrest has been electronically delivered to the Bexar County District Attorney's Office on June 2, 2025.

/s/ Mark Stevens

MARK STEVENS

