

STATE OF MINNESOTA
COUNTY OF FILLMORE

DISTRICT COURT
THIRD JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

Vs.

Samantha Petersen,

Defendant.

**DEFENDANT'S NOTICE OF MOTION
AND MOTION TO SUPPRESS AND
DISMISS ALL COUNTS**

File No. 23-CR-24-28

TO: THE ABOVE-NAMED COURT; FILLMORE COUNTY COURT ADMINISTRATOR;
BRETT A. CORSON, FILLMORE COUNTY ATTORNEY:

NOTICE OF MOTION

PLEASE TAKE NOTICE that on August 12, 2024 at 1:30 p.m, Defendant will move the Court for an Order, suppressing evidence and dismissing each count of the Complaint filed by the State of Minnesota.

MOTION

The Defendant moves the Court for an Order, suppressing evidence and dismissing each count of the Complaint filed by the State of Minnesota. Specifically, Defendant seeks the following relief:

1. Dismissal of Counts I-III, V-VII, IX-XI, and XIII-XV for lack of probable cause. The State of Minnesota lacks any evidence that Defendant was operating a motor vehicle while under the influence of any mood-altering substance including, but not limited to, alcohol or legal/illegal controlled substances. In addition, the evidence fails to establish probable cause that the driver of the subject motor vehicle was negligent in the operation thereof. The Defendant hereby demands a hearing pursuant to *State v. Florence*, 306 Minn. 442, 239 N.W.2d 892 (1976).

2. Dismissal of Counts IV, VIII, XII, and XVI for lack of probable cause. The evidence clearly and unequivocally proves that Defendant left the scene of the accident only after being given permission to do so by investigating officers. The Defendant hereby demands a hearing pursuant to *State v. Florence*, 306 Minn. 442, 239 N.W.2d 892 (1976).

3. Dismissal of Counts XIX-XXI for lack of probable cause. The Defendant hereby demands a hearing pursuant to *State v. Florence*, 306 Minn. 442, 239 N.W.2d 892 (1976). (1976).

4. Suppression of the content of a recording, including any statements made by Defendant contained therein, that was surreptitiously obtained by Deputy Kullot who, with intent and purpose, and after having left Defendant and her sister alone, recorded a conversation between the two without the knowledge and consent of either. See: Minn.Stat. §626A.04; §626A.11.

5. Suppression of any and all statements made by Defendant, including those referenced in Paragraph 4, *supra*, as a violation of Defendant's constitutional rights under the Fifth Amendment to the United States Constitution and its Minnesota counterpart; *Miranda v. Arizona*, 384 U.S. 436 (1966); *State v. Mellett*, 642 N.W.2d 779, 787 (Minn. App. 2002).

6. A finding that the Affidavit in support of the search warrant for Defendant's telephone/records lacked sufficient probable cause under the Fourth Amendment to the United States Constitution and its Minnesota counterpart; *State v. Yarbrough*, 841 N.W.2d 619 (Minn. 2014). As a result, all evidence discovered during the execution of the constitutionally defective warrants is inadmissible.

7. A finding that the Affidavit in support of the search warrant for a sample of Defendant's blood lacked sufficient probable cause under the Fourth Amendment to the United States Constitution and its Minnesota counterpart; *Missouri v. McNeely*, 569 U.S. 141 (2013); *State v. Stavish*, 868 N.W.2d 670 (Minn.2015). As a result, all evidence discovered during the execution of the constitutionally defective warrants is inadmissible.

8. The Defendant hereby reserves the right to supplement or amend these motions in a timely manner, and reserves the right to file Motions in Limine prior to trial.

Dated: 5/16/24

/s/: Carson J Heefner

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