

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA**

STATE OF FLORIDA,
Plaintiff,

CASENO: 2022-101651-CFDL

vs.

IYANNA Y ROLLINS,
Defendant

_____ /

MOTION TO SUPPRESS

COMES NOW the Accused, by and through the undersigned counsel, pursuant to Fla. R. Crim. P. 3.190(g) and 3.190(h), Art. I, §9, 12, and 23 Fla. Const., and U.S. Const. amend. IV, V, and XIV, would move this Honorable Court to suppress certain evidence in this lawsuit, including but not limited to any observations, statements, and identifications obtained by law enforcement or other agents of the State of Florida. The specific evidence the Accused would be moving to suppress is any confessions or admissions allegedly made by the Accused to any law enforcement officer or other agents of the State of Florida on or about July 18, 2022; and the in court and out of court identification of the Accused that was made by law enforcement officers or other agents of the State of Florida on or about July 18, 2022, at the behest of Sergeant Chad Weaver of the Volusia County Sheriff's Office all derived as a result of the unlawful and warrantless search and seizure of the Accused, Iyanna Rollins.

FACTS

On July 18, 2022 on or about 6:11pm, Sergeant (Sgt.) Chad Weaver of the Volusia County Sheriff's office responded to a call for service regarding a suspected burglary to 2639 Ainsworth Ave., Deltona, Florida. Despite utilizing GPS on his cellphone to direct him to 2639 Ainsworth Ave. and passing the visible street sign indicating Academy and not Ainsworth, Sgt. Weaver

parked his patrol vehicle one street west of Ainsworth Ave., on Academy Ave., and exited his vehicle. Prior to parking his vehicle on Academy Ave., two vehicles drove past Sgt. Weaver on Academy. Sgt. Weaver made no attempts to stop, investigate, or detain the occupants of any of those vehicles he encountered. Sgt. Weaver then observed a silver Toyota Camry exiting the driveway of a residence on Academy Ave. The vehicle was alleged to be operated by the Accused, Ms. Rollins. Sgt. Weaver commanded for Ms. Rollins to stop her vehicle by standing in front of it, impeding its direction, and yelling “Stop the fucking car!” Ms. Rollins, visibly disturbed, complied, and stopped the vehicle. Prior to ordering Ms. Rollins to “Stop the fucking car,” Sgt. Weaver did not observe Ms. Rollins commit any traffic infractions or felonious crime that would provide a legal basis for the stop and seizure.

After stopping Ms. Rollins vehicle, Sgt. Weaver immediately began interrogating Ms. Rollins, by demanding to know if she lived at the residence, and why was she at that residence. Prior to interrogating Ms. Rollins, Sgt. Weaver did not read any Miranda warnings nor inform Ms. Rollins of the basis of the stop and seizure. Sgt. Weaver then demanded that Ms. Rollins turn the ignition of her vehicle off. Before Ms. Rollins could respond to the demand, Sgt. Weaver, without the consent of Ms. Rollins, reached into her vehicle and attempted to turn the ignition of the vehicle off. Ms. Rollins exited the vehicle and was immediately seized by Sgt. Weaver and charged with battery on a law enforcement officer and resisting a law enforcement officer with violence.

RESERVATION OF THE RIGHT TO REQUEST JUDICIAL NOTICE:

Pursuant to §§ [REDACTED] Fla. Stat., Ms. Iyanna Rollins notices the State of Florida that he is reserving the right to request the Court to take judicial notice of the absence of any arrest or search warrant in this case file or of any arrest or search warrant having been filed with the clerk of courts in respect to the offenses for which he is charged.

ARUGMENT & LAW

1. Based on the holdings in Dobrin v. Dep't of Highway Safety & Motor Vehicles, 874 So.2d 1171 (Fla. 2004), Whren v. United States, 116S. Ct. 1789(1996), and Holland v. State, 696 So.2d 757 (Fla. 1997), there are two ways in which law enforcement may lawfully stop a vehicle. First, law enforcement may stop a vehicle if there is probable cause to believe a traffic violation has occurred. In determining whether there is probable cause, the Court must use an objective standard and may not consider the subjective beliefs of the officer. Second, law enforcement may, upon reasonable suspicion a crime is being committed, make an investigatory traffic stop.

2. Ms. Rollins did not commit any traffic violations as she exited the driveway of the residence on Academy Ave. Her actions did not impact other drivers or the flow of traffic and was not subject to enforcement by law enforcement officers.

3. The stop, seizure, and detention of Ms. Rollins was without probable cause and therefore any evidence, including in court and out of court identification of the Accused, obtained from this unlawful stop, detention, and investigation is inadmissible and should be suppressed.

4. An objectively reasonable police officer, at a minimum, should know and be aware of the traffic lane in which his vehicle is traveling, particularly in the absence of factors demonstrating a basis for error such as poor visibility, a lack of roadway or lane markings, or confusing signage or signaling. Littles v. State, 354 So.3d 1169 (Fla. 5th DCA 2023).

5. The identification of defendant was a result of an illegal traffic stop and should be suppressed. State v. Perkins, 760 So.2d 85 (Fla. 2000).

6. The identification of the Defendant should have been suppressed as it was only because the deputy made the illegal seizure that he learned Garrett's identity. Garrett v. State, 946 So.2d 1211 (Fla. 2d DCA 2006).

7. A mere hunch or suspicion is not sufficient to support a stop. Poppo v. State, 626 So. 2d 185 (Fla. 1993); Rodriguez v. State, 948 So. 2d 912, 914 (Fla. 4th DCA 2007). In order to justify a stop based on a BOLO alert, several factors must be taken into consideration: "the length of time and distance from the offense, specificity of the description of the alleged perpetrator(s), the source of the BOLO information, the time of day, absence of other persons in the vicinity of the sighting, suspicious conduct, and any other activity consistent with guilt". Rodriguez v. State, 948 So. 2d 912, 914 (Fla. 4th DCA 2007) (quoting Sapp v. State, 763 So. 2d 1257, 1258-59 (Fla. 4th DCA 2000)).

8. An arresting officer's assertion that they were investigating possible criminal activities "did not establish reasonable suspicion or probable cause to detain appellant". A.R. v. State, 127 So. 3d 650, (Fla. 4th DCA 2013). Without information regarding the nature of the possible criminal activity and the appellant's involvement, it is impossible to determine if the arresting officers were engaged in the lawful detention of the appellant. *Id.* (quoting Davis v. State, 973 So. 2d 1277, 1279 (Fla. 2d DCA 2008)).

9. In *State v. Jemison*, the court argued that the officer "had reasonable suspicion to stop the defendant's vehicle because, within six minutes of receiving a "be on the lookout" (BOLO) alert, an officer saw the defendant's vehicle, which matched the BOLO description." *State v. Jemison*, 171 So. 3d 808. Additionally, the court argued that the source of the BOLO was from the victim who was burglarized, and the officer noticed "additional suspicious activity", which including the defendant "circling a neighborhood, cutting in front of a vehicle to make a turn, and

then driving evasively.” *Id* at 813. Ms. Rollin’s vehicle was not described in the call for service, nor was her actions suspicious in comparison to the aforementioned case that warranted a stop and seizure. It is possible that Ms. Rollins was simply trying to leave the area and operated her vehicle in a lawful manner as the two other vehicles Sgt. Weaver encountered without unlawfully seizing.

10. Passenger of automobile that was pulled over by police officer for traffic stop was “seized” under the Fourth Amendment from moment automobile came to halt on roadside and, therefore, was entitled to challenge constitutionality of traffic stop; any reasonable passenger would have understood police officers to be exercising control to point that no one in the automobile was free to depart without police permission. Brendlin v. California, 551 U.S. 249,256 (2007).

11. When police officer makes traffic stop, driver of car and any passengers in car are seized within meaning of Fourth Amendment and may challenge constitutionality of stop. Foley v. State, 188 So.3d 930 (Fla. 5th DCA 2016).

12. In order to comply with the dictates of Miranda, the accused must be advised before custodial interrogation commences that: (1) the accused has the right to remain silent, (2) that anything the accused says may be used in court, (3) that the accused has the right to have an attorney present during questioning, and (4) that an attorney will be appointed for the accused before questioning if he or she cannot afford one. Maxwell v. State, 917 So. 2d 404 (Fla. 5th DCA 2006).

13. Any direct or indirect evidence obtained by illegal police conduct is inadmissible fruit of the poisonous tree. Wong Sun v. United States, 371 US 471 (1963).

WHEREFORE the Defendant prays for this Honorable Court to suppress the admission of any and all evidence indicated above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this original document has been E-Filed with the Clerk of Court through the E-Portal and a copy of the foregoing has been E-Served to the Office of the State Attorney at EserviceVolusia@sao7.org, this the 6th day of April, 2023.



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