

IN THE SUPERIOR COURT OF BLACKBERRY COUNTY

STATE OF GEORGIA

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vs.

DARLA NEWLINBERGSTIEN

MOTION TO SUPPRESS EVIDENCE ILLEGALLY SEIZED

Comes Now, the Defendant in the above-styled case, by and through Defendant's attorney and makes this her MOTION TO SUPPRESS and further shows as follows:

1.

Defendant is charged in the above accusation with V.G.C.S.A. possession of marijuana and cocaine.

2.

During approximately November 1, 2005, at 6:00 pm, Blackberry County Drug Squad Task Force Officers M.A. Pawnberg, J.A. DaRinsky, B. Crappola, L.T. Youngteen, Sgt. Hesten, M.A. Worlebalsy, H. Huntiger, and Johnny Macktheknife, and various other Drug Squad Officer FNU LNUs, entered and searched the Defendant's home at 323 Bad Neighborhood Circle, Strawberrytown, Blackberry County, Georgia. The search was performed without valid permission or exigency, or probable cause. The search was allegedly executed under color of Blackberry County search warrant 05SW14. Subsequently, the officers supposedly found contraband not in plain view. The affiant to the warrant relied upon an alleged "confidential and reliable" informant in seeking out said warrant. However, the alleged informant was not reliable and did not constitute a sufficient basis for issuance of the warrant. Additionally the warrant was the basis for an unconstitutional search and seizure because it was stale at the time it was executed.

3.

The search of the apartment and subsequent arrest of the Defendant violated her right to be free from unlawful searches and seizures of her person and property, thus requiring suppression of any evidence obtained as a result of said illegal conduct pursuant to the Fourth Amendment to the United States Constitution, made applicable to the States through the Fourteenth Amendment as well as the Constitution of the State of Georgia, Article 1, Section 1, Paragraph XIII.. Terry vs. Ohio, 392 U.S. 1 (1968).

4.

The Defendant is adversely affected by the violation of said constitutional rights in that at the time of the search, he resided at said address, had a reasonable expectation of privacy therein.

and stands charged with a possession of marijuana and cocaine which carries a lengthy custodial sentence, extensive fines and stigma upon conviction.

5.

The Defendant shows that the Court should order that all evidence seized as a result of the illegal search, and arrest should be suppressed and that the State, through the prosecutor, or any witness, be instructed not to mention, allude to or otherwise call the attention to the jury of the existence of any evidence seized following the illegal detention, search and arrest..

6.

The Defendant reserves the right to amend this motion as more information is provided by the State pursuant to discovery.

WHEREFORE, this Defendant prays:

(a) That this Court inquire into this matter and issue its Order suppressing any and all evidence illegally seized as a result of the illegal detention, search, and arrest of the Defendant and her person by the police.

(b) For such other and further relief as this Honorable Court deems necessary and just.

Respectfully Submitted,

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Attorney for Defendant

Bar No. _____

Address