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| District Court, Arapahoe County, Colorado Court Address:  7325 S. Potomac Street , Centennial, CO 80112 DATE FILE  303-649-6355 FILING ID: | D: October 3, 2017 3:46 PM 29C91C6351460  MBER: 2017CR988  ▴ COURT USE ONLY ▴ |
| CASE NU  **PEOPLE OF THE STATE OF COLORADO,**  Plaintiff v.  **ANGELA INGA**,  Defendant |
| Katie Telfer, #41720  Deputy State Public Defender  Douglas K. Wilson, Colorado State Public Defender Arapahoe County Public Defenders  12350 E. Arapahoe Road, Suite A, Centennial, CO 80112 Phone (303) 799-9001 Fax (303) 792-0822  E-[mail: katie.telfer@coloradodefender.us](mailto:katie.telfer@coloradodefender.us) | Case Number: **17CR988** |
| Courtroom **309** |
| **DEFENSE MOTION #5:**  **MOTION TO SUPPRESS ALL EVIDENCE, OBSERVATIONS, AND STATEMENTS OBTAINED AFTER MS. INGA’S WARRANTLESS SEIZURE AND ARREST** | |

Ms. Inga moves to suppress all evidence, observations, and statements after her warrantless seizure and arrest on November 21, 2016. As grounds, Ms. Inga states as follows:

1. On April 4, 2017, Ms. Inga was contacted by officers with the Aurora Police Department (“APD”) at her apartment at 918 S. Ivory Circle Unit E in Aurora, Colorado where Ms. Inga was living.
2. Officers were dispatched to this address on the report of an alleged assault after the complaining witness, Ms. Mirian Yurivilca-Arellana, went to the police station and made a report.
3. When APD officers arrived, they made contact with Ms. Inga inside of the residence and began questioning her about what happened.
4. Ms. Inga was subsequently handcuffed and transported to the Aurora jail.
5. At the time Ms. Inga was detained, the police did not have reasonable suspicion to persist with their contact. Additionally, the defense moves to suppress all evidence, observations, and statements made after her illegal seizure and arrest.
6. The Fourth Amendment to the United States Constitution and Article II, §7 of the Colorado Constitution protect against unlawful searches and seizures. U.S. Const. amend.

IV; Colo. Const. art. II, § 7. It is well established that a warrantless seizure or arrest is presumptively invalid*. People v. Outlaw*, 17 P.3d 150 (2001) (citing *People v. P.E.A*., 754 P.2d 382 (Colo. 1998)); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971); *Chimel v. California*, 395

U.S. 752 (1969); *People v. Jansen*, 713 P.2d 907 (Colo. 1986).

1. Because a warrantless seizure and arrest is presumptively invalid, the absence of a warrant will establish: (1) a fourth amendment seizure occurred in order to detain and arrest, and
   1. that the stop was invalid (subject to rebuttal by the prosecution). “Once that threshold requirement is met, the burden of going forward then shifts to the prosecution. The burden of proof, however, always remains with the People to establish that warrantless conduct on the part of the officers falls within one of the narrowly defined exceptions to the warrant requirement.” *Jansen*, 713 P.2d at 907.
2. When a police officer stops an individual and restrains his freedom to walk away, the individual has been “seized.” *Terry v. Ohio,* 392 U.S. 1 (1968). Whether a stop constitutes a seizure is determined by assessing all the circumstances surrounding the incident for each individual case. *People v. Heilman*, 52 P.3d. 224, 228 (Colo. 2002). The Colorado Supreme Court has articulated that "[t]he test is whether a reasonable person under the circumstances would believe that he or she was free to leave and/or disregard the officer's request for information." *Id.* at 228. Such a stop is illegal unless: (1) the officer has a reasonable suspicion that a crime has occurred, is occurring, or is about to occur;
   1. the purpose of the stop is reasonable; and (3) the scope and character of the detention is reasonable when considered in light of its purpose. *Michigan v. Long*, 463 U.S. 1032, 1052 (1983). *People v. Arias*, 159 P.3d 134 (Colo. 2007).
3. When an investigatory stop involves more than a brief detention, the stop escalates into an arrest, which must be supported by probable cause. *People v. Ingram*, 984 P.2d 597, 604 (Colo. 1999); *see Beck v. Ohio*, 379 U.S. 471 (1963); *People v. Schreyer*, 640 P.2d 1147 (Colo. 1982). Probable cause is defined as facts available to a reasonably cautious officer, which would warrant a belief that an offense has been, or was being, committed by the defendant. *People v. Navran*, 483 P.2d 228 (Colo. 1971).
4. In the present case, APD officers had insufficient basis to contact Ms. Inga and arrest her. Further, there was insufficient probable cause to arrest Ms. Inga, and therefore any evidence obtained after her arrest should be suppressed.
5. The defense requests a hearing.

WHEREFORE, Ms. Inga requests an order suppressing all evidence, observations, and statements after her illegal seizure and arrest as being in violation of the Fourth and Fourteenth Amendments of the United States Constitution, and Article II, §§ 7 and 25 of the Colorado Constitution.

DOUGLAS K. WILSON

COLORADO STATE PUBLIC DEFENDER

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| /s/ Katie Telfer\_ Katie Telfer, #41720  Deputy State Public Defenders Dated: October 3 2017 | **Certificate of Service**  I hereby certify that on October 3, 2017, I served the foregoing document through ICCES to opposing counsel of record.  /s/ Katie Telfer |