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| District Court, Adams County, Colorado  Court Address: 1100 Judicial Center Drive DAT  Brighton, CO 80601 FILI | E FILED: November 5, 2017 8:43 PM G ID: C4083951718FA  SE NUMBER: 2017CR2641   * COURT USE ONLY  |
| CA  THE PEOPLE OF THE STATE OF COLORADO,  Plaintiff, v.  MISHA LAMANNA,  Defendant. |
| Douglas K. Wilson, Colorado State Public Defender Reid Rowe #43612  Deputy Public Defender  Brighton Regional Public Defenders  4710 East Bromley Lane, Brighton CO 80601  Phone: (303) 659-4274 Fax: (303) 659-6935  E-m[ail: brighton.defenders@state.co.us](mailto:brighton.defenders@state.co.us) | Case No.17CR2641  Division E |
| **MOTION TO SUPPRESS EVIDENCE AND STATEMENTS RESULTING FROM AN ILLEGAL INVESTIGATORY STOP AND ARREST** | |

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Misha Lamanna, by and through counsel, respectfully requests this Court issue an Order suppressing all evidence, observations, and statements obtained from an unlawful investigatory stop and to preclude the use of this evidence by the prosecution at trial. Mr. Lamanna asserts: this motion:

1. The Fourth Amendment to the United States Constitution and Article II, Section 7 of the Colorado Constitution guarantee our citizens to be secure against unreasonable seizures by law enforcement authorities.
2. An investigatory stop is permitted where an officer, lacking probable cause to arrest, reasonably suspects a citizen is committing, has committed, or is about to commit a crime. The officer may require the citizen to provide identification and an explanation of the citizen’s actions. *See Terry v. Ohio*, 392 U.S. 1 (1968); *Stone v. People*, 485 P.2d 495 (1971).
3. Colorado requires three conditions to be satisfied in order justify an investigatory stop of a citizen by a police officer:
   1. the officer must have an articulable and specific basis in fact for suspecting criminal activity; there must be some objective manifestation, under the totality of the circumstances, the citizen was, is, or is about to be engaged in some type of criminal activity, *see Outlaw v. People*, 17 P.3d 150 (Colo.2001);
   2. the purpose of the stop must be reasonable, *see People v. Bell*, 698 P.2d 269 (Colo.1985); and
   3. the character and scope of the stop must be reasonably related to its purpose, *see People v. Rodriguez*, 945 P.2d 1351 (Colo.1997).
4. Any greater intrusion or detention of the citizen will amount to an arrest that must then be supported by probable cause*. See People v. Davis*, 903 P.2d 1 (Colo.1995).
5. In determining whether or not a valid investigatory stop has become an arrest the Court must assess the totality of the circumstances. Important factors the Court should consider are:
   1. the length of the detention;
   2. whether the officer diligently pursued the investigation;
   3. whether the citizen was moved from one location to another; and
   4. whether there was an alternative, less intrusive means available and whether the officer unreasonably failed to utilize them. *See People v. Rodriguez*, 945 P.2d 1351 (Colo.1997).
6. Misha Lamanna was at a gas station when approached by law enforcement in this case. He was committing no crime.
7. The officer’s stop of Mr. Lamanna amounted to no more than an unarticulated hunch, a fishing expedition in which Mr. Lamanna was not suspected of so much as a traffic violation. The detention and intrusion were insufficient to support a finding of reasonable suspicion for an investigatory stop. *See United States v. Arvizuu*, 534 U.S. 266 (2002); *People v. Coca*, 829 P.2d 385 (Colo.1992).
8. Even if this Court finds that the interaction between the officers and Mr. Lamanna was a valid investigatory encounter, the detention quickly amounted to an invalid arrest, unsupported by probable cause.
9. Due to the fact that the stop and subsequent arrest of was not supported by reasonable suspicion nor probable cause, Mr. Lamanna moves for the suppression of all statements, evidence, and observations as fruits of an illegal stop and arrest, and were unconstitutionally obtained in violation of the United States and Colorado Constitutions. *Wong Sun v. U.S.*, 371 U.S. 471 (1962).

WHEREFORE, Misha Lamanna respectfully requests this Court grant this motion and issue an Order to suppress all evidence, observations, and statements obtained as a result of his unlawful detention and to preclude the prosecution from introducing any of the evidence at trial. Mr.

Lamanna requests that this Court conduct a hearing on this matter.

Respectfully Submitted,

DOUGLAS K. WILSON,

COLORADO STATE PUBLIC DEFENDER

/s/ Reid Rowe

Reid Rowe, No. 43612 Deputy State Public Defender 4710 East Bromley Lane,

Brighton CO 80601

(303) 659-4274

Dated: November 5, 2017

**Certificate of Service**

I hereby certify that on 11/5/17, I served the foregoing document electronically on opposing counsel.

/s/ Reid Rowe