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| District Court, Adams County, Colorado Court Address: 1100 Judicial Center Drive  Brighton, CO, 80601 DAT | E FILED: November 5, 2017 8:41 PM NG ID: F0014F56F912B  SE NUMBER: 2017CR2641   * COURT USE ONLY  |
| THE PEOPLE OF THE STATE OF COLORADO, FILI  Plaintiff, CA  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 STATEMENTS** | |

Mr. Lamanna moves to suppress any supposed evidence in this or any other proceeding any and all statements alleged to have been made by him, to law enforcement officers or their agents and to suppress all evidence obtained as a fruit of the statements uttered by him. As grounds, he asserts:

1. Law enforcement engaged in nonconsensual contact with Mr. Lamanna, and began questioning him. The questioning occurred both before and after his formal arrest.
2. None of the statements he allegedly made were voluntary, and all were made while he was, to his knowledge, in custody or otherwise not free to leave, and made in response to questions likely to elicit an incriminating response.
3. Once a suspect is in custody, police must not interrogate him until they have provided him with an advisement pursuant to Miranda v. Arizona, 384 U.S. 436 (1966), and obtained a knowing, intelligent, and voluntary waiver of those rights by the suspect. People v. Hopkins, 774 P.2d 849 (Colo. 1989).
4. If the Miranda requirements are not complied with, the suspect’s statements must be suppressed at trial. Oregon v. Elstad, 470 U.S. 298 (1985); People v. Viduya, 703 P.2d 1281 (Colo. 1985); U.S. Const. amends. V, XIV; Colo. Const., art. II sec. 25.
5. Interrogation occurs when there is “express questioning or the functional equivalent” meaning the words or actions of police “are reasonably likely to elicit an incriminating response from the suspect.” Rhode Island v. Ellis, 446 U.S. 291, 300-301 (1980); People v. Garcia, 784 P.2d 788, 790 (Colo. 1990).
6. An objective test is used to determine whether a suspect is in custody. The court is to determine “whether a reasonable person in the suspect’s position would have considered himself deprived of his freedom of action in a significant way.” People v. Hamilton, 831 P.2d 1236 (Colo. 1992). Relevant criteria include the time, place and purpose of the encounter with the suspect, as well as the words and demeanor of the officer and the suspect’s response to directions provided by the police. People v. LaFrankie, 858 P.2d 702 (Colo. 1993); People v. Milhollin, 751 P.2d 43, 49 (Colo. 1988).

Wherefore, Mr. Lamanna moves to suppress all statements illegally obtained under the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Article II of the Colorado Constitution, the Colorado Revised Statutes, and the Colorado Rules of Criminal Procedure.

DOUGLAS K. WILSON,

COLORADO STATE PUBLIC DEFENDER

/s/Reid Rowe

Reid Rowe #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 via ICCES on opposing counsel.

/s/Reid Rowe