



**IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA**

**STATE OF ALABAMA,**

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**vs.**

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**Case No.: CC17-5256  
(Murder)**

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**TRENTEON KING,**

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**Defendant.**

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**STATE’S RESPONSE TO DEFENDANT’S MOTION TO SUPPRESS EVIDENCE**

**COMES NOW** the State of Alabama, by and through the undersigned Assistant District Attorney, and move this Honorable Court to deny the Defendant’s “Motion to Suppress Evidence” filed on August 26, 2019. In support of its position, the State would submit the following:

- 1.) Rule 3.10, Alabama Rules of Criminal Procedure, requires that a search warrant be directed to and served by a law enforcement officer. There is no doubt that both of these requirements were met in this case. The Court is not confronted with a case involving an unlawful warrant or an unlawful person executing the warrant.
- 2.) Rather, the Defendant moves this Court to suppress evidence obtained by law enforcement pursuant to a search warrant due to the mere technicality that the warrant was directed to the “Sheriff of Mobile County” but was executed by Mobile Police Department Officers.
- 3.) The search warrant at issue was applied for by Mobile Police Department Homicide Detective Jeff Booth, under the direction of Detective Nick Crepeau, to search the Defendant’s residence for a weapon used in a homicide.
- 4.) The homicide at issue occurred shortly after midnight on October 2, 2016. The search warrant was obtained at approximately 8:45 a.m. that same day based on sufficient probable cause.
- 5.) When the Defendant’s residence at 1458 B Kellog Street was searched pursuant to the warrant issued, a pistol was found that connects the Defendant to the scene of the homicide.
- 6.) In support of his motion to suppress this evidence, the Defendant relies on the decision of Anderson v. State, 212 So. 3d 252 (Ala. Civ. App. 2016). However, that opinion is readily distinguishable from the case before the Court. In addition

to addressing a civil matter, in Anderson a municipal officer executed a warrant *outside* of his jurisdiction. Here, City of Mobile Police Officers executed a search warranted *within* the City of Mobile's police jurisdiction.

- 7.) The State would submit that technical issue raised by the Defendant does not warrant the application of the exclusionary rule. As an example, the State would cite to the Eleventh Circuit Court of Appeal's decision of United States v. Ofshe, 817 F.2d 1508 (11th Cir. 1987).
- 8.) In the Ofshe case, the search warrant at issue was directed, not to law enforcement officers at all, but to the United States District Judge himself. On appeal, Ofshe argued that the search warrant was invalid due to this error. The Eleventh Circuit disagreed, concluding that the "defect in the search warrant was a mere technicality and does not require this court to invalidate the warrant." U.S. v. Ofshe, *supra*, at 1514.
- 9.) As the warrant was clearly sought by municipal officers rather than the Sheriff, to apply the exclusionary rule to this case would be to punish law enforcement for a clerical error by the Judge issuing the search warrant. "[T]he exclusionary rule is designed to deter police misconduct rather than to punish the errors of judges and magistrates." United States v. Leon, 468 U.S. 897, 916 (1984)
- 10.) Alternatively, if not an error by the Judge, the application of the exclusionary rule would be result in punishing law enforcement for a technical error by police officers who are not expected to have the skills of an attorney. "In the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient." United States v. Leon, 468 U.S. 897, 921 (1984).
- 11.) The United States Supreme Court has instructed that "suppression of evidence obtained pursuant to a warrant should be ordered only on a case-by-case basis and only in those unusual cases in which exclusion will further the purposes of the exclusionary rule." United States v. Leon, 468 U.S. 897, 918 (1984). The State asserts that this is not one of those cases.
- 12.) Indeed, the United States Supreme Court has explicitly stated that "we refuse to rule that an officer is required to disbelieve a judge who has just advised him, by word and by action, that the warrant he possesses authorizes him to conduct the search he has requested." Massachusetts v. Sheppard, 468 U.S. 981, 989-90 (1984).
- 13.) The very issue before the Court was addressed by the Eleventh Circuit Court of Appeals in the United States v. Gilbert. "The Supreme Court has never directed, however, that we must suppress evidence obtained when a misdesignated state

officer executes a warrant.” U.S. v. Gilbert, 942 F.2d 1537, 1541 (11th Cir. 1991).

- 14.) In the Gilbert case, the Eleventh Circuit concluded that “we find no reason why we should hold the State Attorney's failure to designate Bounds or O'Neal on the search warrant to be an error of constitutional proportions. The state, after all, empowered both to make searches of this sort at this location, and would have permitted them to make *this* search if the State Attorney had drafted the warrant according to the state's requirements. More importantly, the error implicated none of the interests that the Fourth Amendment protects.” United States v. Gilbert, 942 F.2d 1537, 1541 (11th Cir. 1991).
- 15.) Based on the aforesaid authority, the State asserts that the technical error raised by the Defendant does not constitute a Fourth Amendment violation. In the absence of a Fourth Amendment violation, there is no legal basis to apply the exclusionary rule, and the Defendant’s motion is due to be denied. See Chandler v. State, 680 So. 2d 1018, 1026 (Ala. Crim. App. 1996)(Fourth Amendment exclusionary rule only applies to evidence that is found as a result of a violation of the Fourth Amendment.).

Wherefore, the State of Alabama would request this Court to rule on the Defendant’s motion in advance of any scheduled trial, and would further request that the Defendant’s motion to suppress be denied.

Respectfully Submitted,

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LARS T. GRANADE  
ASSISTANT DISTRICT ATTORNEY

Certificate of Service

I have served of copy of this document on the Defendant’s attorney of record, H. Chase Dearmon, by e-file, on this 29th day of August, 2019.

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LARS T. GRANADE  
ASSISTANT DISTRICT ATTORNEY