

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 07CRXXXXXX

STATE OF NORTH CAROLINA

vs.

XXXXXXXXXXXXXXXXXX

MOTION TO SUPPRESS

COMES NOW, Defendant, XXXXXXXXX, by and through her undersigned counsel and submits Defendant's Motion to Suppress and in support thereof states as follows:

On September 30, 2007, Officer Harris of the Fuquay Varina Police Department was conducting a roadside checkpoint on NC Highway 42. Officer Harris viewed the Defendant turn into a driveway as she was approaching the checkpoint. Officer Harris activated the blue lights on his vehicle and approached the Defendant. SFST's were administered and the Defendant was taken into custody for Driving While Impaired in violation of NC Gen. Stat. 20-17(a)(2).

Defendant respectfully requests that the Court issue its order suppressing all evidence obtained in this matter including, but not limited to the results of the field sobriety exercises and the results of the breath test as the Defendant was seized in violation of the Defendant's Fourth Amendment rights made applicable to the State through the Fourteenth Amendment of the United States Constitution. In support thereof, Defendant states that the innocent behavior of pulling into a driveway does not constitute reasonable suspicion within the totality of the circumstances to justify an investigatory stop. *See State v. Haislip*, 651 SE 2d 243, 246-47 (NC Ct. App. 2007) Additionally, the behavior does not constitute probable cause for a traffic stop. *See Whren v. United States*, 517 U.S. 806, 809-10(1996).

Wherefore, Defendant, XXXXXXXXX XXXXXXXX, respectfully requests this Honorable

Court grant Defendant's motion in its entirety and for such other and further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via hand delivery to the District Attorney this _____.

Respectfully submitted,

Michael A. Dye, Esq.