\*\*\*\*\*\*\*\*\*\*\*\*\*CASE CAPTION\*\*\*\*\*\*\*\*\*\*\*

IN THE COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND

FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA CASE NO.: xxxxxxxxxx

vs. JUDGE: The Hon. WILLIAM SMITH

JOE SMITH

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

**DEFENDANT’S MOTION TO SUPPRESS**

***\*\*\*\*\*\*\*\*\*\*\*\*\*PREAMBLE\*\*\*\*\*\*\*\*\*\*\****

COMES NOW, Defendant, JOE SMITH, by and through his undersigned counsel and pursuant to Rule 3.190(h), Fla. R. Crim. P., moves this Court to issue an order suppressing certain evidence that may be used in this case. The specific evidence sought to be suppressed is as follows:

***\*\*\*\*\*\*\*\*\*FIRST CATEGORY OF EVIDENCE SPECIFIC\*\*\*\*\*\*\*\****

1. Approximately 351.8 grams of marijuana described as a “large block of suspect cannabis” located in defendant’s rectum;

2. Three underage prostitutes of Asian origin handcuffed in closet;

3. Two dead bodies in trunk of 2003 Chevy Cavalier registered to Defendant.

***\*\*\*\*\*\*\*\*SECOND CATEGORY OF EVIDENCE GENERAL\*\*\*\*\*\*\****

4. All other physical evidence that the State plans to introduce at trial which was located in the course of the investigation;

5. All statements made by the Defendant subsequent to his being taken into custody;

***\*CONSTITUTIONAL OR OTHER GROUNDS FOR EXCLUSION\****

The grounds for this motion are that 1) all of the aforementioned physical evidence was illegally seized without a warrant by virtue of an unlawful search in violation of the Fourth Amendment of the United States Constitution made applicable to the State through the Fourteenth Amendment of the United States Constitution and Article I, Section XII of the Florida Constitution; and 2) All statements, including non-verbal testimonial actions, were obtained by virtue of an unlawful interrogation of the Defendant in violation of the Fifth Amendment of the United States Constitution made applicable to the State through the Fourteenth Amendment of the United States Constitution and Article I, Section IX of the Florida Constitution.

**FACTS OF THE CASE**

FIRST, DITCH THE NUMBERED PARAGRAPHS AND JUST TELL THE STORY. JUST THE FACTS. GET THESE FROM THE POLICE REPORTS, INTERVIEWS DEPOSITIONS ETC. DO NOT ARGUE LAW IN THIS SECTION, BUT BE AS PERSUASIVE AS POSSIBLE. CAST YOUR ARGUMENET IN THE BEST LIGHT.

**ARGUMENT**

AGAIN, DITCH THE NUMBERED PARAGRAPHS. GO THROUGH EACH PROPOSITION OF LAW WITH A DIFFERENT HEADING. THE FIRST SENTENCE UNDER EACH HEADING SHOULD BE BLACK LETTER LAW. SEE THE EXAMPLE BELOW

“An investigatory stop of a vehicle must be justified by a reasonable suspicion, based on objective facts, that the individual is involved in criminal activity.” *State v. Edwards*, 164 N.C.App. 130, 135, 595 S.E.2d 213, 217 (N.C. App. 2004) *citing State v. Watkins*, 337 N.C.App. 437, 441, 446 S.E.2d 67, 69-70 (1994); *see also State v. Blackstock*, 165 N.C.App. 50, 56, 598 S.E.2d 412, 416 (2004). The court is to consider the totality of the circumstances in making the determination as to whether the officer possessed a reasonable and articulable suspicion as to justify an investigatory stop. *See State v. Robinson*, 658 S.E.2d 501, 505 (2008) *citing State v. Watkins*, 337 N.C. 437, 441-42, 446 S.E.2d 67, 70 (1994); *see also U.S. v. Sokolow*, 490 U.S. 1, 7, 109 S.Ct. 1581, 104 L.Ed.2d 1, 10(1989). Factors to be considered by the court, *inter alia*, are factors such as (1) activity at an unusual hour; (2) nervousness of an individual; (3) an area’s disposition toward criminal activity; (4) unprovoked flight. It is important for the court to note that none of these factors, standing alone, is sufficient to justify an investigatory stop based upon reasonable suspicion. *See Blackstock* at 56, 598 S.E.2d 416. Once the purpose of an investigatory stop has been addressed, there must be grounds which provide a reasonable and articulable suspicion in order to justify a further delay. *See State v. Myles*, 654 S.E.2d 752, 754(2008). When conducting an investigatory stop, the officer must employ the least intrusive means reasonably available to verify or dispel the officer’s suspicion in a short period of time.  *See State v. Roberts*, 142 N.C.App. 424, 429, 524 S.E.2d 703, 707(2001) *citing Florida v. Royer*, 460 U.S. 491, 500, 103 S.Ct. 1319, 1325-26, 75 L.Ed.2d 229, 238(1983).

HOW THE LAW APPLIES TO THE FACTS SET FORTH IN THE FIRST SECTION

**CONCLUSION**

SIMPLY TELL THE COURT WHY YOU ARE RIGHT IN 1 OR 2 PARAGRAPHS

WHEREFORE, Defendant, JOE SMITH, respectfully requests this Honorable Court to issue an order finding that the stop, detention, and search by Officer Thompson was illegal and suppressing all of the aforementioned evidence.

**Certificate of Service**

I certify that a copy hereof has been furnished to the State's Attorney by hand delivery on August 4, 2008.