

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
CRIMINAL DIVISION**

**STATE OF OHIO**

**CASE NO. 2024CR03226**

**Plaintiff,**

**JUDGE DANKOF**

**V.**

**MOTION TO SUPPRESS EVIDENCE  
FROM WARRANTLESS SEARCH  
AUGUST AND OCTOBER 2001  
AND REQUEST FOR A HEARING**

**JONATHAN LINK**

**Defendant.**

Now comes Eric Link, by and through counsel, and respectfully moves this Court to suppress all evidence obtained because of the warrantless search of his residence (4516 Far Hills Avenue) on August 18, 2001, and October 10, 2001. This motion is made on the grounds that the searches violated Defendant's rights under the Fourth and Fourteenth Amendments to the United States Constitution, and Article 1, Section 14 of the Ohio Constitution, as the search was conducted without a valid warrant and without clear and convincing evidence of a voluntary consent.

Respectfully submitted;

/s/ Dennis A. Lieberman  
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Once a defendant demonstrates that a search was conducted without a warrant, the burden shifts to the State to show that the search falls within one of the narrowly drawn exceptions to the warrant requirement. *State v. Kesler*, 53 Ohio St.2d 204 (1978). One such exception is a search based upon consent.

A warrantless search is valid only if the consent was freely and voluntarily given. *United States v. Drayton*, 536 U.S. 194, 207 (2002); *Schneckloth v. Bustamonte*, 412 U.S. 218, 227 (1973). The State bears the burden of proving, by clear and convincing evidence, that consent was voluntary. *Bumper v. North Carolina*, 391 U.S. 543, 584 (1968); *State v. Jackson*, 110 Ohio App. 3d 137, 142 (6<sup>th</sup> Dist. 1996). Proof of voluntariness requires a demonstration that no coercion was used and that consent was not granted merely in submission to a claim of lawful authority. *Jackson*, supra, quoting *Schneckloth*, 412 U.S. at 233.

In contrast, where the record lacks clear evidence of voluntary consent, such as a signed consent form, the State has failed to meet its burden. See *State v. Walker*, 2016-Ohio-3185 (consent upheld where defendant not only allowed officers inside but later signed a written consent to search form).

1. On August 18, 2001, detectives conducted a purported “voluntary” search of Mr. Link’s residence, 4516 Far Hills Avenue.
2. No signed consent-to-search form has been produced in discovery.
3. On October 10, 2001, detectives again conducted a warrantless search, which was later referenced in the affidavit supporting a search warrant.

Once a defendant shows a search was warrantless, the burden shifts to the state to show it was permissible under one of the exceptions. One exception to the warrant requirement is consent, and a warrantless search based on consent is valid if the consent is voluntarily given.

The August and October 2001 search must be suppressed because the State has failed to meet its burden of proving voluntary consent. Furthermore, if the August search is suppressed, then in addition to other issues, the October search must be suppressed due to *Wong Sun v. United States* 371 US 471 (1963).

Lastly, as the Supreme Court held in *Bumper*, submission to a claim of authority does not equate to valid consent. Here, the absence of a signed form, the circumstances of questioning, and the officers' own acknowledgement of the need for formal consent all show that Mr. Link's alleged consent was not voluntary but mere acquiescence.

Even if the Court were to find Mr. Link consented to the searches, the consent was not voluntary. The State has failed to meet its burden of proving, by clear and convincing evidence, that any alleged consent was freely and voluntarily given. No testimony, signed form, or other evidence has been offered to establish voluntariness, and the mere assertion of consent by law enforcement is insufficient as a matter of law.

WHEREFORE, Mr. Link respectfully requests that this Court suppress all evidence obtained from the warrantless search of his residence, 4516 Far Hills Avenue, in August and October of 2001.

Respectfully submitted;

/s/ Dennis A. Lieberman

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**Certificate of Service**

I hereby certify that on this 15<sup>th</sup> day of September 2025 this document was electronically filed via the Court's authorized electronic filing system which will send notifications of this filing to all parties.

/s/ Dennis A. Lieberman

Dennis A. Lieberman (0029460)