

**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 SEARCHES
AUGUST AND OCTOBER 2001,
AND REQUEST FOR A HEARING**

JONATHAN LINK

Defendant.

Now comes Jonathan Link, by and through counsel, and respectfully moves this Court to suppress all evidence obtained because of the warrantless searches of his residence (4516 Far Hills Avenue) and vehicle on August 18, 2001, and October 10, 2001, including any statements made. 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 searches were conducted without a valid warrant and without clear and convincing evidence of a voluntary consent.

Respectfully submitted;

/s/ Dennis A. Lieberman

Dennis A. Lieberman (0029460)
Flanagan, Lieberman & Rambo
10 North Ludlow Street, Suite 200
Dayton, Ohio 45402
937-223-5200
937-223-3335 Facsimile
lieberman@flrlegal.com

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. Kessler*, 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 (6th 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, the State has failed to meet its burden. *State v. Walker*, 2016-Ohio-3185.

1. On August 18, 2001, detectives conducted a purported “voluntary” search of Defendant’s residence, 4516 Far Hills Avenue.
2. 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).

WHEREFORE, Mr. Link respectfully requests that this court suppress all evidence obtained from the warrantless searches of his residence at 4516 Far Hills Avenue and vehicle on August 18, 2001, and October 10, 2001, including any statements made.

Respectfully submitted;

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lieberman@flrlegal.com

Certificate of Service

I hereby certify that on this 25th 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)