

Motions to Suppress

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N.C.G.S. 15A-971 et seq.

- Violation of the U.S. or N.C. Constitutions
- Substantial violation of statutory rights
 - Extent of deviation from law
 - Willfulness of conduct
 - Importance of deterrence
 - Importance of the interest

Even considering all these factors, no suppression if officer acted under objectively reasonable good faith belief in lawfulness of actions (but only under statute or 4th amendment, arguably not under NC constitution)

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Requirements

Be in writing

Be served on the State

State factual grounds, not legal conclusions

Be supported by affidavit (counsel OK)

Summary dismissal if not met, in your discretion

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Timing

- Misdemeanors, before trial
- Felonies, before trial, unless,
 - No reasonable opportunity
 - You allow, in exercise of discretion
 - No 20 days notice by State of
 - Defendant's statement
 - Search without defendant's presence
 - Warrantless search
 - Providing in Discovery is not notice

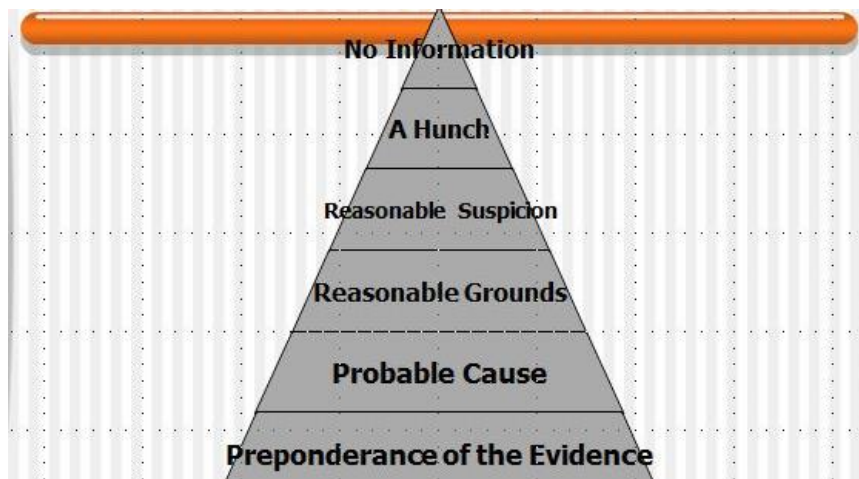
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Hearing

- No jury panel
- Motion in proper order, B/P on State
- R. Evid. don't apply, except privilege
- Make State go first
- Def. not subject to cross on other facts
- Grant the motion even if conceded
- Treat it like a trial, no defense evidence, state can open and close
- Rule if at all possible, save notes, who prepares?

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Terry v. Ohio



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Nervousness

- Everyone gets a little nervous
- State v. Canty 224 NCAApp 514 (2012)
- State v. Phifer 226 NCAApp 359 (2013)



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Extended Stops

- Rodriguez v. U.S. 135 S.Ct. 1609 (2015)
- State v. Heien 226 NCAApp 280 (2013), aff'd 367 NC 163 (2013)
- State v. Bullock 370 NC 256 (2017)
- State v. Reed 373 NC 498 (2020)



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Speeding

- Visual estimate ok
- 5 mph over the limit may be “within normal range of driving behavior”
- Below the limit alone- 20-141 (h)- probably not enough, unless other traffic affected, or below minimum posted speed



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Turn Signal

- 20-154 (c)- shall signal when the operation of another vehicle affected
- State v. Heien 737 S.E.2d 351 (NCSC 2012), modified Heien v. N.C. 135 S.Ct. 530 (2014)
- State v. Eldridge 790 S.E.2d 740 (2016)



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Stop Light

- Compare Roberson 163 NCAApp 129 with Barnard 362 NC 244 (10 seconds v. 30 seconds)
- Don't sit too long, too late at night, near too many bars.



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Bars/High Crime

- Bars alone, and high crime alone, not enough.
- State v. Sutton 232 NCAApp 667 (2014)



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Weaving

- Weaving “plus”
- 20-146(d)(1)- motorist shall not move from lane of travel unless movement made in safety.
- S v. Fields 195 NCApp 740 (2009)
- S. v. Fields 723 SE2d 777 (2012)



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Anonymous Tips

- Florida v. JL 529 US 266 (2000)
- Alabama v. White 496 US 325 (1990)
- Navarette v. California 134 SCt 1683 (2014)
- State v. Harwood 221 NCApp 451 (2012)
- State v. Walker (CoA 10/3/17)



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Search after Stop

- order in, order out
- questions not custodial
- reas. sus.- armed and dangerous. *Ariz v. Johnson*
- run tags and warrants
- plain sight and smell
- drug dogs ok, if within the mission of the stop (*Rodriquez*), or if reasonable suspicion justifies extension.

