

DISTRICT COURT, _____ COUNTY, COLORADO Court Address: Phone Number:	
People of the State of Colorado vs. Defendant: [defendant's name]	COURT USE ONLY
Attorney for Defendant	Case Number:
MOTION TO SUPPRESS SEARCH WARRANT	

COMES NOW Defendant, a person aggrieved by an unlawful search and seizure, by and through the undersigned attorney, moves to suppress all physical evidence seized by police on or about [date] from the premises known as [address] and any additional physical evidence, statements, or other incriminating evidenced obtained as a result thereof.

Defendant asserts that the search conducted by the police was unlawful because there was no probable cause to justify issuance of the search warrant; the Affidavit underlying the search warrant contains falsehoods and material omissions known to be such by the Affiant at the time and the Affiant signs the supporting affidavit. [List other reasons depending on the nature of the search, for example if the search was conducted without a warrant incident to an arrest, it may have been illegal.]

In support, Defendant states:

1. On [date] law enforcement officers from the [identify police agency] pursuant to a search warrant searched the premises known as [address] and seized property and marijuana which form the basis of this prosecution. Attached is a copy of the search warrant and the supporting affidavit. The premises searched was the Defendant's residence. As such, the Defendant had a reasonable expectation of privacy with respect to the premises and its contents therein. *Rakas v. Illinois*, 439 U.S. 128, 99 S.Ct. 421, 58 L.Ed. 2d 387 (1978); *People v. Juarez*, 770 P.2d 1286 (Colo. 1989).

2. The search warrant is insufficient on its face. *Illinois v. Gates*, 462 U.S. 213 103 SCT 2317 76 Led 2d 527 (1983); *People v. Panabaker*, 714 P.2d 904 (Colo. 1986); *People v. Padilla*, 511 P.2d 480 (1973). The police obtained this warrant by misleading the issuing magistrate. The police inserted false information and otherwise

made intentional and material alterations in the affidavit with intent to deceive and mislead the issuing magistrate. The officer affiant knew these alterations were false and otherwise made them with the reckless disregard of the truth. Without these insertions, the informant appears less credible. The Court should strike false statements, omissions or misleading statements from the affidavit. *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed. 2d 667 (1978); *People v. Winden*, 689 P.2d 578 (Colo. 1984).

3. Misrepresentations are as follows:

A. [Describe any falsehoods in the affidavit. For example, if the officers claimed that they could smell marijuana outside the home, but the vents in the house were configured in such a way to make smelling the marijuana impossible, so state.]

4. If the search was without a warrant, the product of a defective warrant, or incident to an arrest for another crime, list reasons why the search was illegal, such as:

(a) An arrest must be based on probable cause to believe that the person arrested has committed a crime. *See People v. Tate*, 657 P.2d 955, 958 (Colo. 1983). If the initial arrest of the accused was not based on probable cause that a crime was being committed, any resulting evidence from that arrest is rendered inadmissible. *See Wong Sun v. United States*, 371 U.S. 471 (1963). For probable cause to exist, there must be an articulable and specific basis in fact for suspecting (i.e., a reasonable suspicion) that criminal activity has taken place, is in progress, or is about to occur. *People v. Salazar*, 964 P.2d 502 (Colo. 1998).

(b) If a search warrant contains information that is either intentionally false or in reckless disregard of the truth, a trial court must strike the false or misleading information from the affidavit and then determine whether the remaining statements establish probable cause. *See, e.g., People v. Kazmierski*, 25 P.3d 1207, 1210 (Colo.2001).

5. Defendant requests a hearing on this matter. *People v. Dailey*, 639 P.2d 1068 (Colo. 1982).

6. For these reasons and otherwise as will be shown at the hearing, the search and seizure violated C.R.S. §16-3-101 et sec, Crim. P41; Article 2, §7, 10 and 25 of the Colorado Constitution; and the 4th and 14th Amendments of the United States Constitution.

Respectfully submitted this _____ day of _____, 200__.

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 200_, I hand delivered and/or mailed a true and correct copy of the foregoing *Motion to Suppress Search Warrant*, postage prepaid in the United States Mail, to the following:

District Attorney

DISTRICT COURT, _____ COUNTY, COLORADO Court Address: Phone Number:	COURT USE ONLY
People of the State of Colorado vs. Defendant: [defendant's name]	
	Case Number:
ORDER TO SUPPRESS SEARCH WARRANT	

THIS MATTER comes before the Court on Defendant's Motion to Suppress Search Warrant. The Court, being fully apprised and for good cause shown, is of the opinion that the following order should enter.

IT IS ORDERED that Defendant's motion is granted. The Court moves to suppress all physical evidence seized by police on or about [date] from the premises known as [address] and any additional physical evidence, statements, or other incriminating evidenced obtained as a result thereof.

DONE AND ORDERED this _____ day of _____, 200_

BY THE COURT:

District Court Judge