

STATE OF WISCONSIN

CIRCUIT COURT

\_\_\_\_\_ COUNTY

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STATE OF WISCONSIN,  
Plaintiff,

vs.

File No. \_\_\_\_\_

(NAME CLIENT),

Defendant.

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**MOTION TO SUPPRESS STATEMENTS: MIRANDA/GOODCHILD**

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TO: DISTRICT ATTORNEY  
\_\_\_\_\_ COUNTY, WI

NOTICE IS HEREBY GIVEN that on the \_\_\_\_\_, the defendant, (name client) by counsels, \_\_\_\_\_, will, and hereby does, move the Court for an order suppressing for use as evidence at trial all statements allegedly made by him to law enforcement officials and all leads and other evidence derived there from;

ON THE GROUNDS THAT the statements allegedly given by the defendant were taken in violation of his Miranda Rights, were involuntary and were the result of an unlawful arrest

1. (Name Client) was arrested by police at approximately 1:00 am on \_\_\_\_\_. He was found unconscious near a home in a wooded area after a car accident which occurred after he allegedly eluded the police, drove off road and lost control of his car. Mr. Client had obvious signs of physical injury. Police also had reason to suspect that he was under the influence of methamphetamine as police had been told by a witness that Mr. Client smoked methamphetamine the evening before the arrest.
2. Notwithstanding the fact that Mr. Client had been in a car accident and was under the influence of methamphetamine, after police arrested him they took him to the police station for interrogation and did not first take him to be medically cleared.
3. Mr. Client was placed in an interrogation room and requested water. The officer who sat with him denied the request and informed him he could not be provided water until the officers who were coming to question him arrived (1:5-6). A period of close to 20 minutes went by until that occurred.
4. When the interrogating officers made contact with Mr. Client prior to reading him Miranda warnings, they informed him that because he was in custody they would have to read him his rights and asked if he understood what they were saying. Mr Client

responded by stating “A little bit”. Police repeated the questions stating, “A little bit? Well you can understand me right?” and Mr. Client responded only with an “Uh hmm”. No attempt was made by officers to determine what it was Mr. Client could and could not understand. (1:16-19).

5. After Miranda rights were read in a perfunctory manner with no attempt to determine if Mr. Client understood each individual right, the officer asked, “do you understand because I read them to you?” Mr. Client responded, “yup” twice, but no further effort was made to see what exactly Mr. Client did or did not understand given his medical condition. (1:22-3:5).
7. The detective noticed that Mr. Client appeared to be falling asleep as the Miranda warnings were read and the waiver was obtained.(2:5) When the detective inquired whether or not Mr. Client was willing to waive his rights, Mr. Client stated he didn’t know and it depends and told police that he “didn’t feel well”. (2:12). The detectives did not uncuff Mr. Client or provide him with water he’d requested until after he verbally agreed to waive his rights. Mr. Client denied the need for medical attention and an ambulance but no attempt was made to do a mental or physical status check to in fact see if Mr. Client was able to freely, voluntarily and intelligently waive his rights. Later in the interrogation (at about 75 minutes on the attached tape), when police finally asked Mr. Client questions about what happened after the car crash, he informed them that he was dizzy and wobbly from the impact of the crash, then walked, kneeled and lay down. (32:26-28). Police then again asked if Mr. Client needed medical attention and Mr. Client told them he thought so, he might and that his arm and shoulder hurt. (32:31).
8. Early in the interrogation, Mr. Client told police that he was high and drunk the night before and he didn’t recall how he came to be in the woods. Police made no attempt to determine whether or not he was still under the influence during the questioning. (beginning at 4:13).
9. The questioning was conducted in a leading and coercive manner inasmuch as the detective repeatedly told Mr. Client that he knew what happened, that they had talked to a witness and already knew the truth and tried to impost their version of the facts on him. Several times the detective tried to get Mr. Client to admit to conduct that had not occurred and did not appear to have any genuine interest in Mr. Client’s version of what occurred.
10. Even when Mr. Client asked for medical attention (beginning at 1:17:45 on the tape, 33:1) police did not stop the interrogation and continued their questioning until the paramedics arrived.
11. As Mr. Client became more awake and aware as the interrogation progressed and had a better sense that he could assert his rights, he declined to provide a written statement or permit a search of his phone or a buccal swab.
12. The statements obtained by the detectives in the interrogations were taken in violation of the defendant’s rights pursuant to the Fifth, Sixth and Fourteenth Amendments of the United States Constitution, corresponding sections of the Wisconsin State Constitution and *Miranda v. Arizona*, 380 U.S. 436 (1966). The state has the burden of proving by

the greater weight of the credible evidence that police complied with the Miranda decision and that any waiver by Mr. Client was both voluntary and made knowingly and intelligently. *Colorado v. Spring*, 479 U.S. 564 (1987); *State v. Lee*, 175 Wis.2d 348 (Ct. App. 1993).

13. The statements allegedly made by Mr. Client were the product of coercion and overbearing inquisitorial techniques and were not made voluntarily. *State ex rel. Goodchild v. Burke*, 27 Wis.2d 244 (1965); *Grennier v. State*, 70 Wis.2d 204 (1975). Promises of leniency in exchange for cooperation can render a confession involuntary. *State v. Clappes*, 136 Wis.2d 222 (1987). Statements are not necessarily voluntary because a warning about *Miranda* rights has been administered and waived. The totality of the circumstances must be evaluated. *Arkebauer v. Kiley*, 985 F.2d 1351 (7<sup>th</sup> Cir. 1993).
  
14. Mr. Client has a limited education and a history of drug abuse. Limited education (8<sup>th</sup> grade) and a low IQ of 84 (not so low as to be borderline) are reasons for an individual's susceptibility to police pressure. *State v. Jerrell C.J.*, 283 Wis.2d 145 (2005). Egregious police conduct is not necessary for a finding of involuntariness and certain subtle pressures that are not coercive for an ordinary person could be considered coercive for a person who is suffering from mental difficulties. *State v. Hoppe*, 261 Wis.2d 294(2003). The greater the vulnerability of the defendant, the more easily the defendant may be coerced by subtle means. *Id.* The interrogation was conducted in such a manner that police conveyed their impression that Mr. Client was guilty and were not genuinely interested in what he had to say, thus it was conducted in a coercive manner. Mr. Client was questioned after it was clear that he had been in a car accident, lost consciousness, appeared sleepy, was known to have been under the influence of methamphetamine. Mr. Client gave some indication he didn't fully comprehend what the police were talking to him about and the police failed to make an adequate determination of whether or not he understood what was doing when he waived his rights.

FURTHER, Mr. Client requests an evidentiary hearing where the state must prove the lawfulness of the arrest and the admissibility of his statements.

THIS MOTION is made subject to jurisdictional objections.

Dated at \_\_\_\_\_, Wisconsin, this \_\_\_\_\_.

Respectfully submitted

\_\_\_\_\_  
NAME ATTORNEY  
State Bar No \_\_\_\_\_  
Attorney for Mr. Client

P.O. Address: