

**State of Wisconsin:**

**Circuit Court:**

**Milwaukee County**

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State of Wisconsin,

Plaintiff,

v.

Case No. 2012CF00XXXX

John Doe,

Defendant.

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**Motion to Suppress Evidence Seized During Illegal Strip-Search**

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**Please take notice** that on the 20th day of June, 2012, at 1:30 p.m., or as soon thereafter as counsel may be heard, the above-named defendant, by his attorney, Jeffrey W. Jensen, will appear before that branch of the Milwaukee County Circuit Court presided over by the Hon. Michael Goulee, and will then and there move the court to suppress all evidence seized as a result of the illegal strip-search of the defendant.

This motion is further based upon the attached Memorandum of Law.

Dated at Milwaukee, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2012

Law Offices of Jeffrey W. Jensen  
Attorneys for the Defendant

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State of Wisconsin,

Plaintiff,

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**Memorandum of Law in Support of Motion to Suppress (Illegal Strip-Search)**

**Background**

The defendant, John Doe (hereinafter “Doe”) is charged with possession of cocaine with intent to deliver. The complaint alleged that on March 23, 2012, Doe was the driver of a vehicle that was stopped by police for a suspended registration violation. James Public was a passenger in the car. Almost immediately, both Doe and Public were removed from the vehicle and searched. The police found no contraband during this initial search. Nonetheless, each man was placed in the back of a squad car. The police claim that they found a baggie of cocaine on the floorboards of the squad car where Public had been seated. Doe, on the other hand, was taken to a police station where he was strip-searched. The police claim that they found a quantity of cocaine in the area of Doe’s scrotum.

The police reports establish why the police were so aggressive during the course of what was alleged in the complaint to be a routine traffic stop. In reality, at the time Doe’s vehicle was stopped, the officers were involved in an investigation that allegedly included a call made by a confidential informant to James Public, during which the informant allegedly spoke to Public about his cocaine dealing.#. According to the police reports, the informant told police that “Roni” (Public) and “Box” (Doe)# dealt half-ounce to one ounce quantities of cocaine. Additionally, the informant told police that Ronnie

and Box would be delivering a large quantity of cocaine to a nearby Pick-n-Save parking lot.

Doe's vehicle was stopped by the police as alleged in the complaint. After Doe and Public were searched, and the police found nothing, they consulted the informant again. The informant claimed that Doe will concealed drugs in his arm-pits or in his buttocks.

Thereafter, Doe was taken to the police station and strip-searched. The report of the strip search alleges that the officer found cocaine in between Doe's buttocks cheeks (otherwise known as a "body cavity") Additionally, the officer claims to have found an additional quantity of cocaine in between Doe's "anus and his scrotum sack."

## Argument

### **I. This was an illegal strip search and, therefore, the court must suppress all evidence seized as a result of the search.**

The authority of police officers to conduct strip-searches is strictly governed by statute. Sec. 968.255, Stats., provides:

#### **968.255 Strip searches.**

(1) In this section:

(a) "Detained" means any of the following:

1. Arrested for any felony.
2. Arrested for any misdemeanor under s. 167.30 (1), 940.19, 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61
3. Taken into custody under s. 938.19 and there are reasonable grounds to believe the juvenile has committed an act which if committed by an adult would be covered under subd. 1. or 2.
4. Arrested for any misdemeanor not specified in subd. 2., any other violation of state law punishable by forfeiture or any local ordinance if there is probable cause to believe the person is concealing a weapon or a thing which may constitute evidence of the offense for which he or she is detained.

(b) "Strip search" means a search in which a detained persons genitals, pubic area, buttock or anus, or a detained female persons breast, is uncovered and either is exposed to view or is touched by a person conducting the search.

(2) No person may be the subject of a strip search unless he or she is a detained person and if:

(a) The person conducting the search is of the same sex as the person detained, unless the search is a body cavity search conducted under sub. (3);

(b) The detained person is not exposed to the view of any person not conducting the

search;

(c) The search is not reproduced through a visual or sound recording;

(d) **A person conducting the search has obtained the prior written permission of the chief, sheriff or law enforcement administrator of the jurisdiction where the person is detained**, or his or her designee, unless there is probable cause to believe that the detained person is concealing a weapon; and

(e) A person conducting the search prepares a report identifying the person detained, all persons conducting the search, the time, date and place of the search and the written authorization required by par. (d), and **provides a copy of the report to the person detained.**

(3) **No person other than a physician, physician assistant or registered nurse licensed to practice in this state may conduct a body cavity search.**

Here, at the time that Doe arrived at the police station, he was not under arrest for a felony, nor for any of the enumerated misdemeanors; and there was no probable cause to arrest him for any of these charges. Rather, according to the police reports, he was under arrest for an improperly displayed registration tag on his vehicle.

The police reports contain no copy of any written authorization to conduct a strip search, much less was a copy of any such authorization ever turned over to Doe.

Finally, and probably most disturbingly, the cocaine was alleged to have been found in a body cavity (i.e. in between Doe's buttocks cheeks, and between his anus and "scrotum sack."); and there is no evidence that the person conducting the search is a doctor.

## Conclusion

For these reasons, it is respectfully requested that the court suppress all evidence seized as a result of the illegal strip search of the defendant.

Dated at Milwaukee, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2012

Law Offices of Jeffrey W. Jensen  
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