

IN THE COUNTY COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO.: [REDACTED]

DIVISION: [REDACTED]

VS.

[REDACTED]
Defendant.

Defendant's Motion in *limine* to Exclude Refusal of Field Sobriety Exercises

Pursuant to Rule 3.190, Fla.R.Crim. P., and [Fla. Stat. Ann. § 316.066\(4\) \(West\)](#)., Defendant moves this Court to exclude his refusal to conduct field sobriety exercises and in support states:

Refusal of Field Sobriety Exercises is Inadmissible

When a subject of a DUI investigation is asked to perform Field Sobriety Exercises and refuses, the officer should warn the subject that failure to do the exercises will force a decision to arrest to be made on only the observations made up to the point of that refusal. Based upon the 707 contained in the court docket, no mention is made to [REDACTED] whatsoever regarding potential consequences of refusal. *See State v. Sonsini*, 7 Fla. L. Weekly Supp. 644a (Fla. 17th Cir. Ct. 2000) (Finding that defendant's refusal to submit to field sobriety test was not admissible where testimony of officer clearly reflected that he only asked defendant if he wished to submit to voluntary sobriety testing with no indication that there might be adverse consequences if defendant refused); *Menna v. State*, 846 So. 2d 502 (Fla. 2003); *Herring v. State*, 501 So. 2d 19 (Fla. 3d DCA 1987); *State v. Conn*, 25 Fla. L. Weekly Supp. 1022a (Fla. 7th Cir. Ct. 2017). As such, any evidence of [REDACTED] refusing to submit to field sobriety exercises should be excluded.

WHEREFORE, based on these grounds and others to be argued *ore tenus* defendant requests this Court exclude his refusal to conduct Field Sobriety Exercises.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been furnished by electronic service via the Florida Courts E-Filing Portal, in accordance with Administrative Order No. AOSC13-49, to the Office of the State Attorney, eservicevolusia@sao7.org this 18th day of November, 2019.

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