

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 Horizontal Gaze Nystagmus Exercise ("HGN")

Pursuant to §§ 90.403, 90.702, Fla. Stats. (2019), defendant, [REDACTED] moves this Court to suppress all tangible and intangible evidence of the results of or determinations made from the HGN exercise as set forth herein and in support states:

1. During the course of the criminal investigation, law enforcement conducted the HGN exercise on the defendant and determined the results of this exercise showed the defendant's blood alcohol content was in excess of the legal limit or otherwise indicative of impairment.
2. Examination of the officer will reveal he/she is not a Drug Recognition Expert, otherwise not properly trained to conduct HGN "tests" and unaware of the physical, scientific and medical rationale behind HGN and thus unable to explain HGN to a jury. For these reasons and others to be developed through *voire dire* of the Officer, he/she does not meet the requisites set forth in *Williams v. State*, 710 So. 2d 24 (Fla. 3rd DCA 1998).

Wherefore, on these grounds and others to be argued *ore tenus*, defendant respectfully requests this Court enter an Order excluding any and all tangible or intangible evidence of the HGN exercise and instructing the Officer to refrain from commenting on the same in the presence of the jury and granting any other relief this Court deems necessary and just.

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 20th day of November, 2019.

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