

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 Privileged Statements**

Pursuant to Rule 3.190, Fla.R.Crim. P., and [Fla. Stat. Ann. § 316.066\(4\) \(West\)](#)., Defendant moves this Court to exclude all privileged statements and in support states:

**Statements inadmissible under the Accident Report Privilege**

Any and all statements made by the Defendant (and any party to) in connection with the accident investigation are inadmissible under Florida's Accident Report Privilege codified in Section 316.066(4) which provides that "each crash report made by a person involved in a crash and any statement made by such person to a law enforcement officer for the purpose of completing a crash report required by this section shall be without prejudice to the individual so reporting. **No such report or statement shall be used as evidence in any trial, civil or criminal**" (emphasis added) [Fla. Stat. Ann. § 316.066\(4\) \(West\)](#). Florida law is clear that the accident report privilege makes a defendant's statements inadmissible unless there is an "express statement by the law enforcement official to the defendant that 'this is now a criminal investigation', followed immediately by Miranda warnings." [State v. Norstrom, 613 So. 2d 437, 440-441 \(Fla. 1993\)](#). Such an express statement was not made in Defendant's case until well into the investigation.

Further, because the defendant was compelled to provide information, the immunity provided by [Fla. Stat. Ann. § 316.066\(4\)](#) is equivalent to that required by the Fifth Amendment and so the accident report privilege must "be read as having barred law enforcement from making any use of statements compelled from [the defendant], a part of its accident investigation, that would violate [the defendant's] privilege against self-incrimination. ... [the Court cannot] legally rel[y] upon [the defendant's] compelled statement to [the officer] as part of [the officer's] probable cause determination" [State v. Cino, 931 So. 2d 164, 169 \(Fla. Dist.](#)

[Ct. App. 2006](#)). See also *State v. Harding*, 16 Fla.L.Weekly Supp. 662c (Fla. 7<sup>th</sup> Jud. Cir. 2009) and *State v. Harris*, 16 Fla.L.Weekly Supp. 1063a. (Fla. 7<sup>th</sup> Jud. Cir. 2009)

WHEREFORE, based on these grounds and others to be argued *ore tenus* defendant requests this Court exclude privileged statements and any evidence derived from them.

**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](mailto:eservicevolusia@sao7.org) this 19<sup>th</sup> day of September, 2019.

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