

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

THE STATE OF NEBRASKA, ) CR 17-3891  
 )  
 Plaintiff, )  
 )  
 vs. ) MOTION TO RECONSIDER  
 ) MOTION TO SUPPRESS  
 DAEJERRON VALENTINE, ) AND REQUEST TO  
 ) REOPEN EVIDENTIARY HEARING  
 Defendant. )

COMES NOW the Defendant, Daejerron Valentine, through his attorney, Jessica C. West, requests that the Court reconsider Defendant's Motion to Suppress the stop and search of Defendant's automobile on October 12, 2017, in the area of 23rd and Sprague Streets, Omaha, Nebraska. In support of his motion Defendant states as follows:

1. On February 14, 2018, a motion to suppress the stop and search of Defendant's automobile and any subsequent evidence seized or statements obtained as a result of the stop was heard by the court, the Defendant then being represented by privately retained counsel Travis Penn;
2. Defense counsel did not present any evidence;
3. No oral argument was offered by either party and an agreement was made on the record that a written brief would be submitted to the court on behalf of defendant no later than March 23, 2018, however, no such brief was ever submitted or received by the court, and thus, no argument was made on behalf of Defendant;
4. Defendant has a constitutional right to effective assistance of counsel. "[I]f the right to counsel guaranteed by the Constitution is to serve its purpose, defendants cannot be left to the mercies of incompetent counsel...." *McMann v. Richardson*, 397 U.S. 759, 771 n. 14 (1970);
5. On April 20, 2018, the Court denied Defendant's motion without receiving written or oral argument on behalf of Defendant;

#41 FILED  
IN DISTRICT COURT  
DOUGLAS COUNTY NEBRASKA

JUN 29 2018

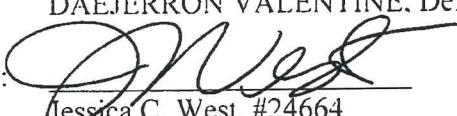
JOHN M. FRIEND  
CLERK DISTRICT COURT



Appendix D.

6. On May 24, 2018, Travis Penn withdrew his representation of Defendant and the indigent counsel was appointed through the Douglas County Public Defender's Office;
7. Upon review of the evidence, newly appointed defense counsel was made aware of evidence that would have assisted the Court in making its ruling in favor of the Defendant, but that was not offered or argued at the hearing.
8. A motion to suppress is not a final appealable order.
9. In support of this motion, defense counsel is offering the transcript from the motion to suppress hearing (marked as Exhibit A), a copy of the Department of Motorvehicle Registration Record (marked as Exhibit B), photographs depicting the street along which Defendant travelled prior to the traffic stop (marked as Exhibit C).

WHEREFORE, Defendant prays that the Court reconsider and grant his Motion to Suppress based upon the newly discovered evidence, or, in the alternative, reopen the evidentiary hearing to allow defense counsel to re-cross examine State's witnesses and to present the newly discovered evidence.

DAEJERRON VALENTINE, Defendant  
BY:   
Jessica C. West, #24664  
Assistant Public Defender

#### NOTICE OF HEARING

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that a Motion to Suppress has been filed by the Defendant and said Motion is set for hearing before the District Court at 2:00 a.m. p.m. on the 10<sup>th</sup> day of July 2018, in Courtroom No. 503 before the Honorable Duane C. Dougherty.

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the above and foregoing Motion and Notice of Hearing was personally served on Amy Jacobsen, 100 Hall of Justice, Omaha, Nebraska, by interoffice mail, this 29<sup>th</sup> day of June 2018.

