

NORTH CAROLINA
COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO.

STATE OF NORTH CAROLINA

vs.

MOTION TO EXCLUDE
INTOXILYZER RESULTS
(PRE-ARREST TEST)

_____,
Defendant.

NOW COMES the Defendant, by and through attorney, Marcus E. Hill, and moves the Court under N.C.G.S. 20-16.2(i) to suppress the results of the Intoxilyzer test and all evidence gathered after the defendant's request for a pre-arrest test. In support of this motion the defendant argues as follows:

1. Defendant was contacted by a law enforcement agency and was accused of driving while impaired.
2. Though the defendant is allowed under N.C.G.S. 20-16.2(i) to request a pre-arrest intoxilyzer test, the law enforcement officer did not allow the defendant a pre-arrest test, but in fact arrested the defendant and charged the defendant with driving while impaired.
3. After the arrest, the defendant took an intoxilyzer test.
4. The defendant clearly and properly requested a pre-arrest test under 20-16.2(i).
5. Under N.C.G.S. 20-16.2(i) the law enforcement officer is required to afford a person the opportunity to have a chemical analysis of his/her breath in accordance with the procedures required by N.C.G.S. 20-139.1(b) prior to arrest.

WHEREFORE, THE DEFENDANT PRAYS THAT THE COURT:

1. Exclude all evidence gathered after the defendant's request for a pre-arrest test, including but not limited to the intoxilyzer results, and the portable breath test, and any field sobriety tests.
2. For such any and further relief that the Court deems just and proper.

This is the _____ day of _____, 20_____.

Marcus E. Hill
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