**STATE OF ILLINOIS**

 **IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT**

 **COUNTY OF DU PAGE**

PEOPLE OF THE STATE OF ILLINOIS )

 PLAINTIFF, )

)

) CRIMINAL

VS ) No.

)

)

 )

 DEFENDANT. )

 **MOTION TO SUPPRESS IDENTIFICATION EVIDENCE**

NOW COMES the Defendant, , by his attorney, , and moves this Honorable Court to enter an order suppressing certain identification evidence and testimony witnesses that the State has indicated will be called to testify against him in the above-entitled cause. In support of said motion, defendant's states as follows:

1. Defendant was arrested on , and charged with the offense of \_\_\_\_\_\_\_\_\_\_\_.

2. On or about the day of , defendant was placed in a line-up at for purposes of identification.

3. On or about the of , defendant was subjected to an identification procedure which permitted certain witnesses to view him in a "one-on-one" show-up.

4. On or about the of , the complaining witness was shown a photograph or photographs of defendant.

5. The witness, , allegedly made an identification of defendant during the identification procedure.

6. The said line-up was not fairly conducted, and deprived defendant of his right to due process of law under the Fourteenth Amendment to the United States Constitution in that:

a. There were no persons in the line-up reasonably similar to defendant in physical appearance;

b. The compositions and construction of the line-up was such as to improperly suggest the identification of the defendant as the perpetrator of the offense, i.e., there was a significant disparity in age, height, dress, complexion, and other distinguishing characteristics between defendant and the other individuals in the line-up, and there was an inadequate number of subjects presented for comparison;

c. The conduct of the police and/or other governmental officials was such as to improperly suggest the identification of the defendant as the perpetrator of the offense;

d. The conduct of bystanders and others present was such as to improperly suggest the identification of the defendant as the perpetrator of the offense;

e. Various witnesses were allowed to be simultaneously present at the witness-suspect confrontation and were allowed to make their identification of the defendant in each other's presence or were allowed to discuss amongst themselves their identification of the accused during the identification process; and

f. The emotional and physical condition of the witness was such as to impair his ability to make a fair, rational and reasoned identification of the offender in this case.

7. The said show-up was not fairly conducted, and deprived defendant of his right to due process of law under the Fourth Amendment to the United States Constitution in that:

a. The show-up took place at a time when defendant was in the custody of government officials and a proper witness-suspect confrontation was possible;

b. The conduct of the police and/or other governmental officials was such as to improperly suggest the identification of the accused as the perpetrator of the offense;

c. The conduct of bystanders and others present was such as to improperly suggest the identification of the defendant as the perpetrator of the offense;

d. Various witnesses were allowed to be simultaneously present at the witness-suspect confrontation and were allowed to make their identification of the defendant in each other's presence or were allowed to discuss amongst themselves their identification of the accused during the identification process;

e. The government officials failed to take the reason able and necessary precautions to prevent an accidental witness-suspect confrontation as took place; and

f. The emotional and physical condition of the witness was such as to impair his ability to make a fair, rational and reasoned identification of the offender in this case.

8. The said photographic identification procedure was not fairly conducted, and deprived defendant of his right to due process of law under the Fourteenth Amendment to the United States Constitution in that:

a. The photographic identification took place at a time when defendant was in the custody of government officials and a proper witness-suspect confrontation was possible;

b. The compositions and construction of the photographic array was such as to improperly suggest the identification of the defendant as the perpetrator of the offense, i.e., there was a significant disparity in age, height, dress, complexion, and other distinguishing characteristics between the photograph of defendant and that of other individuals in the array, and there was an inadequate number of photographs of other subjects presented for comparison;

c. The conduct of the police and/or other governmental officials was such as to improperly suggest the identification of the photograph of defendant as the perpetrator of the offense;

d. The conduct of bystanders and others present was such as to improperly suggest the identification of the defendant as the perpetrator of the offense;

e. Various witnesses were allowed to be simultaneously present at the photographic identification and were allowed to make their identification of the defendant in each other's presence or were allowed to discuss amongst themselves their identification of the accused during the identification of the accused during the identification process; and

f. The emotional and physical condition of the witness was such as to impair his ability to make a fair, rational and reasoned identification of the offender in this case.

9. The witness, prior to any corporeal identification of the defendant, observed photographs presented in a manner which was unnecessarily suggestive.

10. The identification of defendant by was a direct result of the unnecessarily suggestive procedures used during the \_\_\_\_\_\_\_\_\_\_\_ .

11. The actions of the police and/or other governmental officials were unnecessary under the facts and circumstances of this case, and for the reasons stated and which will be developed at the hearing on this motion, were unnecessarily conducive to and resulted in an irreparable mistaken identification.

12. Prior to said confrontation, defendant was not advised by the police and/or other government officials that he had a right to have an attorney present during such confrontation.

13. The said confrontation took place outside the presence of counsel after the accused had expressly requested that his counsel be present at the witness-suspect confrontation.

14. Defendant was not represented by counsel nor was counsel present at said confrontation.

15. The identification of defendant at the confrontation was made in violation of his constitutional rights under the Sixth and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, defendant prays that this Honorable Court enter an order suppressing:

A. Any and all evidence relating to the pre-trial identification of defendant by such witnesses as were involved in the improper pre-trial identification.

B. Any in-court identification of the accused by such witnesses as were involved in the improper pretrial identification inasmuch as such identification is the product of the improper pre-trial identification, unless the State shows by clear and convincing evidence that the in-court identification is not tainted and is fully independent of the pre-trial identification.

 , Defendant

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 , His Attorney