

STATE OF MINNESOTA
COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
CRIMINAL DIVISION

STATE OF MINNESOTA,

Plaintiff,

vs.

MONICA BICKING,
ROBERT CZERNIK
GARRETT FITZGERALD,
LUCE GUILLEN-GIVINS,
ERIK OSELAND,
NATHANAEL SECOR,
MAX SPECKTOR,
ERYN TRIMMER,

No. 62-CR-08-10515
No. 62-CR-08-10338
No. 62-CR-08-10335
No. 62-CR-08-10342
No. 62-CR-08-10345
No. 62-CR-08-10365
No. 62-CR-08-10336
No. 62-CR-08-10370

Defendants.

**NOTICE OF MOTION AND
MOTION TO SUPPRESS – 287 E. 6TH STREET, ST. PAUL, MN**

TO: THE STATE OF MINNESOTA AND ASSISTANT RAMSEY COUNTY ATTORNEY
HEIDI WESTBY, 50 W. KELLOGG BLVD, #315, ST. PAUL, MN 55102

PLEASE TAKE NOTICE that on February 2, 2010, at 9:00 a.m., or as soon thereafter as the parties can be heard, Defendants will move the court to suppress evidence as set out below.

Defendants, by their undersigned counsel, state as follows in support of their Motion to Suppress:

1. This Motion is made on authority of the Fourth, Fifth and Sixth Amendments to the Constitution of the United States and Article I, Sections 7 and 10 of the Minnesota Constitution, and Defendant's rights under the Minnesota Rules of Criminal Procedure, Rule 10.01.

2. Defendant seeks to suppress all physical and testimonial evidence obtained by law enforcement as a result of the warrantless entry, search, and seizure of property and persons at 287 6th Street, #280, St. Paul, MN, on or about September 1, 2008.
3. Warrantless searches are *per se* unreasonable unless the search comes within the purview of one of the exceptions to the warrant requirement. State v. Othoudt, 482 N.W.2d 218, 221-22 (Minn. 1992).
4. The State of Minnesota bears the burden of proof to show that an exception to the warrant requirement applies. If the State of Minnesota does not meet this burden, evidence seized without a warrant must be suppressed. State v. Metz, 422 N.W.2d 754, 756 (Minn. App. 1988).
5. The premises at 287 6th Street, #280, St. Paul, MN, were placed under surveillance by at least as early as August 21, 2008, by officers reporting to Inspector Tony Samec of the Ramsey County Sheriff's Department. At that time, Defendants Czernik, Bicking, Oseland, Guillen-Givins, and Trimmer, were claimed to be observed at the premises.
6. On information and belief, confidential informants working for the Ramsey County Sheriff's Department and/or Federal Bureau of Investigation were aware prior to September 1, 2008, that the premises at 287 6th Street, #280, St. Paul, MN, had been leased by persons including at least one member of RNC Welcoming Committee.
7. During the execution of a search warrant at 3240 17th Avenue South, Minneapolis, MN, on August 30, 2008, law enforcement seized a lease agreement for 287 6th Street, #280, St. Paul, MN, and a receipt for payment of one month rent in the amount of \$1,000.00.

8. On September 1, 2008, at approximately 3:25 p.m., law enforcement officers led by David Langfellow of the St. Paul Police Department, made a forcible entry into the premises at 287 6th Street, #280, St. Paul, MN, without a search warrant or arrest warrant for any person believed to be on the premises, conducted a search of the premises, seized computers, electronics and other personal property, and arrested all persons present.
9. The forcible and warrantless entry, search, and seizure of persons and property, carried out by law enforcement officers at 287 6th Street, #280, St. Paul, MN, on September 1, 2008, was part of a pattern and practice of the St. Paul Police Department on September 1, 2008, to disregard the protections against unreasonable search and seizure under the Constitution of the United States and the Constitution of the State of Minnesota, and to instead carry out illegal and unconstitutional searches and seizures with the stated purpose of disrupting alleged unlawful activity.
10. No emergent public safety need or other exception to the warrant requirement existed on September 1, 2008, to support the forcible warrantless entry, search, and seizure, of the premises, property and persons at 287 6th Street, #280, St. Paul, MN.

WHEREFORE, Defendants request that this matter be set for hearing, and that upon hearing, all physical and testimonial evidence arising from the forcible warrantless entry, search, and seizure, of the premises, property and persons at 287 6th Street, #280, St. Paul, MN, on September 1, 2008, be suppressed.

Respectfully submitted this _____ day of January, 2010.

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