

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. 6<sup>TH</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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 17<sup>th</sup> Avenue South, Minneapolis, MN, on August 30, 2008, law enforcement seized a lease agreement for 287 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> Street, #280, St. Paul, MN, on September 1, 2008, be suppressed.

Respectfully submitted this \_\_\_\_\_ day of January, 2010.

---

Bruce Nestor, MN ID 0318024  
3547 Cedar Avenue South  
Minneapolis, MN 55407  
612-659-9019

Attorney for Monica Bicking

---

John Bachman, WI 1022480  
P.O. Box 477  
Eau Claire, WI 54702-0477  
(715) 839-1040

Attorney for Garrett Fitzgerald

---

Jordan Kushner, MN ID 219307  
431 S. 7<sup>th</sup> Street, #2446  
Minneapolis, MN 55415  
612-288-0545

Attorney for Luce Guillen-Given

---

Larry Leventhal  
319 Ramsey Street  
St. Paul, MN 55102  
612-333-5747

Attorney for Max Spector

---

Robert Kolstad, MN ID 258994

1005 W. Franklin Avenue #3  
Minneapolis, MN 55405  
612-721-3425

Attorney for Nathanael Secor

---

Barbara Ann Nimis, MN ID 0235428  
350 River Road, P.O. Box 50812  
Mendota, MN 55150  
(651)452-1474

Attorney for Eryn Trimmer

---

Travis Snider, MN ID 270842  
1005 W. Franklin Avenue, #3  
Minneapolis, MN 55405  
612-872-1200

Attorney for Robert Czernik

---

Ted Dooley, MN ID 0189583  
Peter Nickitas, MN ID 212313  
1595 Selby Avenue  
St. Paul, MN 55104  
612-325-8433

Attorney(s) for Erik Oseland