

VS

BRION L. HATCHER BROWN CO. CIRCUIT COURT  
BRANCH 3  
CASE # 201;CF 000239

CONTINUE FROM FIRST DOCUMENTS

" PETITION FOR REVIEW "

**FILED**

MAY 17 2021

CLERK OF SUPREME COURT  
OF WISCONSIN

STATE OF WISCONSIN CIRCUIT COURT Brown County

STATE OF WISCONSIN  
Plaintiff,

VS.

Baton Lamar Hatcher  
Defendant.

RECEIVED

MAY 17 2021

CLERK OF SUPREME COURT  
OF WISCONSIN

Case No: 19CF239

~~DEFENDANT'S NOTICE AND MOTION TO SUPPRESS IDENTIFICATION~~

NOW COMES The Defendant BATON LAMAR HATCHER Pro Se, Reserving his right to challenge The Court's Jurisdiction; moves the Court for an order excluding as evidence The identification of the Defendant made at any lineup, any photographic or other identification of the Defendant, and Subsequent or anticipated in-court identification of the Defendant.

This motion is brought pursuant to sec. 971.31(2) and (5), STATS., on the grounds that the identification was in violation of the rights guaranteed to the Defendant- under the 4th, 5th, 6th, and 14th Amendments to the United States Constitution; article I, Sections 1, 2, 7, 9, and 11 of the WISCONSIN CONSTITUTION; and Terry V. Ohio, 392 U.S. 7 (1968), Mapp V. Ohio, 367 U.S. 643 (1961), Troyano V. United States, 334 U.S. 699 (1948), Weeks V. United States, 232 U.S. 383 (1914), State V. Armstrong 110 Wis. 2d 555, 329 N.W.2d 386, cert denied, 461 U.S. 946 (1983), State V. Mosley, 102 Wis 2d 636, 307 N.W.2d 200 (1981), Simos V. State, 83 Wis. 2d 251, 265 N.W.2d 278 (1978), Powell V. State, 86 WIS. 2d 51, 271

N.W.2d 610 (1978), State v. Isham, 70 Wis. 2d 718, 235  
N.W.2d 506 (1975), Fells v. State, 65 Wis. 2d 525, 223  
N.W.2d 507 (1974), Holmes v. State, 59 Wis. 2d 488, 208  
N.W.2d 815 (1973) and State v. Haynes, 118 Wis. 2d 21,  
345 N.W.2d 892 (Ct. App. 1984).

Further, the Defendant moves for exclusion from use as evidence all derivative evidence. Taylor v. Alabama 457 U.S. 687 (1982); Dunaway v. New York, 442 U.S. 200 (1979); Brown v. Illinois, 422 U.S. 590 (1975); Davis v. Mississippi, 394 U.S. 721 (1969); Wong Sun v. United States, 371 U.S. 471 (1963); Silverthorne v. United States, 251 U.S. 385 (1920); State v. Brandy, 130 Wis. 2d 443, 388 N.W.2d 151 (1986); State v. Smith, 131 Wis. 2d 220, 388 N.W.2d 601 (1986); State v. Flynn, 92 Wis. 2d 427, 285 N.W.2d 710 (1979), cert. denied, 449 U.S. 846 (1980).

IN FURTHER SUPPORT, the Defendant asserts:

1. on 01/27/2019 Ashleigh L. Landre gave a statement to officer Miles Ganz and officer Englebert, stated the male she seen was a taller male approximately 6'4" or taller. stated she has seen the male before but does not know his full name

2. Ashleigh also stated on 01-27-2019, to officer Englebert that the male she SEEN in the house with Her Boyfriend earlier went by the nickname "Black". A heavy dark skin male, who was a friend of Tavarious' Cousin. She stated she will 100% be able to ID him IF she saw a photo of him.

3. That the photo line-up (IN court identification) was

Inconclusive and impermissibly suggestive.

4. That the witness, upon identifying to photographs of two different individuals, indicated that the individuals she identified were lighter in skin color than the individual she observed at the residence where the alleged homicide occurred, on 01/28/2019.

5. That the witness indicated an equal certainty level for both individuals she identified to possibly be the individual she observed at the residence where the alleged homicide occurred.

6. That the witness has been present during more than one court hearing when the defendant was present, further influencing her identification of the defendant and tainting any subsequent in court identification.

7. on 09-18-2019 This witness gave a third statement, now stating that when she saw Hatcher at his initial appearance Feb, 19 2019 after his arrest she then knew without a doubt that he was the man that "entered her home to "Det. B.R. Biller". Seven months after the initial appearance.

8. on 09-18-2019 Det. Biller stated that The previous day he attended the motion hearing for Hatcher, and had been spoken to "by not only the DA but Hatcher defense attorney about when she saw the suspect.

9. This witness stated the male she saw was Black whom she knew, Then she says she does not know a

black and that she was just assuming it was "black" based on a prior confrontation between Black and Edwards.

10. The test for determining whether an In-court identification is admissible has two facets. Powell v. State, 86 Wis. 2d 51, 65, 271 N.W.2d 610 (1978). First, the court must determine whether the identification procedure was impermissibly suggestive. Id. Second, it must decide whether, under the totality of the circumstances, the In-court identification was reliable, despite the suggestiveness of the procedures. Id.

11. That to the extent it is determined that the In-court identification was improper, The state has the burden of showing that a subsequent in-court identification derived from an independent source and was thus free of taint. Id. at 65-66; see also Holmes v. State, 59 Wis 2d 488, 496, 208 N.W 2d 815 (1973)

12. Impermissibly suggestive identification procedures that result in the "likelihood of misidentification" violate a defendant's right to due process. See powell v. State, 86 Wis. 2d 51, 64, 271 N.W.2d 610 (1978) (quoting Neil v. Biggers, 409 U.S. 188, 198-99 (1972)).

13. The witness (Ashleigh Lanudre) gives investigators several inconsistent statements about the identity and features of the suspect she believe entered her Home on 01-27-2019. The court should take into consideration - The "Lack of Knowlege" thru statements made on the day of and the the days and months after

The Defendant was held in custody. Appearing on the news and papers painting Him as The Culprit.

In Stovall V. Denno The supreme court recognized a defendant's due process right to exclude identification testimony resulting from unnecessarily suggestive procedures that might lead to an irreparably - mistaken identification. In Neil V. Biggers The court further explained that "it is the likelihood of misidentification which violates a defendant's right to due process" and so the focus of the inquiry is on the reliability of the identification testimony, rather than the suggestiveness of the I.D procedure. The court considers whether the testimony - was nonetheless reliable using The Five Biggers factors: (1) The witness opportunity to view the culprit at the time of the crime; (2) The witness degree of attention at the time of the crime; (3) the accuracy of the witness description of the culprit prior to the identification; (4) The witness level of certainty when identifying the defendant at the confrontation, and (5) The length of time between the crime and the confrontation.

### "Relief"

Defendant Is Asking this Honorable court Judge To grant this Motion TO "Suppress Identification" of Witness on all grounds set in This motion.

Respectfully Submitted

This 1<sup>st</sup> Day of May 2021

STATE OF WISCONSIN: Circuit Court : BROWN COUNTY  
STATE OF WISCONSIN

Plaintiff

Case No: 19-CF-0239

VS.

BRION LAMAR, HATCHER

Defendant,

Defendant's "MOTION TO Suppress Evidence" of  
ALL Witnesses) NAMED / ALL VIDEO, photo's OF Defen  
dant - ETC.; Pursuant to "WISC. STATE STATUTES" 904.0  
906.02, 971.30 (1) AND (2), 971.31 (1) thru (5), As We  
United STATES Constitutional Amendments, (6th and  
14th).

Now Comes The Defendant BRION L. Hatcher  
Pro'se, Reserving the right for Suppression  
OF all Evidence" photo's/videos, and Testimony of  
Witnesses That Violates The defendant's Rights  
Under, All Grounds set fourth in This MOTION.

### Witnesses

- 1) Alyse Collins
- 2) Heather House
- 3) Ashleigh Laundre
- 4) Dominique Thomas
- 5) Lawrence Hawkins
- 6) Shawntae Bryant
- 7) Allanzaguan Cook
- 8) Steven Hawkins
- 9) Michael Jones
- 10) All video/photos of Alledge defendant Vehicle

That are not 100% percent Identified as being Defendant's Vehicle.

IN Further SUPPORT, The Defendant asserts:

(1) Defendant Hatcher, Contends, That All Witnesses- 1-10 who are named Within This MOTION- IS NOT "Reliable to testify", on grounds They All Lack personal Knowledge of the Matter at Hand, Beside Hear'say.

(2) Defendant Contends that All Witnesses 1-10 give inconsistent statements TO The Detectives on more than one statement during their Interviews- Throughtout Investigation.

(3) Defendant Contends that His Vehicle was never 100% Percent Identified through video, MAKING All photos/videos of Defendant Vehicle inadmissible To present at Trial.

(4) Defendant, Contends, Under wisc. State Sta 906.02: "Lack of personal Knowledge; "A Witness May not testify to a matter unless (evidence is introduced Sufficient to Support a finding- that the "witness has personal Knowledge-"of the matter.

(4) Defendant Contends that Allowing The Testimony- of Witnesses/Evidence 1-10 Will In fact

Violate The defendant's due process SEE  
Stovall v. Denno ALSO Neil v. Biggers.

Defendant contends All assertions are based  
By All Video Interviews of witnesses 1-10 And  
police Reports/statements given to Investigators or  
OR after The date of The crime related to  
Case N: 2019CF000239. Defendant moves The  
Court for exclusion of all Testimony/statements  
and video/photos Brought forth within This  
"Motion" Taylor v. Alabama, 457 U.S. 687 (1982);  
Dunaway v. New York, 442 U.S. 200 (1979);  
BROWN v. Illinois, 422 U.S. 590 (1975);  
State v. Flynn, 92 Wis. 2d 427, 285 N.W.2d 710 (1977)

The defendant specifically request a hearing before  
The trial of this action and outside the Jury's  
presence. Watkins v. Swinders, 449 U.S. 341 (1981);  
STATE v. Cole, 50 WIS. 2d 449, 184 N.W.2d 75  
(1971).

Dated this 1<sup>st</sup> day of May 2021

STATE of Wisconsin Circuit Court Brown County  
Branch 3

STATE OF WISCONSIN Case No: 19CF239  
Plaintiff,

VS.

" Motion for Bond  
Reduction/Hearing  
Pursuant to W.S.A 18

BRION L. HATCHER  
Defendant.

Motion for Bond Reduction/Hearing  
Pursuant to, W.S.A 18<sup>th</sup>

Now Comes the Defendant BRION L. HATCHER  
Pro'Se, Reserving the right for a bond Reduction  
or Hearing. This Bond Hearing should be taken  
into consideration due to the fact MR. HATCHER  
has been in custody since Feb. 11, 2019 for  
Case # 2019CF00239, MR. HATCHER NEVER Received  
a Bail Reduction OR Second Hearing since being  
Charged in Feb. 2019, AS Law allows. Also  
Another consideration is MR. HATCHER Trial  
Date has been Rescheduled four times do to  
issues that fall upon the STATE, Regarding  
Witness ISSUES etc. MR. HATCHER and Attorney at  
Trial Dates " 8-13-19 - 8-16-19, 01-27-2020 - 01-31-2020  
06-01-2020 - 06-05-2020, and most recent ADJORNMENT  
March 1-5, 2021, We're ready and prepared for  
Trial. MR. HATCHER contends that the Right to a  
Fair Bond is promised by law is supported.

by The United States Constitution.  
"The Eight Amendment, forbids Exorbitant bails  
and fines and punishments that is unusual  
OR cruel" The courts are not allowed to assign  
and "accused" person a large and excessive  
amount of money for bail."

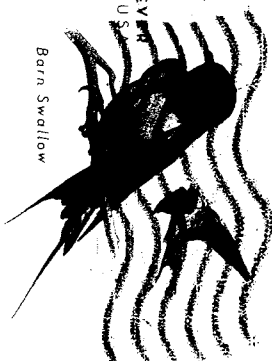
Dated This 1<sup>st</sup> Day of May 2021

Brian J. Hatcher

BRIAN HATCHER  
3030 CURRY LANE  
GREEN BAY, WI 54311

GREEN BAY WI 543  
13 MAY 2021 PM 1 PERVEN  
US

Barn Swallow



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