



### Affidavit of Jason Cerbone

Personally appeared before the undersigned, Jason Cerbone, who, being duly sworn, stated under oath as follows:

I am over the age of 18, Sui juris and otherwise competent to make this Affidavit.

Unless otherwise stated or implied by their context, I have personal knowledge of the matters in this Affidavit, know them to be true, and am competent to testify about them in a court of law.

On Sunday, March 21, 2022 at around 10:00 p.m. I went and bought a pizza from Screaming Mimi's and took it home. At about 12:00 a.m. I drove to Effingham County to look at a piece of property that had wild hogs. Wild hogs are nocturnal. I have two Dogo Argentino dogs that were bred to hunt and catch wild hogs and mountain lions. So, I was trying to check out a space for my dogs to hunt. I didn't drink any alcohol that night or the weekend before. I was not under the influence of anything.

Suddenly a deer ran in front of me on the Highway. I hit the brakes hard to avoid hitting the large pregnant doe. There were cars behind me in the distance. I saw a grass median to my left. While I was braking I moved into the grass median. It was all mud. The Alfa Romeo-Giulia front wheel drive car that I was driving came to a sudden halt. I was stuck in the mud. Both driver's side tires were 6 inches deep in mud. The wheels would not even turn. It was freezing cold that night. I was in a dangerous location with a hill behind me so that I couldn't see cars coming up on me until they were right next to me. It was around 12:30 a.m. My phone had no service. I couldn't call Triple A. I couldn't call anyone. I was not going to walk down that highway in the dark. So, I put my flashers on. And I decided to wait it out. I used my car as a temporary shelter as it was an inoperable car now. I fell asleep. I was awoken by a female police officer at around 6:30 a.m. When she woke me up I didn't realize I had been sleeping for five hours.

JASON CERBONE DUI & DIVORCE LAWYER  
ADAM P CERBONE OF COUNSEL

300 BRAYTON ST FL 3 SAVANNAH GA 31401-4448  
912 238 0505 CERBONELAW.COM JASON@CERBONELAW.COM



She demanded me to get out of the car. I did. I was standing in mud that was at least six inches deep. I was wearing Adidas low top Copa shoes. I couldn't even see my shoes because they were so deep in wet mud. My back was throbbing. It was freezing. She asked me if I had been drinking? No I said. She asked me if I had been doing drugs? No, I told her. I was not under the influence of anything. I told her ZI didn't feel safe standing outside in those conditions.

Then she asked me to do Field sobriety tests (FST's). I told her I would not do FST's because I am a DUI lawyer and FST's are unfair. I told her I used Anthony Palacios as my expert witness to destroy the FST's.

Also, I told her I was not a candidate for field sobriety tests because I had a painful lower back. She called another officer to the scene and they were both happy to arrest me.

They found nothing in my car. I spent over 12 hours in the Effingham County jail. I didn't commit any crime. There is no probable cause that exists of me breaking any law.

A few days later I called Mark Lee. Between April 5, 2022 and June 1, 2022 I called Mark Lee 22 times. On April 5, 2022 I spoke to Mark Lee for 20 minutes on the phone. On April 11, 2022 I spoke to Mark Lee for 51 minutes and another call for 23 minutes on the phone. On April 21, 2022 I spoke to Mark Lee on the phone for 30 minutes.

Sometime in April I went to Mark Lee's house and spoke to him about all of the details of the case. I waived my Fifth Amendment rights when I spoke with Mark Lee. I was there for about an hour. While I was talking with him, Mark Lee said to me "You don't need to worry about the Effingham DUI." I was relieved. I contacted multiple lawyers and told them what Mark Lee said. I contacted Michael Schiavone, Judge Greg Sapp, Adam Cerbone, Amanda Hyland, Christopher Middleton, Justin Maines, and several others. I told them all that Mark Lee told me "You don't need to worry about the Effingham DUI."

JASON CERBONE DUI & DIVORCE LAWYER

ADAM P CERBONE OF COUNSEL

300 DRAYTON ST FL 3 SAVANNAH GA 31401-4448

912 236 0595 CERBONELAW.COM JASONRCERBONELAW.COM



When I received the notice to appear in court on June 9, 2022 I was shocked. I called Mark Lee many times to figure out what was going on. As of today, Mark Lee has not returned any of those calls. On June 1, 2022, and June 4, 2022 I texted Mark Lee asking him to please call me. He never did. But on June 4, 2022 Mark Lee texted me. I responded and asked him to call me. He did not.

So, now I feel like I am being thrown under the bus. He said "You don't need to worry about the Effingham DUI." I have not worried about it. I have not done one thing about it. I have no lawyer. I have no discovery. I believed Mark Lee to be a man of his word.

#### Law and Authority

**State Bar of Georgia Bar Rules Special Responsibilities of a Prosecutor, Rule 3.8(a)** - The prosecutor in a criminal case shall refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause.

**State Bar of Georgia Bar Rules Rule 3.8, Comment [1]** - A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence.

The promises of the public prosecutor and the public faith pledged by him must be kept.<sup>1</sup> Where the defendant relinquishes valuable constitutional rights in exchange for a bargain, the question of enforcement of the bargain has constitutional overtones.<sup>2</sup> This is true whether the rights relinquished are Sixth Amendment rights, as in the

<sup>1</sup> *State v. Haxton*, 161 Ga.App. 536, 287 S.E.2d 764 (1982)

<sup>2</sup> *Haxton* at 299-300



**CERBONE**

case of a plea bargain, or Fifth Amendment rights, as incriminating testimony. <sup>3</sup> In *Hanson*, the Court held to the extent that a promise to forgo prosecution could be validly made to Hanson, such an agreement was deemed to have been made. The Court found the agreement not to prosecute was binding.

Further Affiant Sayeth Naught.

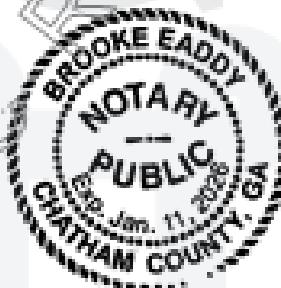
  
JASON CERBONE

Sworn to and subscribed

before me this 7 day of June, 2022.



Notary Public  
Commission Expires



<sup>3</sup> *Hanson* at 299-300



Jason Cerbone, Lawyer  
300 Drayton ST FL 3  
Savannah, GA 31401  
(912) 236-0595  
jason@savannahduilawyer.com  
Georgia Bar No. 171588

Lawyer for Citizen Accused  
Jason Philip Cerbone

STATE COURT OF EFFINGHAM COUNTY GEORGIA

State of Georgia,

Plaintiff;

v.

Jason Philip Cerbone,

Defendant

Case No. 2022-ST-CR-000413 RT

Motion to Quash Proposed  
Accusation and Demand for  
Defendant's Statutory Right to  
a Preliminary Hearing

Jason Cerbone moves this Court to quash the proposed accusation. Cerbone demands his statutory right to a preliminary hearing, and shows this Honorable Court the following:

1. Cerbone was arrested on March 21, 2022.
2. No Preliminary Hearing has been scheduled.
3. Cerbone has reason to believe that the State will return an accusation against him before the date of the scheduled preliminary hearing and that the requested postponement was merely a subterfuge of the State to deny Cerbone his statutory right to a preliminary hearing.
4. At no time prior nor at present has Cerbone ever been afforded the opportunity to confront his accusers, nor has he been fully informed as to the circumstances

surrounding the alleged crimes for which he has been charged.

5. At no time has Cerbone knowingly, understandably and intelligently waived his constitutional right to a preliminary hearing on these charges.

Therefore, Cerbone respectfully requests that:

1. If an accusation is returned prior to the date of the preliminary hearing, that it be quashed and the preliminary hearing be permitted to proceed; and
2. This Court grant such other or further relief as it deems just and proper under the circumstances.

Respectfully submitted on June 7, 2022,



JASON CERBONE