

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
Plaintiff,)	DEFENDANT’S MOTION
)	TO SUPPRESS EVIDENCE
- vs -)	AND REQUEST FOR
)	EVIDENTIARY HEARING
RED FAWN FALLIS,)	
Defendant.)	No. CR 17-00016-DHL-1

The defendant, Red Fawn Fallis, by her counsel, moves to suppress all evidence seized, information gained, and statements allegedly made, following and as a result of the October 27, 2016 seizure of her person that was constitutionally unlawful and violated her rights under the First and Fourth Amendments to the U.S. Constitution. In support of her Motion, Ms. Fallis asserts the following.

1. She is charged herein, by way of indictment, with the offenses of Civil Disorder, Discharging a Firearm in Relation to a Felony Crime of Violence, and Possession of a Firearm and Ammunition by a Convicted Felon, all in violation of 18 U.S.C. §§231(a)(3) and (2), 18 U.S.C. §§ 924(c)(1)(A) and (2), and 18 U.S.C. §§922(g)(1) and 924(a)(2), respectively.

2. The charges herein arise following the October 27, 2016 seizure of Ms. Fallis’ person by uniformed law enforcement officers deployed to assist the Morton County Sheriff’s Department and the State of North Dakota.

3. The seizure of Ms. Fallis was without a warrant and without probable cause to believe that she had committed or was committing a crime and was, therefore, a violation of her right to be free from unlawful seizure under the Fourth Amendment to the U.S. Constitution.

4. Law enforcement officers seized Ms. Fallis as, and because, she was exercising her First Amendment right of free speech in a public place. Ms. Fallis’ speech was political in

nature and was directed toward arresting law enforcement officers. By arresting her for exercising her right to that speech, officers violated her rights under the First Amendment to the U.S. Constitution, as well as her rights under the Fourth Amendment.

5. Following her unlawful seizure and her ensuing arrest, officers seized – allegedly from Ms. Fallis’ person and property – certain items of evidentiary value and purported to gain certain information, including statements allegedly made by Ms. Fallis. The physical evidence, any statements, and any further information or evidence derivative of the unconstitutional seizure of Ms. Fallis’ person, should be suppressed and excluded from evidence at trial of this case for the reasons set forth herein and in the accompanying Memorandum.

6. To the extent that the government disputes the material facts herein, or those set forth in the accompanying Memorandum in Support of Motion to Suppress Evidence, Ms. Fallis requests an evidentiary hearing.

WHEREFORE, Ms. Fallis respectfully requests that the Court suppress all evidence seized and information purportedly obtained as the result of the unconstitutional seizure of her person, and the arrest that followed, assign this matter for an evidentiary hearing and grant her such further relief as may be just and proper in the premises.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned Counsel of Record for the defendant hereby certifies that a true and accurate copy of the above and foregoing document has been served on the Office of the United States Attorney this October 23, 2017. Parties may access this filing through the Court's system.

David D. Hagler, AUSA
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United States Attorney's Office

/s/ Jessie A. Cook
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