

SALEM COUNTY PROSECUTOR'S OFFICE



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March 25, 2025

Filed via: eCourts
Filed by Michael Mestern – NJ Attorney ID: 014062009
Attorney for the State of New Jersey

Honorable Michael J. Silvanio, P.J.Cr.
Gloucester County Justice Complex
70 Hunter Street
Woodbury, New Jersey 08096

**RE: State v. Sean M. Higgins
Ind. No. 24-12-400-I**

Dear Judge Silvanio:

Please accept this letter brief, in lieu of a more formal brief, in response to defendant's Motion For Additional Blood Evidence Discovery.

Counter Statement of Facts / Procedural History

On August 29, 2024, at about 8:19 p.m., Troopers, from the New Jersey State Police, were dispatched to a motor vehicle crash around 63 Pennsville Auburn Road (MP 11.15). The 911 caller indicated that a SUV struck two bicyclists and continued to drive off. The caller indicated the victims, later identified as Matthew and John Gaudreau, sustained severe injuries and were unconscious but breathing. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

On December 11, 2024, this matter was presented to the Salem County Grand Jury and a True Bill was returned. On February 4, 2025, counsel for the defendant filed a Motion for Additional Discovery Relating to Blood Testing and two other motions. A briefing schedule followed, with defense filing briefs in support of their filings on March 4, 2025. This brief will address the defense's Motion for Additional Blood Evidence Discovery. The State will address the defense's other motions, by way of separate filings.

Legal Argument

New Jersey Court Rules require the State to provide defense with all relevant evidence within its control. Specifically, the relevant portion of R. 3:13-39(b)(1)(E) states:

Discovery shall include exculpatory information or material. It shall also include, but is not limited to, the following relevant material... books, papers, documents, or copies thereof, or tangible objects, buildings or places *which are within the possession, custody or control of the prosecutor*, including, but not limited to, writings, drawings, graphs, charts, photographs, video and sound recordings, images, electronically stored information, and any other data or data compilations stored in any medium from which information can be obtained and translated, if necessary, into reasonably usable form... (emphasis added).

Counsel's Motion for Additional Discovery Relating to Blood Testing outlines nineteen requests regarding the blood tests of the defendant and Matthew and John Gaudreau. Once the State received the request from the defense, it forwarded the request to the New Jersey State Police Forensic Lab that did the testing on the defendant's blood. Since then, the State and the Lab have been in communication regarding the requests. An electronic discovery packet has

³ Copies of the reports from the NMS Lab were provide to defense on December 9, 2024.

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been put together and is available to defense at the time of this brief's submission.

Accompanying the packet is a cover letter from the Lab Director. All items requested are provided except for the items requested in number five, sixteen, and nineteen. The lab will need clarification regarding the request in item five. Regarding item sixteen, all items that could be provided are. However, the results from the most recent audit has not been provided to the lab. Once it receives the audit a copy will be provided to defense. Much of what is requested under item nineteen is either provided or the State is in the process of obtaining. The State is in the process of obtaining a background check that would be akin to a Brady/Giglio check. Once that information comes back, the State will provide it to defense. The State would object to having to provide the chemist's employment application on relevancy grounds. Any relevant information in an application would be provided in the chemist's CV that the State provided. If there are any deficiencies counsel sees they can reach out to the State or the lab for remedy.

Regarding the request for documents for the testing of Matthew and John's blood the State would object as those documents are not in the, possession, custody, and control of the State. The autopsy was conducted at the Gloucester County Medical Examiner's Office. Blood was taken from the brothers and sent to an independent lab, NMS Labs, that then did the analysis of the blood. The State has no control, or jurisdiction of that lab.⁴ Defense has equal access to the documents they seek. They can Subpoena the lab for the documents they seek. Further, the State does not intend to submit in its case-in-chief the BAC levels of Matthew or John if this matter were to go to trial.

⁴ The toxicology reports in question indicate that NMS Labs is located in Horsham, Pennsylvania.

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Conclusion

The State has provided the documents defense has requested regarding the analysis of the defendant's blood at the New Jersey State Police Forensic Lab. Any deficiency is in the process of being remedied. The defendant's request regarding those documents should be moot. Since the documents counsel seeks regarding the analysis of Matthew and John's blood is not within the possession, custody, or control of the State, that request should be denied.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Michael Mestern". The signature is written in black ink and is positioned above a horizontal line.

Michael Mestern
Assistant Prosecutor