

SALEM COUNTY PROSECUTOR'S OFFICE



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Filed via: eCourts
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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 the defendant's Motion to Compel Other Plea Offers.

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 at 63 Pennsville Auburn Road (MP 11.15). Over the course of that evening and the subsequent days, weeks, and months the New Jersey State Police conducted an investigation regarding the cause of the crash. That investigation lead to various criminal and Title 39 charges lodged against, Sean Higgins, the defendant.

On December 11, 2024, this matter was presented to the Salem County Grand Jury and a True Bill was returned. The Defendant was indicted on two counts Reckless Vehicular Homicide, second degree, a violation of N.J.S.A. 2C:11-5a; two counts of Aggravated

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Manslaughter, first degree, a violation of N.J.S.A. 2C:11-4a(1); one count of Tampering with Physical Evidence, fourth degree, a violation of N.J.S.A. 2C:28-6(1); and one count of Leaving the Scene of a Fatal Accident, second degree, a violation of N.J.S.A. 2C:11-5.1.

On December 23, 2024 the State sent its initial plea offer to defense which was later clarified at the Post Indictment Arraignment Conference on January 7, 2025. The offer is two fifteen-year terms of incarceration, to run consecutively to each other in exchange for pleas to the first degree Aggravated Manslaughter charges. The defendant would also have to plead guilty to the second degree Leaving the Scene of a Fatal Accident and receive a consecutive five-year term of incarceration in the New Jersey State Prison. Per the No Early Release Act, the defendant would have to serve eighty-five percent of the sentences attributable to the Aggravated Manslaughter charges before he is eligible for parole. The State has not received a counteroffer from the defense, as of the submission of this brief.

On February 26, 2025, counsel for the defendant filed a Notice of Motion to Dismiss the Indictment and two discovery orders.¹ A briefing schedule followed, with defense filing briefs on March 4, 2025, in support of their filings. This brief will address the defense's Motion to Compel Other Plea Offers. The State addressed the defense's discovery requests and Motion to Dismiss the Indictment, by way of separate filings. A thorough recitation of the facts was submitted by the State in its brief in opposition to the defense's Motion to Dismiss the Indictment. The State would like to incorporate those facts with this filing as well.

Legal Argument

New Jersey Code provides the Courts with guidelines regarding pleas. R. 3:9-2 states:

A defendant may plead only guilty or not guilty to an offense. The court, in its discretion, may refuse to accept a plea of guilty and shall

¹ As the State reads the filings by defense, one of the filings labeled Discovery Order was meant to be a Notice of Motion to Compel Other Plea Offers and will proceed accordingly.

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not accept such plea without first questioning the defendant personally, under oath or by affirmation, and determining by inquiry of the defendant and others, in the court's discretion, that there is a factual basis for the plea and that the plea is made voluntarily, not as a result of any threats or of any promises or inducements not disclosed on the record, and with an understanding of the nature of the charge and the consequences of the plea. In addition to its inquiry of the defendant, the court may accept a written stipulation of facts, opinion, or state of mind that the defendant admits to be true, provided the stipulation is signed by the defendant, defense counsel, and the prosecutor. For good cause shown the court may, in accepting a plea of guilty, order that such plea not be evidential in any civil proceeding. If a plea of guilty is refused, no admission made by the defendant shall be admissible in evidence against the defendant at trial. If a defendant refuses to plead or stands mute, or if the court refuses to accept a plea of guilty, a plea of not guilty shall be entered. Before accepting a plea of guilty, the court shall require the defendant to complete, insofar as applicable, and sign the appropriate form prescribed by the Administrative Director of the Courts, which shall then be filed with the criminal division manager's office.

When accepting a plea, the court must determine there is a factual basis for the plea, the plea was made voluntarily, and the defendant understands the nature of the charge and the consequences of the plea. State v. Bellamy, 178 N.J. 127, 134 (2023), (citing State ex rel. T. M., 166 N.J. 319, 325 (2001)). The court's duty to make sure the defendant understands the ramifications of a plea encompass only those ramifications that are direct and penal and not those that are merely collateral. Bellamy, 178 N.J. at 134.

Counsel in their brief asks Your Honor to compel the State to release plea offers it has prosecuted since 2021 in similar cases as this. In making its plea to Your Honor, defense cites nineteen cases, either in the Federal system or the New Jersey system. Not one of them offer the relief defense requests. In all of them, the State and Defense entered into a plea and for one reason or the other the plea was determined to either be defective or be valid. Those that were held defective, the reviewing court struck down the plea and placed the parties back to where

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they were prior to entering into the plea. No plea has been entered into here. In fact, no counteroffer has been presented to the State by defense. Therefore, all the case law cited by counsel is inapplicable to this case at this time.

It is apparent that counsel does not accept the State's initial plea offer. This despite the fact that the defendant is facing a maximum term of incarceration of seventy years in the New Jersey State Prison, if found guilty at trial. Defense at this time can propose a counteroffer to the State, as is done in every other case the State has. It is for these reasons, the State is respectfully requesting that Your Honor deny the defendant's request.

Conclusion

There is no legal justification for the relief defense is requesting. There is neither a case nor a statute that provides the relief sought. Therefore, Your Honor should deny the Defense's Motion to Compel.

Respectfully Submitted,



Michael Mestern
Assistant Prosecutor