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**STATE OF NEW JERSEY,
Plaintiff,**

v.

**SEAN M. HIGGINS,
Defendant.**

**SUPERIOR COURT OF NEW JERSEY
COUNTY OF SALEM
LAW DIVISION – CRIMINAL PART**

INDICTMENT No.: 24-12-400-I

**BRIEF IN SUPPORT OF
MOTION TO DISMISS**

Preliminary Statement

This case presents a rare but clear example where the grand jury was materially misled on critical scientific evidence central to the State's theory of recklessness. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] However, post-indictment review by defense toxicologist Dr. Gary L. Lage establishes that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (See Attached **Exhibit B**).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] the
indictment must be dismissed.

Factual Background

On August 29, 2024, Mr. Higgins was driving a motor vehicle along County Route 551 (Pennsville Auburn Road), in the area of milepost 11.15, located in Oldmans Township, Salem County, New Jersey at approximately 8:20 p.m. According to reports, Mr. Higgins attempted to pass a motor vehicle and when he could not, and entered back into the lane of travel, he struck and killed two (2) bicyclists. Mr. Higgins was subsequently arrested and charged with two (2) counts of Reckless Death By Auto or Vessel (Vehicular Homicide).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Collision

On August 29, 2024, at approximately 8:19 p.m., a collision occurred on Pennsville Auburn Road (County Road 551) in Oldmans Township, Salem County, New Jersey involving a 2018 Jeep Grand Cherokee operated by Defendant Sean Higgins and two cyclists, John Gaudreau and Matthew Gaudreau. The roadway was unlit and dark. The cyclists were operating bicycles without helmets, reflective gear nor the lighting required by New Jersey law and had blood alcohol concentrations of .134 and .129..

Blood Draw Procedures

Defendant was transported to the Woodstown Station and later to Inspira Medical Center, where blood samples were drawn pursuant to a warrant. Two blood kits were collected. At approximately 10:05 p.m., a first set of two blood vials was collected from Mr. Higgins. However, the nurse indicated that the seal on one of the vials may be defective. A second set of blood vials was retrieved and at 10:31 p.m., the second set of blood vials was collected from Mr. Higgins. The first kit was designated MA03 and the second kit was designated MA04. The first kit (MA03) was not tested. The second kit (MA04) was analyzed and reported as 0.087 percent blood alcohol concentration.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Grand Jury subsequently returned a six-count indictment against Mr. Higgins for two counts of Reckless Vehicular Homicide (2C:11-5a) (Second Degree), two counts of Aggravated Manslaughter (2C:11-4a(1)) (First Degree), one count of Tampering with Physical Evidence (2C:28-6(1)) (Fourth Degree), and one count of Leaving the Scene of a Fatal Accident (2C:11-5.1) (Second Degree). (**Exhibit C**).

Post-Indictment Expert Analysis

Defense toxicologist Dr. Gary L. Lage [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As established by the defense toxicological analysis, [REDACTED]

[REDACTED]

[REDACTED]—below the statutory threshold for intoxication. [REDACTED]

[REDACTED]

The prejudice flowing from this misrepresentation is self-evident. [REDACTED]

[REDACTED]

This was not a peripheral issue. The [REDACTED] served as a keystone fact in the State’s theory of culpability. The prosecutor’s sequencing—first defining the legal threshold, then [REDACTED] [REDACTED]—invited the grand jury to draw a statutory inference that was unsupported by the actual scientific evidence.

Under Hogan, dismissal is warranted where the State’s presentation “interferes with the grand jury’s decision-making function” by presenting a distorted version of the facts. That standard is met here. The grand jury was never given a fair opportunity to evaluate whether the Defendant’s alcohol level actually satisfied the statutory threshold or supported an inference of recklessness. Instead, it was presented with a scientifically inflated number and a legal framework that magnified its significance. The integrity of the grand jury process requires more.

Because the [REDACTED]

[REDACTED], the indictment must be dismissed. An indictment may be dismissed when the prosecutor's presentation impairs the grand jury's ability to make an informed determination of probable cause. State v. Francis, 191 N.J. 571, (2007). The New Jersey Supreme Court has recognized that dismissal is appropriate where the State fails to disclose evidence that directly negates guilt or materially misleads the grand jury Hogan, supra, 144 N.J. at 229.

[REDACTED] This distinction is critical because [REDACTED]

[REDACTED]

The statutory framework establishes that a person operates a motor vehicle while intoxicated when operating "with a blood alcohol concentration of 0.08 percent or more by weight of alcohol in the defendant's blood." . Thus, [REDACTED]

[REDACTED], [REDACTED]

[REDACTED]

Such a mischaracterization goes beyond mere evidentiary nuance and directly affects the probable cause determination. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Point II: The State Failed to Present Clearly Exculpatory Evidence to the Grand Jury

The New Jersey Supreme Court has held that prosecutors have an affirmative obligation to present clearly exculpatory evidence to the grand jury when such evidence directly negates guilt. Hogan, supra, 144 N.J. at 229. Although the State is not required to present all potentially favorable evidence, it must disclose evidence that is clearly exculpatory and directly negates guilt. The purpose of this rule is to preserve the constitutional function of the grand jury as a buffer between the State and the accused, ensuring that citizens are not subjected to prosecution based upon incomplete or misleading presentations.

The failure to present such exculpatory evidence deprives the grand jury of its ability to make an informed decision whether to indict and constitutes grounds for dismissal of the indictment.

The grand jury “ ‘stand[s] between the defendant and the power of the State, protecting the defendant from unfounded prosecutions.’ “ Ibid. (quoting State v. Fortin, 178 N.J. 540, 638 (2004)). Article I, Paragraph 8, “is a constitutional protection that enhances the integrity of the charging process.” Id. at 139. “[T]he grand jury's core purpose is to ‘determine whether the State has established a prima facie case that a crime has been committed and that the accused has committed it,’ and it stands as ‘the primary security to the innocent against hasty, malicious and oppressive persecution.’ “ State v. Francis, 191 N.J. 571, 586 (2007) (quoting Hogan, supra, 144 N.J. at 227-28 (internal quotations omitted)). “Grand jury proceedings are largely controlled by prosecutors, who are charged to use ‘all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws.’ “ Ibid. (quoting N.J.S.A. 2A:158-5 and citing In re Grand Jury Appearance Request by Loigman, 183 N.J. 133, 144 (2005); see also State v. T.C., 347 N.J.Super. 219, 229 (App.Div.2002) (recognizing a prosecutor's discretion in deciding whether to prosecute and what charges to bring before a grand jury), certif. denied, 177 N.J. 222 (2003)). Imbued with principles of fairness by the Rules of Professional Conduct and case law, a prosecutor has the primary duty of ensuring that justice is done and may not use improper methods calculated to produce a wrongful conviction. Loigman, supra, 183 N.J. at 144. A prosecutor is obligated to charge the grand jury as to the elements of specific offenses and specific exculpatory defenses. Pressler, Current N.J. Court Rules, comment 1.2 on R. 3:6-3 (2010).

Here, the State failed to disclose several critical pieces of evidence that directly

undermined its theory of reckless conduct. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Under New Jersey law, the use of a conversion factor to translate serum blood alcohol levels to whole blood alcohol levels in court proceedings carries significant legal implications, particularly concerning the admissibility and reliability of such evidence.

In , State v. Lutz, 309 N.J. Super. 317 (1998) the court addressed the differences between blood testing methods used for forensic purposes and those used for clinical purposes. The State Police employed gas chromatography and tested whole blood, while hospitals often tested serum. The court noted that serum alcohol levels are typically higher than whole blood alcohol levels, and a conversion factor is necessary to translate serum results into whole blood equivalents. However, the reliability of this conversion depends on the methodology and the specific circumstances of the case. Expert testimony in Lutz highlighted potential issues with hospital testing, such as the lack of duplicate testing, calibration documentation, and testing for interfering substances like lactate and lactate dehydrogenase (LDH). These factors could affect the accuracy of the conversion and, consequently, the admissibility of the evidence. Lutz, supra.

In , Showalter v. Barilari, Inc., 312 N.J. Super. 494 (1998) the court further emphasized the importance of foundational testimony and expert explanation when introducing blood alcohol readings derived from hospital records. The court admitted hospital records containing serum alcohol readings but cautioned that such readings alone could not conclusively establish intoxication without proper context or expert interpretation. The jury was instructed not to equate

the serum alcohol reading directly with statutory blood alcohol levels for driving while intoxicated, as the statutory levels are based on whole blood alcohol concentrations. Barilari, supra.

Statutory authority also underscores the importance of proper procedures and reliability in chemical testing. Under , N.J. Stat. § 39:4-50.2.

individuals operating motor vehicles are deemed to consent to chemical tests for blood alcohol content, provided the tests are conducted in accordance with statutory provisions. Additionally, N.J. Stat. § 39:4-50.3. requires that chemical analyses be performed using approved methods and by certified individuals to ensure validity . N.J. Stat. § 39:4-50.2, N.J. Stat. § 39:4-50.3.

New Jersey courts have routinely recognized the need to convert serum alcohol levels to whole blood alcohol levels for legal purposes and must take into consideration the admissibility and weight of such evidence depend on the reliability of the conversion process, the methodology used, and the presence of expert testimony to explain the results. Courts are understandably cautious about relying solely on serum alcohol readings without proper foundational support and expert interpretation to ensure fairness and accuracy in legal proceedings.

This distinction is not a mere technical nuance. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The State may not present a version of events that appears scientifically definitive while withholding information that fundamentally calls those conclusions into question. [REDACTED]

[REDACTED]

[REDACTED]

Dismissal of the indictment is therefore required.

Point III: The State Improperly Invited the Grand Jury to Draw a Statutory Inference of Recklessness Based on Mischaracterized Driving While Intoxicated Evidence

Under New Jersey law, a defendant may be found guilty of vehicular homicide if he causes death by driving recklessly. Recklessness requires proof that the defendant consciously disregarded a substantial and unjustifiable risk, representing a gross deviation from the conduct of a reasonable person. In vehicular homicide cases, courts have recognized that proof of driving while intoxicated may support an inference of recklessness. However, this inference depends upon a valid showing of intoxication.

[REDACTED]

However, [REDACTED]

[REDACTED] was particularly prejudicial because [REDACTED]

[REDACTED] Where the State's theory of recklessness depends substantially upon intoxication evidence that is inaccurate or misleading, the grand jury's determination of probable cause cannot be considered reliable.

Courts have repeatedly emphasized that the grand jury must receive a fair and accurate presentation of the evidence so that it may independently determine whether probable cause exists. [REDACTED]

[REDACTED]

[REDACTED]. Because [REDACTED]
[REDACTED] the indictment cannot stand and must be dismissed.

Point IV: The Cumulative Effect of the State's Misleading Presentation Impaired the Grand Jury's Function and Requires Dismissal of the Indictment

Even where a single irregularity in a grand jury presentation might not independently justify dismissal, New Jersey courts recognize that the cumulative impact of multiple errors, omissions, or misleading statements may so impair the grand jury's function that dismissal is required. The grand jury occupies a unique constitutional role in New Jersey's criminal justice system. It is intended to serve as an independent body that evaluates whether the State has presented sufficient evidence to establish probable cause.

The absence of any evidence establishing the essential elements of purposeful obstruction renders the Indictment defective and subject to dismissal. "A trial court . . . should not disturb an indictment if there is some evidence establishing each element of the crime to make out a prima facie case." State v. Morrison, 188 N.J. 2, 12 (2006). However, the absence of evidence to establish an element of the charged offenses renders an indictment "palpably defective" and subject to dismissal." Ibid. (citing Hogan, supra, 144 N.J. at 228-29). State v. Faison, 452 N.J. Super. 390, 393 (App. Div. 2017). Courts therefore examine whether the overall presentation to the grand jury was fundamentally fair, and whether the State's conduct impaired the grand jury's ability to perform its constitutional function.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Second, [REDACTED]

[REDACTED]

Each of these issues independently undermines the reliability of the State's presentation.

[REDACTED]

In circumstances where the State's presentation creates a misleading factual framework that shapes the grand jury's evaluation of probable cause, the resulting indictment cannot be allowed to stand. New Jersey courts have consistently emphasized that dismissal is appropriate where prosecutorial conduct substantially influenced the grand jury's decision to indict or impaired the grand jury's ability to exercise independent judgment. That is precisely what occurred here. [REDACTED]

[REDACTED] the indictment against Defendant Sean

Higgins must be dismissed.

Point V: Alternatively, the Aggravated Manslaughter Counts Must Be Dismissed

Aggravated manslaughter requires proof that the defendant acted with recklessness under circumstances manifesting extreme indifference to human life. This standard is significantly higher than the recklessness required for vehicular homicide. The evidence presented to the grand jury does not demonstrate conduct approaching this heightened level of culpability.

[REDACTED]

At most, the State's evidence could support an inference of ordinary recklessness. [REDACTED]

[REDACTED]

[REDACTED]. Without the false premise of per se intoxication, [REDACTED]

[REDACTED]

[REDACTED] the aggravated manslaughter counts must be dismissed.

Conclusion

For the foregoing reasons, Defendant Sean Higgins respectfully requests that this Court: Dismiss the Indictment in its entirety; or alternatively Dismiss the aggravated manslaughter counts; and Grant such other relief as the Court deems just and equitable.

Respectfully Submitted,
Co-Counsel for Defendant, Sean M. Higgins:

Dated: April 7, 2026

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