

**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

**MOTION FOR
ADDITIONAL DISCOVERY
RELATING TO BLOOD TESTING**

To: First Assistant Prosecutor, Jonathan M. Flynn & AP, Michael R. Mestern
Salem County Prosecutor's Office
(Via Electronic Filing)

PLEASE TAKE NOTICE that on a date and time to be determined by the Court, the undersigned, Richard F. Klineburger, III, Esquire, attorney for the above captioned Defendant, shall make an application before a Judge of the Superior Court of New Jersey, Salem County, for an Order compelling the following Discovery set forth herein. The State alleges that on or about the time of the incident at bar, same being August 29, 2024, the Defendant, Sean M. Higgins had a blood alcohol concentration (B.A.C.) of .087 while cyclists John Gaudreau had a B.A.C. of .129 and Matthew Gaudreau had a B.A.C. of .134. Pursuant to **N.J. Ct. R. 3:13-3** and *Brady v. Maryland*, 373 U.S. 83 (1963), undersigned counsel or the Defendant is requesting any results or reports of scientific tests, expert opinions, and written or recorded of the defendant that are within the possession or control of the State, including, but not limited to the following items for all three tests:

1. The general laboratory protocol or standard operating procedures manual and the protocol or standard operating procedure specific to the test used in the case at bar.
2. The protocol:
 - for calibration of all flasks, containers, pipettes, or other equipment used in testing the sample at issue in this case.
 - for whatever machine and attached or integrated components were used to test the sample in this case such as the auto sampler and the flame ionization detector.
 - for the preparation of all solutions, reagents, mixtures, or other substances used as, as part of, or in relation to or as internal standards, controls, mixtures, or standards in the batch in which the sample in this case was run.
 - for quality control of all solutions, reagents, mixtures, or other substances used as, as part of, or in relation to internal standards, controls, mixtures, or standards in the batch in which the sample in this case was run.
3. All refrigeration logs or reports for all refrigerated compartments in which the sample, internal standards, controls, mixtures, standards, and reagents related to the analysis in this case were stored or kept at any time for 12 months prior to the test in this case.

4. All logs, reports or spreadsheets reflecting quality control testing of all flasks, containers, pipettes, or other equipment used in testing the sample at issue in this case.
5. The chromatograms produced from all samples, internal standards, standards, mixtures, and controls run in the batch in which the sample in this case was run as well as linearity plots for the GC used in this case from two years prior to the test in this case to the present.
6. The number of other blood specimens tested at the same time as the sample in this case was tested, as well as any logs or reports reflecting the results of all samples, internal standards, standards, mixtures, and controls run in the batch in which the sample in this case was run.
7. All calibration results and chromatograms for calibrations on the machine on which the sample in this case was tested for 60 days before and after the test at issue in this case.
8. Any quality control certificates and documents reflecting the expiration dates of any solution used in any sample, internal standard, control, mixture, or standard in the batch in which the sample in this case was run if purchased from an outside supplier.
9. The brand and model number of the machine, and all attached or integrated components, that was used for testing in this case. This would include the auto sampler and flame ionization detector.
10. All maintenance or repair records or logs for the machine used in this case and all attached or integrated components for the two years preceding the test in this case and since the test in this case.
11. All chain of custody documents and records specific to the specimen tested in this case.
12. All proficiency testing results for the person who conducted the testing in this case for the three years preceding the test and for any such testing since the testing in this case. This includes the summary report of expected results for the proficiency testing against which the proficiency test results are judged.
13. All lab notes, case files, case reports, or bench notes specific to the test in this case.
14. All documents, including emails, reflecting communications within the lab or between lab personnel and others outside the lab related to the analysis or specimens in this case.
15. All reports of internal audits for the last three years or since the time of the test in this case of the section of the laboratory performing the test used in this case.
16. All reports of external audits for the three years preceding the test in this case and at any time since the test in this case of the section of the laboratory performing the test used in this case.

17. All documents reflecting lab accreditation (for forensic labs, this specifically includes, without limitation ASCLD and DPS accreditation) including the evaluation and report generated as part of the accreditation process.

18. Annual vault inspection reports and records from two years prior to the test in this case to the present.

19. Regarding the person who tested the blood in this case:

- employee training records
- employment application less any personal identifying information such as address, phone number or social security number
- CV and/or resume
- performance reviews for two years prior to the test in this case to the present.
- all testimony evaluation forms for two years prior to the test in this case to the present.
- all Quality Action Plans for or regarding blood alcohol testing for two years prior to the test in this case to the present.
- annual self assessment reports for two years prior to the test in this case to the present.
- all client complaints and client complaint logs regarding blood alcohol testing for two years prior to the test in this case to the present.

Based upon whatever is received from the foregoing request(s), this request may be supplemented for additional items and materials.

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

Dated: February 4, 2025

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