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October 29, 2025

Honorable Michael J. Silvanio, J.S.C.
Salem County Courthouse
Sent Via Email & Electronic Filing

RE: State of New Jersey v. Sean M. Higgins
Indictment No.: 24-12-400-I

Dear Judge Silvanio:

Based on testimony presented today, please accept this supplemental letter brief in lieu of a more formal pleading in support of the Defendant's Motion to Suppress his statement.

After the Defendant was read his Miranda rights, he gave a statement to the three New Jersey State Troopers at the Barracks. Said statement started at approximately 12:03 A.M. on August 30, 2024.

The Defendant initially answered questions without any request for counsel. However, about halfway through the interrogation, the Defendant did invoke his right to counsel and same was ignored by the Troopers. Specifically, on page 27 Defendant's statement he says: "Should, should I actually have a lawyer? I don't know. I feel like I need a lawyer." All questioning should have stopped at that point. Instead, the Troopers continued to question the Defendant for four more pages and before they decided to again question the Defendant as to his Miranda rights. (See pages 27-31 of Defendant's statement moved into evidence as Exhibit 2 at the Hearing and attached hereto).

RFK

However, re-reading Miranda warnings after such an invocation is not the law of this State. At the moment the Defendant said "Should, should I actually have a lawyer? I don't know. I feel like I need a lawyer." all questioning must cease.

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That is, the New Jersey Supreme Court set the threshold at whether a suspect's statement arguably amounted to an assertion of Miranda rights, and held that in those circumstances, the officer must clarify with the suspect in order to correctly interpret the statement. The line of cases reaching this result began with the New Jersey Supreme Court's consideration of the corollary right to remain silent. In State v. Bey II, 112 N.J.123, 135 (1988) the Court cautioned that "[a]ny words or conduct that reasonably appear to be inconsistent with defendant's willingness to discuss his case with the police are tantamount to an invocation of the privilege against self-incrimination." Id. at 136.

This Court thereafter explained the general rule to be that "a suspect need not be articulate, clear, or explicit in requesting counsel; any indication of a desire for counsel, however ambiguous, will trigger entitlement to counsel." State v. Reed, 133 N.J.237, 253 (1993).

Once the Defendant brought up "needing" an attorney, it triggered his entitlement of counsel and all questioning should have ceased.

Therefore, anything the Defendant said after he made the statement "Should, should I actually have a lawyer? I don't know. I feel like I need a lawyer" must be properly suppressed. This is a bright line rule and any decision to the contrary to is a direct and blatant disregard for the law of this State.

Very truly yours,

Richard F. Klineburger, III

RICHARD F. KLINEBURGER, III

RFK/klc

Enclosure

cc: AP, Michael R. Mestern

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EXHIBIT 2

FROM HEARING OF

OCTOBER 29, 2025

STATEMENT OF: SEAN M. HIGGINS

DATE: AUGUST 30, 2024

TIME: 12:03 A.M.

PLACE: NEW JERSEY STATE POLICE BARRACKS
PILESGROVE, NEW JERSEY

QUESTIONS BY: TROOPER MARK ALLONARDO
DETECTIVE TARA REPOSE
DETECTIVE ANGELA GAROFALO

REFERENCE: STATE V. SEAN M. HIGGINS
PROMIS GAVEL NO.: 24-547

TRANSCRIBED: APRIL 11, 2025
LORI POSTON-KOHLHAAS, LEGAL SECRETARY
SALEM COUNTY PROSECUTOR'S OFFICE

27 STATEMENT OF SEAN M. HIGGINS

TR: Or did he know that you were...

SH: ...He just kept, he just burned out and went down.

TR: (Indiscernible).

SH: I think that may have been one of the first troopers on the scene. I don't know.

TR: (Indiscernible)...

SH: ...Coming from Auburn Road, that area (sighs).

TR: And then when was your next interaction with troops?

SH: (Sighs) I think when everybody started coming up (sighs).

TR: Okay. You gonna go over consent (indiscernible)?

MA: So, just to help us better understand, umm, the timeline, you know, when you made the phone calls and try and ascertain exactly when the accident happened, uh, will you give us consent to look at your phone and just look at, you know, the times that you made the calls?

SH: Should, should I actually have a lawyer? I don't know. I feel like I need a lawyer.

TR: So...

SH: ...For something like that. I don't know. I feel uncomfortable with the phone thing. Yeah.

TR: Yeah, so I gotcha. So...

SH: ...I mean I'm telling you like I, like...

TR: ...Yeah, yeah...

SH: ...Spoke to my friend probably for an hour and a half.

TR: Yeah.

SH: 'Cause I was railing about my mother and work stuff.

TR: So let, let's just pause for a second. Umm...

28 STATEMENT OF SEAN M. HIGGINS

SH: ...Yeah.

TR: I see what you're saying. Umm, we can't tell you if you should have a lawyer or not. That's a decision that up, up for you to make. Umm, so basically, there's kind a two parts to this. Are you still, I know you're asking if you should have one. I can't tell you that. Is that something that you want, or you okay to continue talking to us without a lawyer? Irregardless...

SH: ...I'll continue talking regardless the phone.

TR: Okay.

SH: Right? But when it comes to phones, I'm like, uh...

TR: ...I gotcha...

SH: ...Is it gonna be, yeah, and I texted my wife literally after I finally stopped my car. Like, hey, my life is over. Like my life is over.

TR: I understand.

SH: I don't know what the fuck just happened. Like I, and I called her. I think I texted her, you need to call me, because she wasn't answering.

TR: Uh-hum.

SH: And that's literally, I was like you need to come home. Like I need to call and like call 9-1-1, I think I called her first, called 9-1-1, it didn't connect. The...

TR: ...So just to, just provide, to provide verification...

SH: ...Yeah...

TR: ...For what he is asking, umm, it's, and kind a like how I said before, more so the timeline thing. Like when you left the house, not, uh, it's not to like...

SH: ...Yeah...

TR: ...Get into your personal business or anything like that.

SH: Right. I get it.

29 STATEMENT OF SEAN M. HIGGINS

TR: And, and so the, the way we would go about that for the phone thing is we would present you with a consent form and then you have, you, you have the option to con, consent or deny it.

SH: Yeah.

TR: Umm, and which we can do and then you can make that decision.

SH: That's fine. Yeah. I mean.

TR: Okay.

SH: (Sighs).

TR: So, so let's...

MA: ...Yeah.

TR: Let's do that now and then, umm, I'm just gonna go ahead and re-read you your rights just because we had that little discussion about lawyer.

SH: Yeah.

TR: Okay? So, you wanna, umm, Allonardo, re-read him Miranda with another card?

MA: Uh-hum.

TR: And then, and then we'll move on. And then...

SH: ...Yeah.

TR: Okay?

SH: Yeah, if you're just looking for timeline it's.

TR: Yeah, I gotcha.

SH: I guess between five and eight.

TR: I gotcha.

SH: Or five-thirty and seven-thirty or whatever it was. (sighs)

TR: Okay.

30 STATEMENT OF SEAN M. HIGGINS

MA: Alright, Sean, you have the right to remain silent and refuse to answer any questions. You understand?

SH: Yes.

MA: Anything you say may be used against you in a court of law. Do you understand?

SH: Yes.

MA: You have the right to consult with an attorney any time have him or her present before and during questioning. Do you understand?

SH: Yes.

MA: If you cannot afford an attorney, one will be provided if you so desire prior to any questioning. Do you understand?

SH: Yes.

MA: This, a decision to speak to us is not final and you may stop talking at any time. Do you understand?

SH: (Sighs) Yep.

MA: So, it is now twelve thirty-one on...

TR: ...Do you need anymore water or anything?

SH: No.

MA: August 30th.

TR: (Indiscernible).

SH: No. Maybe. I don't know.

TR: You want some? I can grab you some real quick.

SH: If you don't mind.

TR: Or at least, yeah.

SH: Yeah.

STATEMENT OF SEAN M. HIGGINS

TR: Yeah. Absolutely.

MA: So again, you're just gonna sign at that "X".

(Hear door close)

(Hear door open and close)

SH: Do you know if my wife's...

TR: ...Yes...

SH: ...Been contacted by chance?

TR: I do not. You can contact her before you go. Umm...

SH: ...The other trooper said he did, but.

TR: Okay, then, then...

SH: ...Or said he would. I don't know.

TR: Okay. I can, uh, we can definitely find that out for you. I, I don't know, know that.

MA: Uh, about this, what, what kind of phone do you have?

SH: It's iPhone.

TR: (Indiscernible). Do you know where it's at?

SH: I, somebody put it in a bag.

MA: It should be right out there.

SH: (Sighs).

MA: Alright, so like she explained, I'm just gonna fill this form out and then it's completely your call.

SH: Yeah.

MA: So, I fill the form out appropriately in it's entirety. I'll read it to you in it's entirety as well. So, it's a black iPhone.