

SALEM COUNTY PROSECUTOR'S OFFICE



KRISTIN J. TELSEY
PROSECUTOR

Fenwick Building
87 Market Street
P.O. Box 462
Salem, New Jersey 08079
(856) 935-7510, EXT. 8333
FAX (856) 935-8737

JEFFERY J. BARILE
ACTING FIRST ASSISTANT PROSECUTOR

JAMES H. GILLESPIE IV
CHIEF OF COUNTY DETECTIVES

July 23, 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 the defendant's Motion to Suppress the Evidence obtained as a result of searches authorized through Search Warrants.

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 near 63 Pennsville Auburn Road (MP 11.15). The 911 caller indicated that a SUV struck two bicyclists and continued to drive away. The caller indicated the victims, later identified as brothers Matthew and John Gaudreau, sustained severe injuries and were unconscious but breathing.

Sergeant Flanagan was the first trooper on scene and reached the brothers about the same time that the EMTs and paramedics arrived. The EMTs and paramedics immediately determined

SALEM COUNTY PROSECUTOR'S OFFICE

that the victims had died. Tpr. Allonardo arrived shortly thereafter. At that time, emergency personnel were attending to the brothers and Sgt. Flanegan was in the beginning stages of the investigation. Tpr. Allonardo then went back to the defendant's location who was out of his vehicle, appeared to be pacing back and forth, and talking on his cell phone. The defendant ended his call and then indicated to Tpr. Allonardo he was the operator of the black 2018 Jeep Grand Cherokee parked on the side of the road. By this time, multiple officers and troopers were on-scene assisting in the investigation.

Tpr. Allonardo then talked to the defendant who said that he was behind two vehicles he described as driving slowly, about forty to thirty miles per hour, and he attempted to pass them. He started passing the first vehicle on the left. He then moved back to the lane of travel after he passed the car in front of him and hit the brothers. The defendant indicated he had just left Taco Bell and was returning home. Tpr. Allonardo felt that the defendant appeared to be nervous and smelled alcohol on him. The defendant also admitted to drinking beer that day when asked. The trooper then had the defendant perform the standard field sobriety tests, which he failed. The defendant was then arrested and transported to the barracks.

Troopers were able to identify the witnesses, in the lead vehicle, the defendant passed on the right when he struck Matthew and John.¹ The troopers requested those witnesses go to the Woodstown Station to give formal statements. They complied and gave statements. The driver of the vehicle the defendant initially passed on the left was also identified as a witness.² However, she was so distraught she could not give a statement that day. Before leaving the scene, she gave a brief statement to Sgt. Flanegan. She agreed, though, to go to the Woodstown Station on August 30, 2024, to give a statement.

¹ There were three witnesses in the lead vehicle, which was a late model Ford Bronco.

² She was driving a Ford Focus.

SALEM COUNTY PROSECUTOR'S OFFICE

Troopers from NJSP Fatal Accident Investigation Unit and Crime Scene Investigation Unit arrived and assisted with the investigation and processed the scene. They determined the defendant's Jeep came to a rest about 1500 feet, or a little over a quarter mile away from the crime scene on the grass on the north bound side of the road. There was severe damage on the passenger side to the front bumper cover, fender, headlight, and windshield of the defendant's jeep. Tpr. Pope observed debris from the defendant's Jeep and bicycles at the crime scene. There was also damage to a fence post near the victims' final resting place.

Back at the Woodstown Station, Tpr. Crespo took a formal statement from the witnesses who were in the Bronco. The driver indicated she was able to see the victims prior to the crash. She indicated they were single file and she was able to describe what they were wearing. When she saw them, she moved partially into the other lane to give Matthew and John room as she passed. When she did so, she observed a vehicle approaching from the rear at a high rate of speed. One of the other occupants in the Bronco stated that the vehicle approached from the rear and attempted to pass them on the right. When doing so half of the passing vehicle was off the road and on the grass. The occupants then saw the defendant strike the brothers who were thrown from their bicycles. Once the Jeep struck the brothers it did not stop to check on Matthew or John's condition.

While that interview was being conducted, Tpr. Allonardo transported the defendant to the Mannington Inspira hospital to have his blood drawn for blood alcohol analysis to determine the defendant's blood alcohol concentration (hereinafter "BAC") level. The defendant was then transported back to the Woodstown barracks where Tpr. Allonardo and Det. Repose conducted a formal interview of the defendant. The defendant was made aware of his Constitutional rights and he agreed to waive those rights and talk with the troopers. He indicated he went to Taco Bell

SALEM COUNTY PROSECUTOR'S OFFICE

and was returning home. On the way home, he approached two cars driving slowly. This time he stated they were driving between twenty to thirty miles an hour. He stated he was impatient and decided to pass them. After he passed the first vehicle, which was a Ford Focus, the second vehicle started to move over into the lane he was in. He thought the driver of that vehicle, the Bronco, was trying to prevent him from passing. He then moved back to the right lane and struck Matthew and John. He said he was not going that fast since his car was not that powerful. He thought he was only going forty miles per hour. He stated he was not trying to pass on the right. He just wanted to know what the other car was doing. He admitted that he didn't see the victims before he struck them. He heard the sound and was unsure what he hit. He stated that when he heard the impact he was side by side with the second car, the Bronco. When confronted with what he just said, the defendant admitted that his intention was to pass the Bronco.

Det. Repose then had the defendant talk about what happened before the crash. He admitted to drinking five or six beers before going to Taco Bell at 6 p.m. He had started drinking between the hours of 2 and 3 p.m. He admitted to drinking two beers in the car while driving. The detective then asked if the beer cans were still in the car. He admitted that he panicked and threw the cans out of the car. He also said there was a twelve pack in the car that he threw out too, in a farm field next to his car. He said the beer was a factor in him being impatient and passing the vehicles. The defendant said the beer was a factor in the crash, as it contributed to his impatience and reckless driving.

On August 30, 2024, a Detective, from the New Jersey State Police, met with the driver of the Ford Focus at the Woodstown Station where she provided recorded interview as to what she witnessed the day before. Therein she gave a detailed account of how she was driving behind a Ford Bronco when a Jeep that was tailgating her passed her on the left. While doing so, the

SALEM COUNTY PROSECUTOR'S OFFICE

Bronco was moving to the left to make room to pass two bicyclists who were riding in a single file on the white line on the right side of the road. The Jeep, which she indicated was speeding, then passed the Bronco on the right and struck the two bicyclists and continued without stopping.

That same day, August 30, 2024, Tpr. Allonardo applied for a search warrant to search the defendant's Jeep for evidence in support of the investigation. Tpr. Allonardo provided a Certification in Lieu of Oath in the Matter of an Application for Search Warrant in conjunction with the search warrant for the judge to review when determining probable cause to issue the search warrant.³ The same day as the application was made, the Honorable Russell DePersia J.S.C. signed the search warrant authorizing Tpr. Allonardo and investigating officers to search the defendant's Jeep. The warrant was valid for only ten days.⁴

On September 4, 2024, Tpr. Allonardo, Tpr. Pope, DSG. Hall and about six other detectives conducted a search of the defendant's Jeep. During the search, Tpr. Pope analyzed the Jeep's Airbag Control Module to see if there were any recorded events. Specifically, this event in question. The airbags did not deploy because of this accident. He connected to the module from an access port on the dash and was able to retrieve information from an event, however it was not from this event. The event that he did get information from took place about 75,000 miles prior to the current event. An event is recorded when there is a change in velocity at five miles per hour or greater within a one hundred and fifty milliseconds interval or a non-reversible occupant restraint system is activated. The crash here didn't meet those parameters. This is typical for when a bicyclist is struck by a vehicle.

DSG. Hall was able to remove the infotainment system from the defendant's Jeep. It was believed that the infotainment system would contain information pertinent to the investigation.

³ A copy of Tpr. Allonardo's Certification is attached hereto as Exhibit A.

⁴ A copy of the Warrant is attached hereto as Exhibit B.

SALEM COUNTY PROSECUTOR'S OFFICE

However, neither DSG. Hall nor other detectives at that time were able to retrieve data from the system. They were able to determine there is a chip within a module in the infotainment system that needed to be extracted and then read.⁵ This procedure is called a “chip-off”. New Jersey State Police Cyber Crimes Unit would conduct the “chip-off” and download the raw data from the chip. Once this was done, the New Jersey Regional Computer Forensics Laboratory needed to convert the raw data that was contained on the chip into readable format.

On October 8, 2024, DSG. Hall applied for a Search Warrant to extract the chip from the module from the infotainment system that was recovered from the defendant's Jeep along with a Communication Data Warrant (hereinafter “CDW”) to download the information contained within the chip eventually removed from the module. DSG. Hall provided a Certification in Lieu of Oath in the Matter of an Application for Search Warrant in support of the application for the Search Warrant and a Certification in Lieu of Oath in the Matter of an Application for Communication Data Warrant in support of the application for the CDW. Therein, DSG. Hall gives a detailed account of the investigation up to that point.⁶ She also gives an account of what she sought if the Search Warrant and CDW were authorized. After review of the Certification, Hon. John Eastlack, J.S.C. found probable cause for and approved the Search Warrant and CDW that DSG. Hall applied for.⁷

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 Manslaughter, first degree, a violation of N.J.S.A. 2C:11-4a(1); one count of Tampering with

⁵ This “chip” is a SanDisk SD card within the Jeep's Uconnect 4C Infotainment System.

⁶ A copy of DSG. Hall's Certification is attached hereto as Exhibit C.

⁷ A copy of the signed Search Warrant is attached hereto as Exhibit D and a copy of the signed CDW is attached hereto as Exhibit E.

SALEM COUNTY PROSECUTOR'S OFFICE

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 June 10, 2025, counsel for the defendant filed a Notice of Motion to Suppress Defendant's Statement and a separate Notice of Motion to Suppress Data Retrieved from the Warrants September 4, 2024 and October 8, 2024. This brief will address that second motion.

Legal Argument

The Federal and State Constitutions only bar searches that are "unreasonable". State v. Kasabucki, 52 N.J. 110, 114 (1968). The New Jersey Supreme Court has consistently held that "a search executed pursuant to a warrant is presumed to be valid and that a defendant challenging its validity has the burden to prove 'that there was no probable cause supporting the issuance of the warrant or that the search was otherwise unreasonable.'" State v. Jones, 179 N.J. 377, 388 (2004) (quoting State v. Valencia, 93 N.J. 126, 133 (1983)). Any doubt pertaining to the validity of the warrant "should ordinarily be resolved by sustaining the search." Id. at 389 (quoting State v. Kasabucki, 52 N.J. 110, 116 (1968)).

Further, "the warrant-supported search ought to be regarded as cloaked with an aura of prima face legality." State v. Kasabucki, 52 N.J. 110, 122-23 (1968). So, when a magistrate has made a probable cause determination and issued a search warrant, another court of an equal jurisdiction reviewing that finding should pay substantial deference to that determination. Id., at 120. "In fact, another trial judge of equal jurisdiction should regard as binding the decision of his brother that probable cause has been sufficiently shown to support a warrant, unless there was clearly no justification for that conclusion." Id. at 117. The N.J. Supreme Court in Novmebro quoted the U.S. Supreme Court's decision in Gates finding: "we have repeatedly said that after-

SALEM COUNTY PROSECUTOR'S OFFICE

the-fact scrutiny by courts of the sufficiency of an affidavit should not take the form of de novo review.” State v. Novembrino, 105 N.J. 95, 118 (1987) (quoting Illinois v. Gates, 462 U.S. 213, 236 (1983)).

A valid search warrant requires probable cause and the probable cause determination, whether made on the spot by a police officer or by a judicial officer with time to reflect and analyze, is to be made with an eye toward the totality of the circumstances known at the time. Illinois v. Gates, 462 U.S. 213 (1983); State v. Moore, 181 N.J. 40, 46 (2004). Courts must make a practical, common-sense determination whether, given all of the circumstances, there is a fair probability that contraband or evidence of a crime will be found in a particular place. Moore, 181 N.J. 46. “Probable cause exists if at the time of the police action there is a well-grounded suspicion that a crime has been or is being committed.” State v. Dangerfield, 171 N.J. 446, 456 (2002) (quoting State v. Sullivan, 169 N.J. 204, 211 (2001)). The probable cause determination for a CDW is the same as that of a search warrant. Therefore, the CDW is presumed valid and the defendant “bears the burden of demonstrating that [it] was issued without probable cause or that the search was otherwise unreasonable.” State v. Evers, 175 N.J. 355, 381 (2003) (citations omitted).

The search of the defendant’s Jeep on September 4, 2024, was completely within the four corners of the valid search warrant authorized by Judge DePersia on August 30, 2024. The search warrant gave all the troopers conducting the search access to the Jeep’s air bag control module. It specifically states, in relevant part:

You are further commanded, to search and seize all evidence contained within the vehicle including, but not limited to ... the retrieval of any electronically or mechanically stored information or data relating to the condition and status of the vehicle and its operating systems prior to, all data regarding the engine, powertrain, brake system, steering system, suspension system and other

SALEM COUNTY PROSECUTOR'S OFFICE

parameters, such as change in velocity and seat belt usage, utilizing, and/ or downloaded any onboard electronic computer diagnostic system, event data recorder, airbag control module ...that would aid in the investigation and that would tend to establish a connection between the above captioned vehicle and the victim in this case and that may be evidence of the above crimes.

The search warrant specifically allowed the troopers to retrieve electronically stored information contained within the airbag control module (commonly referred to as "ACM"). This was supported by the Certification filed by Tpr. Allonardo wherein he listed the airbag control module as one of the items to be seized and electronically searched. In his Certification, Tpr. Allonardo gave a detailed account of the investigation, up to that point. He was investigating a traffic collision that resulted in the deaths of Matthew and John Gaudreau. It was the defendant who struck the brothers and his Jeep sustained damage during the collision. Information contained within the airbag control module of the Jeep would assist Tpr. Allonardo in his investigation. Judge DePersia found probable cause for the search of the Jeep including the airbag control module.

There is nothing within the warrant that limits the troopers to only searching and seizing physical evidence as defense would have Your Honor believe. When Tpr. Pope downloaded the information from the airbag control module he was legally allowed to do so. The information he downloads then becomes discoverable. Tpr. Pope was being thorough when he included this information in his report and attached the downloaded information to his report. The data that was downloaded from the airbag control module was not relied upon by Tpr. Pope in his report since it did not pertain to this crash. It was mentioned in his report because it was the most recent event captured by the airbag control module. To do otherwise would provide fodder for defense. Tpr. Pope was making as complete a record as he possibly could by showing he was not hiding anything and that he left no stone unturned when he conducted his investigation.

SALEM COUNTY PROSECUTOR'S OFFICE

As part of the initial search of the defendant's Jeep, troopers removed the Jeep's infotainment system as was permitted by the search warrant. An initial inspection of the Jeep's infotainment system was then conducted. Contrary to the defense's argument, the State did not obtain any stored information during that search. Once DSG. Hall learned what would be involved in retrieving the stored information in the infotainment system, that is conducting a "chip-off" and then a digital search of the contents of the chip, the time limit for the original search warrant had passed. DSG. Hall then drafted a certification for a new search warrant and a communication data warrant, commonly referred to as a "CDW". Like the search warrant before, probable cause was found to grant the search, i.e. conduct the "chip-off" and download of digital information contained within the chip. The CDW granted DSG. Hall and other members of law enforcement involved in the investigation authorization to search that "chip" for information pertinent to the investigation. These warrants were supported by DSG. Hall's thorough certification where she devotes three-and-a-half pages explaining motor vehicle infotainment systems. It is also important to note that DSG. Hall detailed the initial search of the defendant's Jeep including the removal of the infotainment system and that the troopers were unable to extract any data from that system.

Communication data warrants are a product of the New Jersey Wire Tap Act. The Act is "designed to protect a high degree of privacy in telephone conversations." State v. Lane, 279 N.J. Super. 209, 219 (1995). It was believed that the defendant's cellphone was connected to his Jeep's infotainment system (whether it be manually through a cable or through Bluetooth) when the crash in question took place. Because of this, it was thought there might have been stored information on the "chip" possibly requiring the need for a communication data warrant. This was purely precautionary in nature though since the phone was no longer connected to the

SALEM COUNTY PROSECUTOR'S OFFICE

infotainment system and the infotainment system was no longer working. The active interception of communication between the defendant and anyone else, which is what the New Jersey Wire Tap Act is designed to protect, was impossible when DSG. Hall applied for a CDW.

There is no fruit of the poisonous tree argument to make here. There is nothing within the New Jersey statutes or case law that required Trp. Allonardo to get a CDW to download the stored data from the airbag control module. As stated above, CDWs are a product of the New Jersey Wire Tap Act. The Act's sole purpose is to protect citizen's conversations. The CDW's name is indicative of this, Communication Data Warrant. There is no communication between citizens stored within an airbag control module that the New Jersey Wire Tap Act was designed to protect. The CDW that was authorized in this case was done so purely as a precautionary measure. Probable cause was found based on the Certification submitted by DSG. Hal. The CDW was obtained in conjunction with a properly obtained Search Warrant to conduct the "chip-off". Like the CDW, probable cause for this Search Warrant was based on the same Certification submitted by DSG. Hall. Looking at the totality of the circumstances, both Judge DePersia and Judge Eastlack reason to believe there was fair probability that there was evidence of a crime in the defendant's Jeep when Tpr. Allonardo and DSG. Hall applied for the Search Warrants and CDW. Simply put, the defense has failed to establish the search of the defendant's Jeep and the contents therein was unreasonable. It is for these reasons, the State is respectfully requesting Your Honor deny the defendant's Motion to Suppress Evidence derived from the Search Warrants obtained during the investigation of this matter.

SALEM COUNTY PROSECUTOR'S OFFICE

Conclusion

The State properly obtained two Search Warrants and a Communication Data Warrant, based on probable cause, to search the defendant's Jeep. Certifications providing the basis for the finding of probable cause in support of those warrants detailing the investigation that led up to the request for the warrants were provided to the Superior Court Judges who authorized the warrants in conjunction with the warrants. Therefore, there is no defect in the search of the defendant's Jeep, or the airbag control module and infotainment system therein. Suppression of any information or evidence obtained as a result of the search should be denied.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Mestern", is written over a horizontal line.

Michael Mestern
Assistant Prosecutor