

SALEM COUNTY PROSECUTOR'S OFFICE



KRISTIN J. TELSEY
ACTING 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
FIRST ASSISTANT PROSECUTOR

JAMES H. GILLESPIE IV
CHIEF OF COUNTY DETECTIVES

April 24, 2026

Filed via: eCourts
Filed by Michael Mestern – NJ Attorney ID: 014062009
Attorney for the State of New Jersey

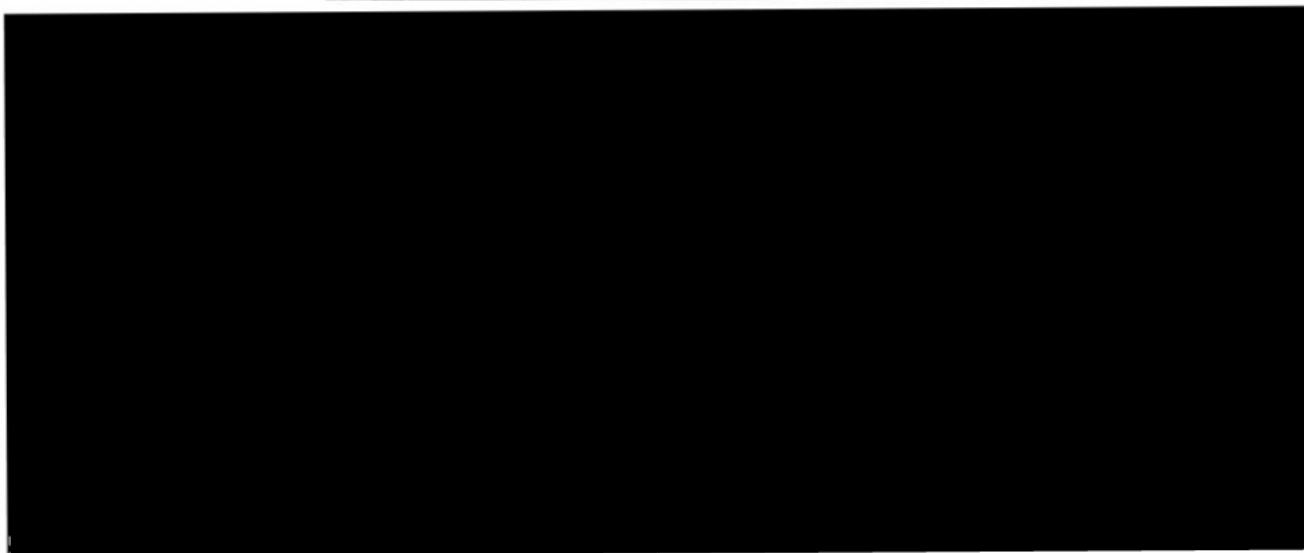
Honorable Michael J. Silvanio, P.J.Cr./J.S.C
Gloucester County Justice Complex
70 Hunter Street
Woodbury, New Jersey 08096

RE: State v. Sean M. Higgins
Ind. No. 24-12-400-I

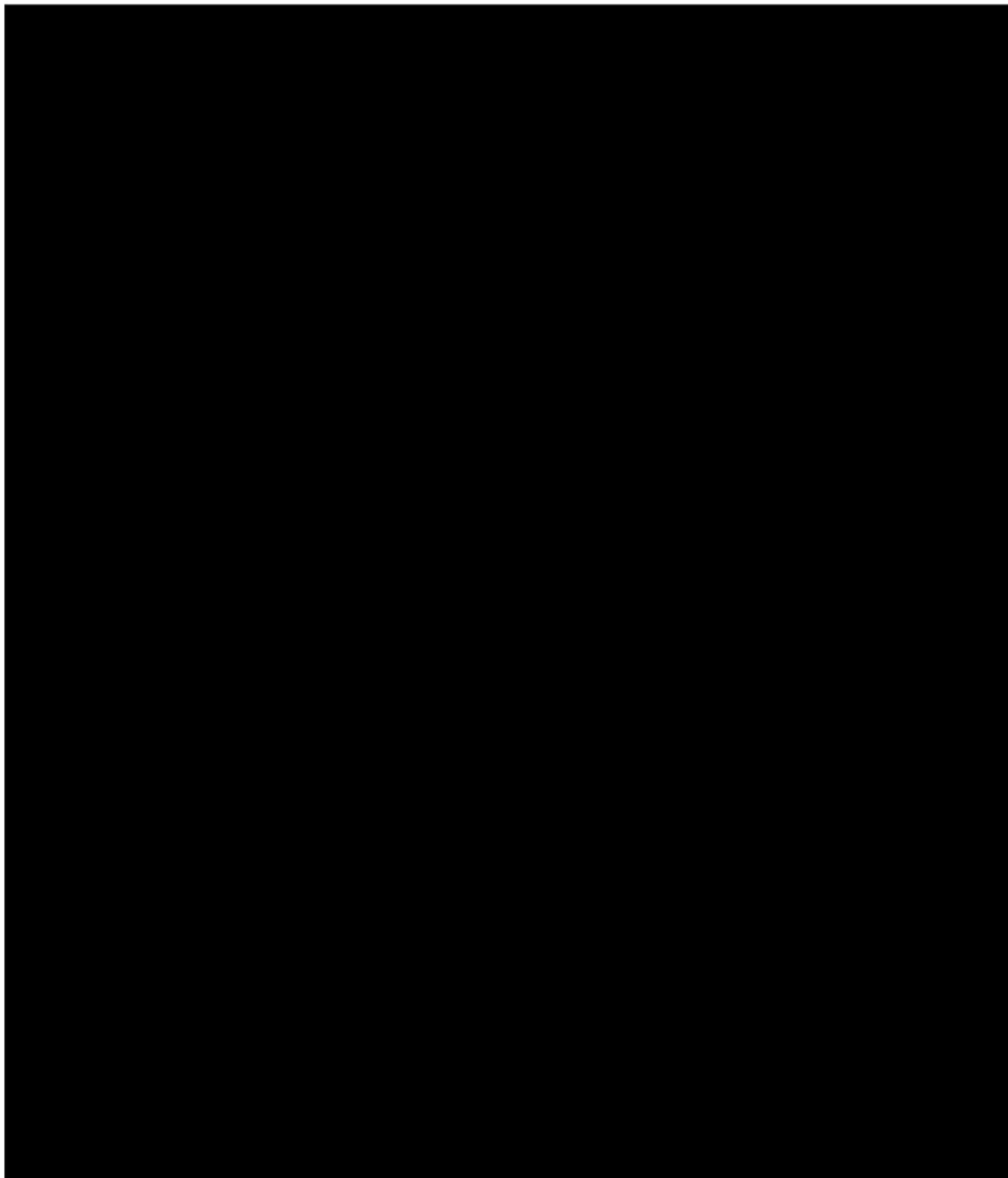
Dear Judge Silvanio:

Please accept this letter brief, in lieu of a more formal brief, in response to defendant's second Motion to Dismiss the Indictment.

Counter Statement of Facts / Procedural History



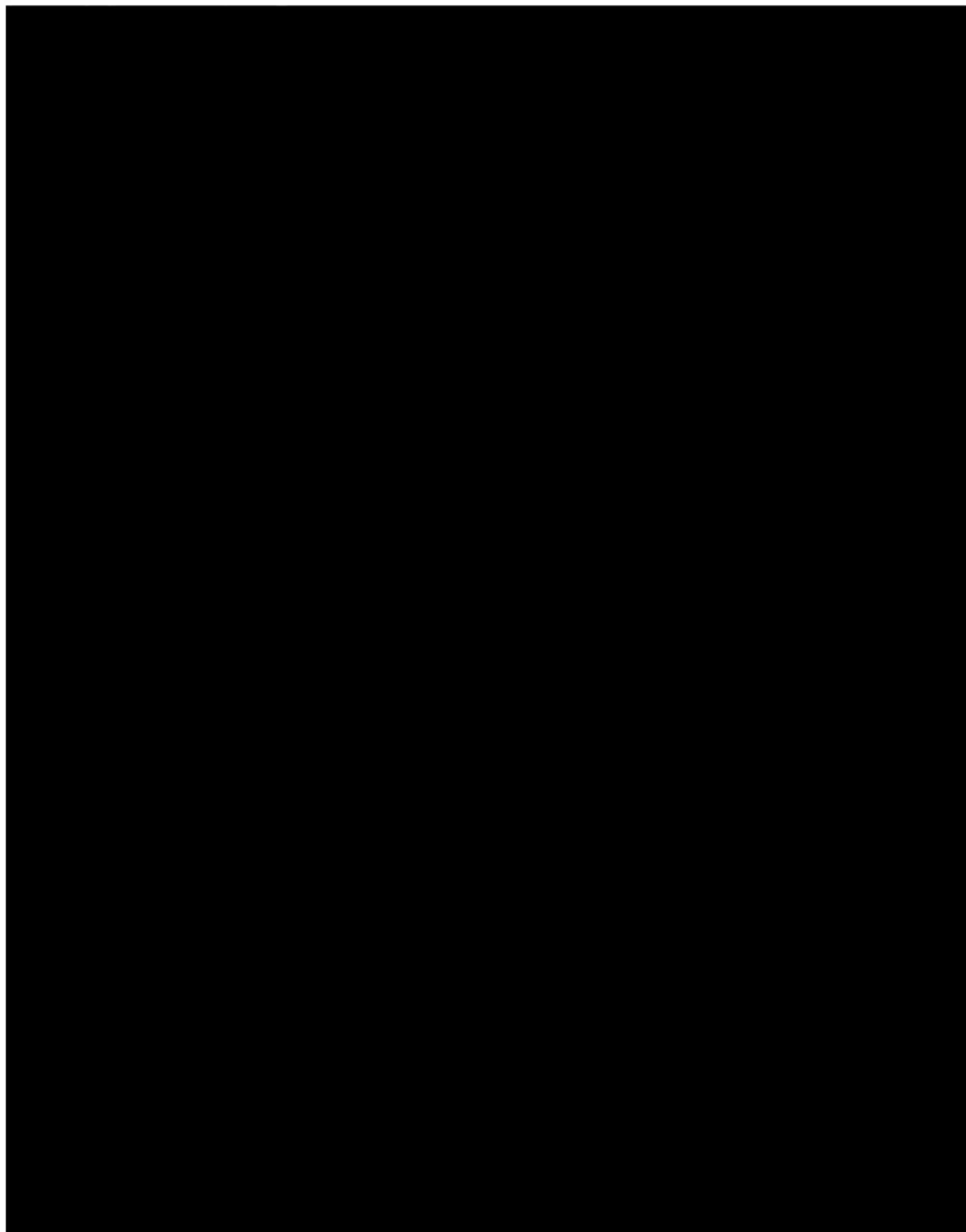
SALEM COUNTY PROSECUTOR'S OFFICE



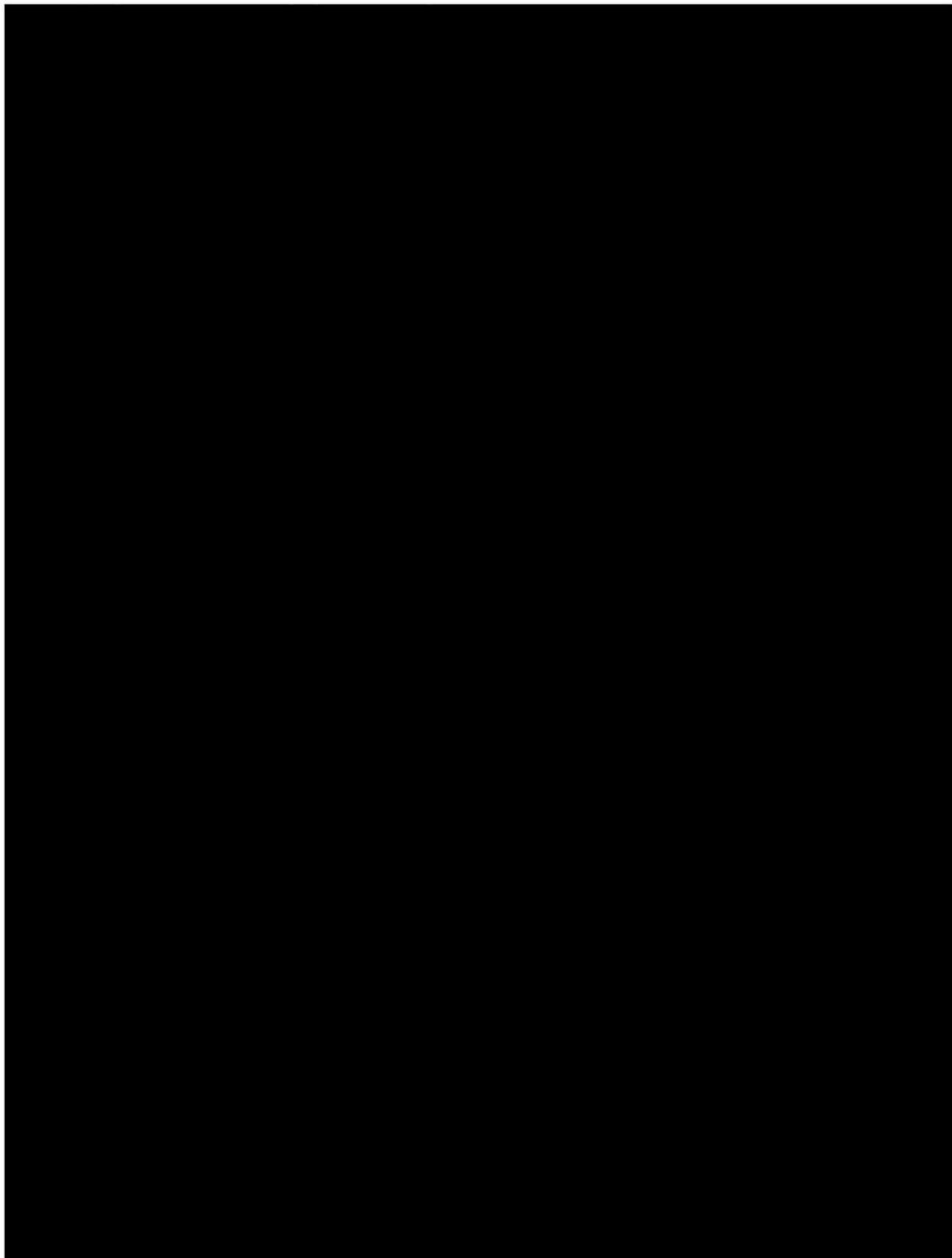
SALEM COUNTY PROSECUTOR'S OFFICE



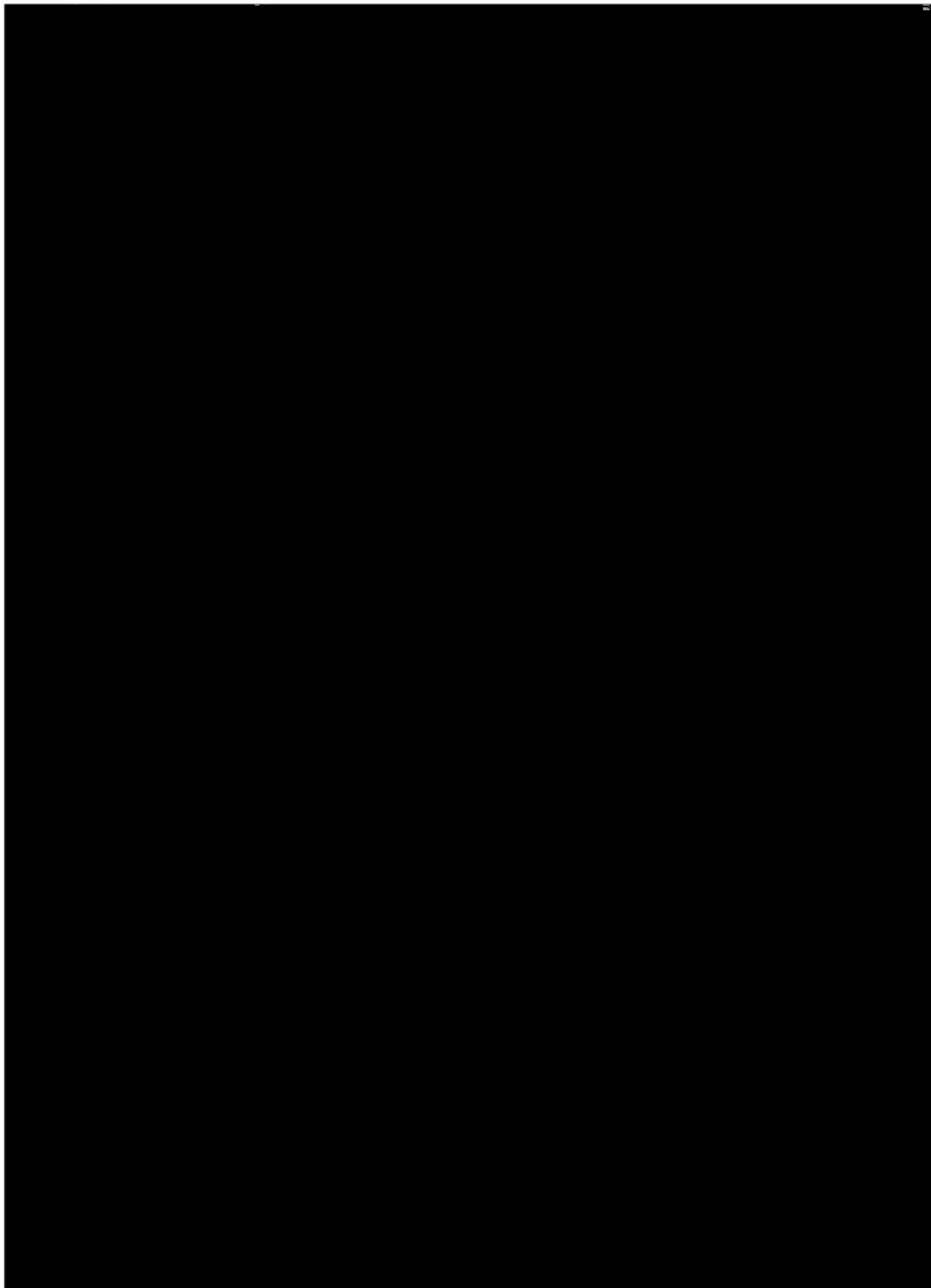
SALEM COUNTY PROSECUTOR'S OFFICE



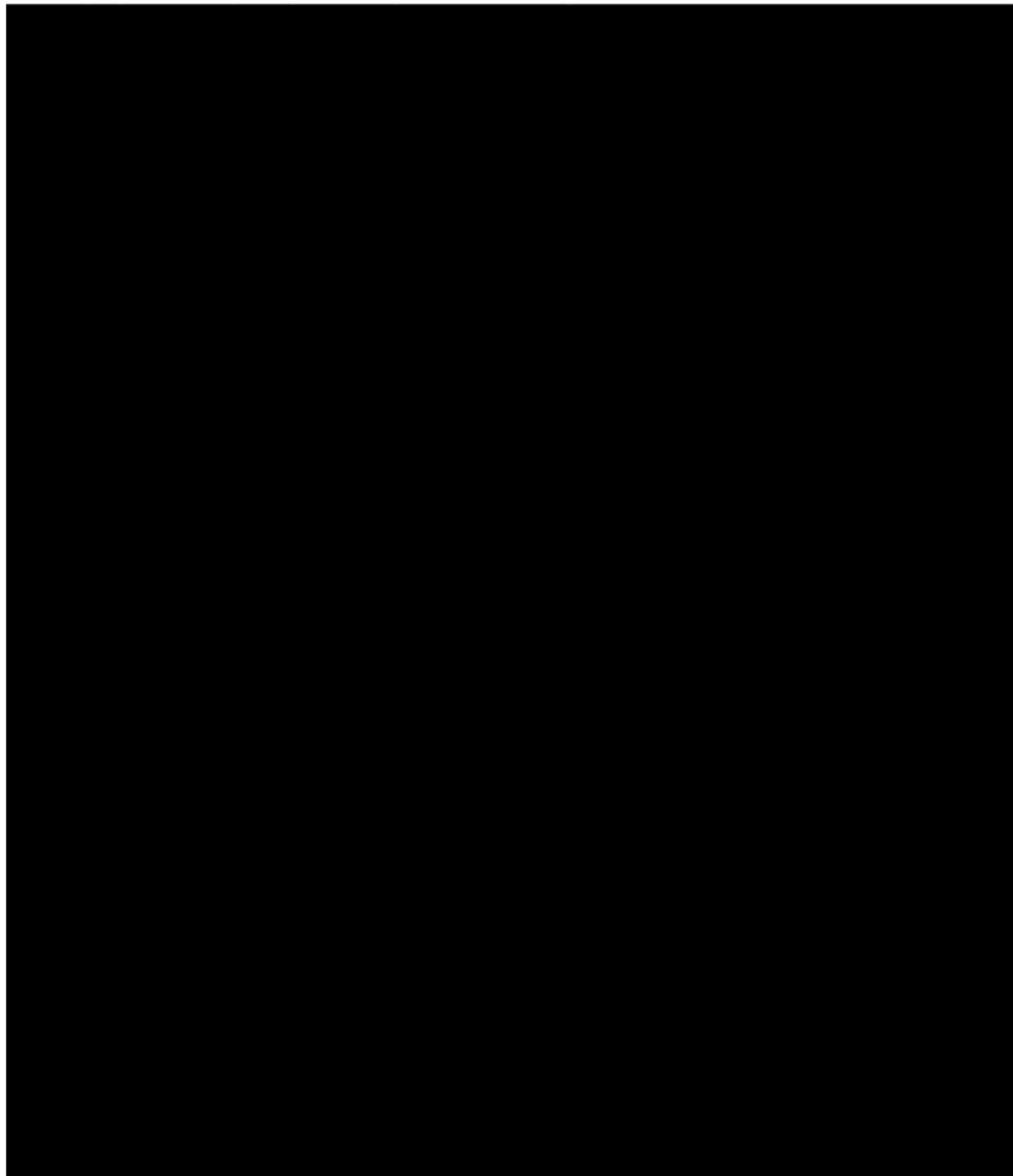
SALEM COUNTY PROSECUTOR'S OFFICE



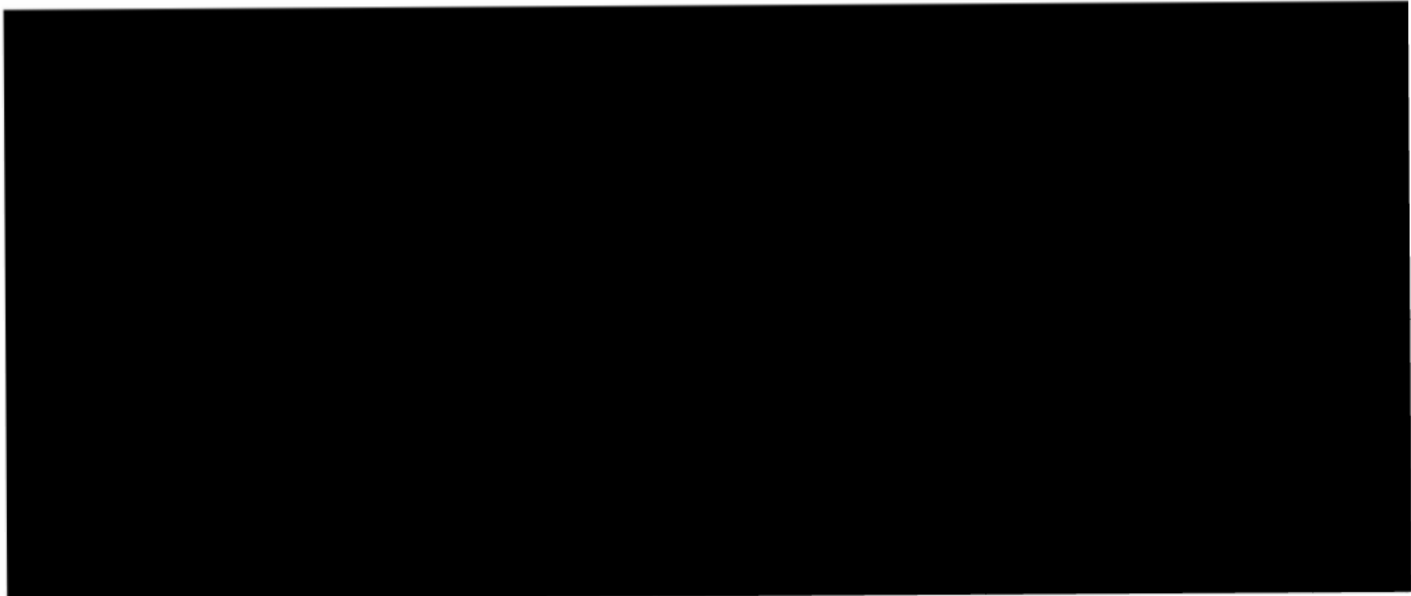
SALEM COUNTY PROSECUTOR'S OFFICE



SALEM COUNTY PROSECUTOR'S OFFICE



SALEM COUNTY PROSECUTOR'S OFFICE



On December 11, 2024, this matter was presented to the Salem County grand jury and a true bill was returned.³ [REDACTED]



[REDACTED] 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 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 February 26, 2025, counsel for the defendant filed a Notice of Motion to Dismiss the Indictment. That Motion was heard before Your Honor where it was denied.

Over fourteen months after the matter was presented to the Salem County grand jury, defense provided to the State with a copy of their expert's report regarding the defendant's BAC level on the day in question. Subsequently, defense filed another Motion to Dismiss the

³ A copy of Salem County indictment number 24-12-400-1 is attached hereto as Exhibit A.

SALEM COUNTY PROSECUTOR'S OFFICE

Indictment based on their expert's opinion regarding the testing of the defendant's blood. This brief will address the defense's second Motion to Dismiss the Indictment.

Legal Argument

There are only limited circumstances where an indictment should be overturned. Those circumstances are when the indictment is "manifestly deficient or palpably defective." State v. Mason, 355 N.J. Super. 296, 298 (2002). When these circumstances are met, dismissal is only appropriate when the grounds are described as the clearest and plainest. State v. Perry, 124 N.J. 128, 168 (1991). Also, "where the 'indictment alleges all the essential facts of the crime, the charge is sufficiently stated, and the indictment should not be dismissed unless its insufficiency is 'palpable.'" Mason, 355 N.J. Super. at 299, quoting State v. LaFera, 35 N.J. 75, 81 (1961).

To uphold an indictment, the State must produce or present *prima facie* evidence to the grand jury. State v. Graham, 284 N.J. Super. 413 (App. Div. 1995). In reviewing the sufficiency of the evidence, every reasonable inference is given to the State. Id. at 416. The evidence presented does not need to be sufficient to sustain a conviction. Id. at 417. The grand jury is an accusatorial body and not adversarial. State v. Hogan, 144 N.J. 216, 235 (1996). The grand jury is to investigate potential defendants and determine if a criminal proceeding should proceed. It does not weigh evidence. Credibility determinations and factual disputes are almost exclusively reserved for petit juries. Id. Evidence presented only needs to be sufficient to establish that a crime has been committed, not establish guilt or innocence. State v. Graham, 284 N.J. Super. 413, 417 (App. Div. 1995). Hogan, 144 N.J. at 235. Any "challenge to an indictment must demonstrate that evidence is clearly lacking to support the charge." Graham, 284 N.J. Super. at 417., quoting State v. McCray, 97 N.J. 132, 142 (1984).

SALEM COUNTY PROSECUTOR'S OFFICE

Because of the non-adversarial nature of grand jury proceedings, incomplete or imprecise legal interpretations will not warrant dismissal of the indictment. State v. Laws, 262 N.J. Super. 551 (App. Div. 1993), cert. den. 134 N.J. 475. An indictment should not be dismissed if the grand jury heard at least some evidence as to each element of the offense charged in the indictments. State v. Vasky, 218 N.J. Super. 487 (App. Div. 1987).

The State, however, cannot present evidence to the grand jury which would equate to a half-truth. Hogan, 144 N.J. at 236. A “grand jury cannot be denied access to evidence that is credible, material, and so clearly exculpatory as to induce a rational grand juror to conclude that the State has not made out a prima facie case against the accused.” Id., at 236. When the prosecutor has evidence which is clearly exculpatory that negates guilt he or she is required to present this evidence to the grand jury. Id., at 237. However, the State does not have to provide evidence on behalf of the accused. Id., at 236. The value of exculpatory evidence needs to be weighed against the strength of the State’s case and the nature and source of the evidence. Id., at 238.

Only when the State has actual knowledge of evidence that clearly negates guilt does the State have to present that evidence to the grand jury. This standard only applies in extraordinary cases where there is evidence of guilt and evidence that is clearly exculpatory. In determining whether the “exculpatory” evidence should be presented to the grand jury, the evidence must negate guilt and be *clearly exculpatory*. Id., at 237 (emphasis added). When reviewing whether a certain piece of evidence should have been presented to the grand jury, reviewing courts should only dismiss after giving due regard to the prosecutor’s evaluation of whether the evidence in question is “clearly exculpatory”. Only in exceptional cases will the State’s failure to provide exculpatory evidence to the grand jury provide reasons to challenge an indictment. Id.

SALEM COUNTY PROSECUTOR'S OFFICE

Defense's main argument is that the State needed to present the statements contained in their own expert's opinion contesting the defendant's BAC level on the day in question. First, the State received the report over fourteen months after this matter was presented to the grand jury. Even if the State determined the information contained in the report was clearly exculpatory, there is no way the State could have presented this information to the grand jury at the time of presentment.

Second, the information contained in the report is not clearly exculpatory, pursuant to Hogan. This is a report of the defendant's expert's opinion regarding the credibility of one piece of evidence in the case. The State intends to refute that opinion if this matter proceeds to the petit jury. Such credibility determinations and attacks on evidence are made almost exclusively by petit juries. The report in question is not clearly exculpatory when State has evidence that refutes what is contained therein.

Finally, the defendant's BAC level is but one of many ways the State will establish defendant's reckless conduct on the day in question and how it amounted to an extreme indifference to human life. There are several witnesses that gave statements regarding how the defendant was driving recklessly and that Matthew and John were not riding in the lane of travel. The fact that defendant did not stop to assist Matthew and John after hitting them with his SUV could be enough, alone, to determine the defendant's actions amounted to an extreme indifference to human life. Additionally, Tpr. Allonardo smelled alcohol coming from the defendant when he interacted with the defendant at the crime scene. The defendant failed the sobriety tests administered by Tpr. Allonardo. During the initial encounter between the defendant and Tpr. Allonardo, the defendant admitted to consuming alcohol before driving. Later during his formal statement, the defendant gives specific details regarding how much he was drinking

SALEM COUNTY PROSECUTOR'S OFFICE

before driving and that he was drinking while he was driving. Further, the Defendant in his statement admits to driving recklessly when he struck Matthew and John. When weighing the strengths of the State's case against the defendant's expert's report, it is clear the report is not clearly exculpatory. There is no requirement for the State to present that evidence to the grand jury and dismissal of the indictment is unwarranted. Therefore, for the above reasons, it is respectfully requested that Your Honor deny the defendant's Motion to Dismiss the Indictment.

Conclusion

When this matter was presented to the grand jury, the State did not have the report in question. The report is not new evidence. It is only one chemist's opinion attacking the credibility of one piece of the State's evidence in this matter. Further, the information contained therein is not clearly exculpatory when weighed against the strengths of the State's case and the evidence presented to the grand jury. Therefore, Your Honor should deny the defendant's Motion to Dismiss the Indictment.

Respectfully Submitted,



Michael Mestern
Assistant Prosecutor

Exhibit A

24000547
W-2024-000109-1715

SUPERIOR COURT
SALEM COUNTY
FILED

DEC 11 2024

CRIMINAL DIVISION

KRISTIN J. TELSEY, SALEM COUNTY PROSECUTOR
SALEM COUNTY PROSECUTOR'S OFFICE
FENWICK BUILDING
87 MARKET STREET
SALEM, NEW JERSEY 08079
Telephone (856) 935-7510, ext. 8333
Attorney for Plaintiff/ State of New Jersey

THE STATE OF NEW JERSEY

NOVEMBER SESSION
2024 TERM

Plaintiff,

vs.

INDICTMENT NO. 24-12-00400-I

SEAN M. HIGGINS

Defendant

Reckless Vehicular Homicide – Second Degree (Two Counts)
Aggravated Manslaughter – First Degree (Two Counts)
Tampering with Physical Evidence – Fourth Degree
Leaving the Scene of a Fatal Accident – Second Degree

THE GRAND JURORS, of the State of New Jersey, for the County of SALEM, upon their oaths and affirmations, present that on or about the 29th day of August 2024, in the Township of OLDMANS, in the county aforesaid, and within the jurisdiction of this Court, SEAN M. HIGGINS did drive a vehicle recklessly in violation of R.S. 39:4-50, Driving While Intoxicated and thereby caused the death of Matthew Gaudreau, contrary to the provisions of N.J.S.A. 2C:11-5a, against the peace of this State, the Government and dignity of the same.

SECOND COUNT

On or about the 29th day of August 2024, in the Township of OLDMANS, in the county aforesaid, and within the jurisdiction of this Court, SEAN M. HIGGINS did drive a vehicle recklessly in violation of R.S. 39:4-50, Driving While Intoxicated and thereby caused the death

of John Gaudreau, contrary to the provisions of N.J.S.A. 2C:11-5a, against the peace of this State, the Government and dignity of the same.

THIRD COUNT

On or about the 29th day of August 2024, in the Township of OLDMANS, in the county aforesaid, and within the jurisdiction of this Court, SEAN M. HIGGINS did commit aggravated manslaughter by recklessly causing the death of Matthew Gaudreau under circumstances manifesting extreme indifference to human life, contrary to the provisions of N.J.S.A. 2C:11-4a(1), against the peace of this State, the Government and dignity of the same.

FOURTH COUNT

On or about the 29th day of August 2024, in the Township of OLDMANS, in the county aforesaid, and within the jurisdiction of this Court, SEAN M. HIGGINS did commit aggravated manslaughter by recklessly causing the death of John Gaudreau under circumstances manifesting extreme indifference to human life, contrary to the provisions of N.J.S.A. 2C:11-4a(1), against the peace of this State, the Government and dignity of the same.

FIFTH COUNT


On or about the 29th day of August 2024, in the Township of OLDMANS, in the county aforesaid, and within the jurisdiction of this Court, SEAN M. HIGGINS believing that an official proceeding or investigation is pending or about to be instituted, knowingly did alter, destroy, conceal or remove any article, object, record, document or other thing of physical substance with purpose to impair its verity or availability in such proceeding or investigation, contrary to the provisions of N.J.S.A. 2C:28-6(1), against the peace of this State, the Government and dignity of the same.

SIXTH COUNT

On or about the 29th day of August 2024, in the Township of OLDMANS, in the county aforesaid, and within the jurisdiction of this Court, SEAN M. HIGGINS while knowing he was involved in a motor vehicle accident, did leave the scene of said accident under circumstances that violates the provisions of R.S. 39:4-129 and the accident resulted in the deaths of Matthew Gaudreau and John Gaudreau, contrary to the provisions of N.J.S.A. 2C:11-5.1, against the

peace of this State, the Government and dignity of the same.

A True Bill Returned


Foreperson

Michael Mestern
Salem County Prosecutor

Receipt of copy of the within indictment before entry of plea is acknowledged pursuant to
Rule 3:5-1

Defendant