

CAUSE NO. MD-0417962

STATE OF TEXAS

vs.

MATTHEW REARDON

§
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§

IN THE CRIMINAL COURT

COUNTY COURT NO. 3

GALVESTON COUNTY, TEXAS

DEFENDANT'S MOTION FOR A FRANKS HEARING

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MATTHEW OLIVER REARDON (“**Defendant**”), by and through the undersigned counsel, pursuant to Tex. Code Crim. Proc. Art. 28.01 § 1(6), and hereby respectfully moves this Court to grant a *Franks* hearing to challenge the veracity of statements made in the search warrant affidavit in this case. In support of this motion, the Defendant states as follows:

1. Defendant is charged with misdemeanor Driving While Intoxicated. At 2:49 a.m. on August 11, 2023, a Search Warrant for Blood (“**Warrant**”) was issued to take a blood sample from Defendant. The affiant for the Affidavit for Search Warrant (Ex. A, “**Affidavit**”) was Galveston Police Department Officer William Osteen (“**Officer Osteen**”).
2. The Fourth Amendment to the United States Constitution and Article I, Section 9 of the Texas Constitution, as codified in Texas Code of Criminal Procedure Article 1.06, protect citizens against unreasonable searches and seizures and require that warrants be based on probable cause supported by oath or affirmation.
3. A search warrant cannot issue unless it is based on probable cause as determined from the four corners of the affidavit. *See Flores v. State*, 319 S.W.3d 697, 702-03 (Tex. Crim. App. 2010). The Affidavit contains these observations or statements which, when taken together, might justify probable cause for a search:
 - A. “Officer Murph advised Affiant that he observed the Equinox Fail to Maintain a Single Marked Lane multiple times. Officer Murph advised Affiant that he observed the Equinox Fail to signal when conducting a Lane Change.” (Ex. A, pg. 1)
 - B. “Affiant smelled an odor of an unknown alcoholic beverage emitting from the vehicle.” (Ex. A, pg. 1)
 - C. “Affiant observed Matthew to have watery, glossy eyes.” (Ex. A, pg. 1)
 - D. Walking: Heavy Footed (Ex. A, pg. 2)
 - E. Speech: Slurred & Thick-Tongued (Ex. A, pg. 2)

- F. Eyes: Watery & Dilated (Ex. A, pg. 2)
 - G. Odor of Alcoholic Beverage on breath: Moderate (Ex. A, pg. 2)
 - H. “REFUSAL EVIDENCE: After placing the suspect under arrest for Driving While Intoxicated, a sample was requested of the suspect’s breath and/or blood, which the suspect refused to provide a sample in violation of the Texas Implied Consent law.” (Ex. A, pg. 2)
2. In *Franks v. Delaware*, 438 U.S. 154 (1978), the United States Supreme Court held that, where a defendant makes a substantial preliminary showing that a false statement was knowingly and intentionally, or with reckless disregard for the truth, included in a warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant’s request.
 3. The Texas Court of Criminal Appeals has adopted the *Franks* methodology in dealing with probable cause affidavits. See *Harris v. State*, 227 S.W.3d 83 (Tex. Crim. App. 2007)
 4. In this case, there are significant contradictions between Officer Osteen’s statements in the Affidavit and other evidence in the case, including the DWI Case Report, Toxicology Report, Officer Osteen’s body camera footage, and statements made by Officer Osteen under oath in related proceedings.
 5. Specifically, the following evidence contradicts the Affidavit:
 - A. “An odor of an unknown alcoholic beverage.” The Toxicology Laboratory Report with case number HOU-2308-10286 revealed no trace of alcohol in Defendant’s blood. (“**Toxicology Report**,” Ex. B, pg. 1). There were no alcoholic beverages or open containers found in the vehicle. (“**DWI Case Report**,” Ex. C, pg. 1; “**Probation Revocation Hearing Transcript**,” Ex. D, pgs. 24-25, lns. 22-3). Galveston has disposed of the vehicle, making it impossible for Defendant to exculpate himself, but the evidence is clear that there is no source from which the smell of alcohol could have come.
 - B. “Odor of Alcoholic Beverage on breath: Moderate.” The Toxicology Report revealed no trace of alcohol in Defendant’s blood. (Ex. B, pg. 1). “Moderate” is the second highest level of odor, and would not be present for a defendant with no alcohol in his system. Further, Officer Osteen clarified multiple times on camera that he did not smell alcohol on Defendant’s breath, only from his vehicle. (See, e.g., “**Osteen Bodycam 1**,” Ex. E, 09:35-09:39; “**Osteen Bodycam 2**,” Ex. F, 05:55-06:10). He would later testify under oath that once Defendant stepped out of his vehicle, he could not detect an odor of alcohol emitting from the Defendant. (Ex. D, pg. 24, lns. 1-5). Yet he still marked that there was a moderate smell of alcohol *on Defendant’s breath* in the Affidavit, an observation Officer Osteen had already demonstrated that he knew to be false.

- C. “Eyes: Watery & Dilated.” Officer Osteen would later testify that Defendant’s “pupils were very small” and “he had pinpoint pupils” (Ex. D, pg. 24, ln. 10, & pg. 35, ln. 7). This is the exact opposite of the dilated pupils described in the Affidavit. Officer Osteen either did not get a good look at Defendant’s eyes and was just making something up in the Affidavit—a reckless disregard for the truth—or he changed his story and perjured himself once he discovered that the Toxicology Report revealed no trace of alcohol in Defendant’s blood.
- D. “Walking: Heavy Footed.” All video evidence shows the Defendant walking and standing normally. Officer Osteen had virtually no opportunity to observe Defendant’s walking prior to arresting him and obtaining the Warrant. (Ex. E, 09:44-12:38). The bodycam footage shows that Officer Osteen wasn’t even facing the Defendant for the brief period of time that Defendant was walking. (Ex. E, 09:44-10:11). Also, “heavy-footed” typically denotes slow, laborious movements, but Osteen would later testify that Defendant was “extremely jittery.” (Ex. D, pg. 23, ln. 25).
- E. “Speech: Slurred & Thick-Tongued.” In Officer Osteen’s bodycam footage, Defendant speaks articulately and at a reasonable pace. (Ex. E, 02:32-02:48). After having less than a minute of conversation with Defendant, Officer Osteen later discusses with Officer Larry Murph how they can go ahead and arrest Defendant, stating he “can go off of slurred speech and the smell . . .” (Ex. E, 07:56-07:59), despite no slurred speech having been observed (Ex. E, 02:32-02:48) and no evidence of smell as described above. “Thick-tongued” usually denotes slow, difficult speech, but Osteen would later testify that Defendant was “talking extremely fast.” (Ex. D, pg. 35, ln. 8).
- F. “Refused to provide a sample.” Defendant clearly offered to take a breathalyzer test prior to being taken into custody, and consented to be taken into custody for that purpose. (Ex. E, 10:30-12:10). Officer Osteen had no probable cause to arrest Defendant at the point he took Defendant into custody, having smelled no alcohol nor observed any symptoms of intoxication, as described above. Officer Osteen would later testify that he did not suspect a substance other than alcohol, except that Defendant demonstrated a willingness to take a breathalyzer. (Ex. D, pg. 24, lns. 11-21). However, being willing to take a breathalyzer is not a sign of intoxication which would justify a blood warrant, and Officer Osteen recorded only his alleged observations regarding alcohol consumption in the Affidavit. Officer Osteen intentionally omitted Defendant’s willingness to take a breathalyzer from the Affidavit so that he could use Defendant’s “refusal” as evidence supporting the Warrant.
- G. Changing Testimony. Between the time of the Affidavit and the time of the probation revocation hearing, Officer Osteen changed the symptoms he claims to have observed from alcohol (slow, thick-tongued, slurred speech; dilated pupils; smell of alcohol on breath) to another substance instead (fast speech; small pupils;

jittery movements). Each observation was made under oath, but they obviously aren't both true. Such a fundamental shift in observations, under oath, suggests intentional misrepresentation rather than innocent mistake.

6. Officer Osteen made these materially false or misleading statements knowingly and intentionally, or with reckless disregard for the truth, in an attempt to set up the Defendant. Upon approaching the Defendant, Officer Osteen's bodycam footage shows one of the very first questions Officer Osteen asks Defendant is "You an auditor man?" (Ex. E, 02:48). He then tells another officer "Hey, I'm doing this one, this is an auditor." (Ex. E, 03:04-03:06). On information and belief, the City of Galveston has a contentious relationship with "auditors." As described above, Officer Osteen had already decided to arrest Defendant after less than a minute of interacting with him, before having made any significant observations. (Ex. E, 07:56-07:59).
7. Confirming his willingness to lie under oath in order to put Defendant away, Officer Osteen committed perjury in the Defendant's probation revocation hearing, twice testifying that the Toxicology Report had found alcohol in Defendant's system, even though it had not. (Ex. D, pg. 27, ln. 17, & pg. 27, lns. 23-24; Ex. B, pg. 1).
8. These contradictions and false statements were material to the finding of probable cause. Without these false statements, the remaining content of the affidavit is insufficient to establish probable cause for the issuance of the Warrant. "The affidavit must contain 'sufficient information' to allow the issuing magistrate to determine probable cause because the magistrate's action 'cannot be a mere ratification of the bare conclusions of others.'" *Farhat v. State*, 337 S.W.3d 302, 306 (Tex. App.—Fort Worth 2011, pet. ref'd), citing *Illinois v. Gates*, 462 U.S. 213, 239 (1983). Traffic violations, without other indicators of intoxication, are not probable cause for a blood warrant. *See Farhat*, 337 S.W.3d at 306-307 (holding that driving 10 m.p.h. under the speed limit, weaving from side to side, turning left while using the right turn signal, seeing two pill bottles in the vehicle, the defendant's admission to drinking four beers, and the defendant's refusal to take a field sobriety test, without objective evidence of intoxication, did not provide probable cause for a blood warrant); *see also State v. Evans*, 500 S.W.3d 528 (Tex. App.—San Antonio 2016, no pet.) (holding similarly that a traffic violation alone is not probable cause for a search warrant).
9. The Defendant has made a substantial preliminary showing that false statements knowingly and intentionally, or with reckless disregard for the truth, were included by Officer Osteen in the Affidavit.
10. Therefore, pursuant to *Franks v. Delaware* and its progeny, the Defendant is entitled to an evidentiary hearing to challenge the veracity of the statements made in the Affidavit.
11. Upon a showing that the Warrant was issued based on false statements and lacked probable cause, all evidence obtained as a result—including the blood test results—must be suppressed under the exclusionary rule. *See Wong Sun v. United States*, 371 U.S. 471, 488 (1963) (establishing the "fruit of the poisonous tree" doctrine).

12. Defendant asks the Court to take judicial notice that he was extradited without a hearing based on this incident to Lafayette County, Mississippi, in Extradition Case No. 23-CR-3096 in the 56th Judicial District Court of Galveston County, Texas—erroneously, in the opinion of Defendant—and therefore requests that his attendance at the *Franks* hearing be waived by the Court.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests that this Court grant a *Franks* hearing to allow the Defendant to challenge the veracity of the statements made in the search warrant affidavit, and waive Defendant’s attendance at such hearing. Defendant further requests that, upon proof by a preponderance of the evidence, that the Court void the search warrant and exclude all evidence obtained pursuant to it as “fruit of the poisonous tree.” Defendant further requests that this Court grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Benjamin S. Campagna
BENJAMIN S. CAMPAGNA
Texas Bar No. 24078302

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Houston, TX 77002
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a on February 25, 2025, a true and correct copy of the above and foregoing document was served on the District Attorney’s Office, Galveston County, via electronic mail.

/s/ Benjamin S. Campagna
BENJAMIN S. CAMPAGNA

AFFIDAVIT FOR SEARCH WARRANT

THE STATE OF TEXAS

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COUNTY OF Galveston

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The undersigned Affiant, being a peace officer under the laws of Texas and being duly sworn, on oath makes the following statements and accusations:

My name is William Osteen. I am a peace officer employed by the following law enforcement agency: Galveston Police Department

I have successfully completed the State-mandated requirements to become a peace officer. Additionally, I have successfully completed courses and/or training in the field of alcohol detection and intoxication-related offenses. I have seen intoxicated persons in the past and, during the course of my employment, I have observed numerous people who are under the influence of alcohol or other substances.

Officer Certifications:

- | | |
|--|---|
| <input checked="" type="checkbox"/> SFST Trained | <input type="checkbox"/> ARIDE Trained |
| <input checked="" type="checkbox"/> Certified Breath Test Operator | <input type="checkbox"/> ARIDE Instructor |
| <input type="checkbox"/> Certified SFST Instructor | <input type="checkbox"/> Certified MSEO (Marine Safety Enforcement Officer) |
| <input type="checkbox"/> Certified DRE | <input type="checkbox"/> Seated FST Trained |
| <input type="checkbox"/> Certified DRE Instructor | |

1. There is in Galveston County, Texas a suspected person ("suspect") described as follows:

Defendant: Matthew Oliver Reardon Age: 36
Race: White Sex: M DOB: 3/24/1987 Ethnicity: Non-Hispanic
Hair Color: Bald Eye Color: Blue Weight: 140 Height: 5' 9"
DL #: 801186335 State: MS Type/Class: _____ Year Expires: _____

2. Suspect is presently in custody of a law enforcement agency, namely the Galveston Police Department which will present the suspect to execute the warrant requested herein.
3. Affiant knows from previous experience and training that qualified laboratory personnel such as those employed by the Texas Department of Public Safety, Crime Laboratory, can through testing, determine the alcohol concentration or other drugs present in individuals by testing a sample of that individual's blood. The suspect has possession of and is concealing human blood, which constitutes evidence that the suspect committed the offense described in paragraph 4 below.
4. On or about the 11 day of AUGUST, 2023 at approximately 01:52, the suspect did then and there operate a motor vehicle or watercraft in a public place in Galveston County, Texas while intoxicated by not having the normal use of mental or physical faculties by reason of the introduction of alcohol, controlled substance, drug, or a dangerous drug in the suspect's body.
5. The suspect was operating a motor vehicle or watercraft in a public place in Galveston County, Texas on the above date based on the following facts:

Probable Cause

On Friday August 11th, 2023, at approximately 0152hours, Affiant was called by Officer L. Murph to make his traffic stop location in the 4300 block of Ave J. Upon making location, Officer Murph advised Affiant that he observed a black 2013 Chevrolet Equinox bearing MSLP: LXE1450 traveling eastbound in the 4700 block of Ave J at approximately 47 mph in a 35-mph speed zone. Officer Murph advised Affiant that he observed the Equinox Fail to Maintain a Single Marked Lane multiple times. Officer Murph advised Affiant that he observed the Equinox Fail to signal when conducting a Lane Change. Officer Murph advised Affiant that he observed the Equinox to have his license plate obstructed. Officer Murph advised Affiant that he conducted a traffic stop in the 4300 block of Ave J.

Upon making contact with the driver, later identified as Matthew Reardon (DOB: 03/24/1987 M/W,) Affiant smelled an odor of an unknown alcoholic beverage emitting from the vehicle. Affiant observed Matthew to have watery, glossy eyes. Affiant asked Matthew where he was coming from to which he advised out of state. Affiant asked Matthew where he was headed to, to which he advised that he was just visiting the city of Galveston. Affiant asked Matthew if he had anything to drink tonight to which he advised that he hasn't had a drink in 3 years. Affiant asked Matthew to step out of the vehicle. Affiant asked Matthew if he would consent to Standardized Field Sobriety Test (SFST's) to which he refused consent.

Based on the above facts, Affiant placed Matthew under arrest for Driving While Intoxicated. Affiant read Matthew a copy of the DIC24 Statutory Warning using the LEADRS recording and requested a specimen of his blood to which he refused. Affiant is now requesting a Strike Warrant for Matthew Reardon.

AFFIDAVIT FOR SEARCH WARRANT

Field Sobriety Tests

Were Field Sobriety Tests given?

Yes No

Defendant refused tests

Physical Injuries

Defendant was more than 65 years of age or appeared to be more than 50 pounds overweight

Field Sobriety Testing Comments:

Defendant Refused SFST's.

Vehicle Information

Vehicle Make: **Chevrolet**

Model: **Equinox**

Body Style: **SUV/Carry-all**

Observations

I made the following observations about the suspect:

Clothing

Disorderly
 Soiled
 Stained
 Torn
 Orderly

Balance

Swaying
 Unsteady
 Needed support
 Falling down
 Normal

Walking

Staggering
 Falling
 Swaying
 Heavy Footed
 Normal

Speech

Slurred
 Incoherent
 Thick-tongued
 Slow/Mumbled
 Normal

Eyes

Red
 Watery
 Dilated
 Droopy eyelids
 Normal

Odor of Alcoholic Beverage on breath:

None Slight Moderate Strong

Attitude: Cooperative Combative Indifferent Cocky Apologetic Uncooperative

Unusual actions observed: _____

Suspected impairment caused by: Alcohol only Drug only Alcohol & Drug

Drug Group suspected: CNS Depressant Hallucinogen Narcotic Analgesic Cannabis
 CNS Stimulants Dissociative Anesthetics Inhalant

6. Based upon my experiences, my training in intoxication-related offenses, and my observations of the suspect during my contact with him/her, I believe that the suspect is intoxicated by reason of the introduction of alcohol, a controlled substance, a dangerous drug, or a combination thereof, and that the suspect lost the normal use of his/her mental or physical faculties by reason of the introduction of alcohol or one of the other aforementioned substances, or a combination thereof, into his/her body. Matthew Oliver Reardon was then placed under arrest for the offense of Driving While Intoxicated PC 49.04.
7. REFUSAL EVIDENCE: After placing the suspect under arrest for Driving While Intoxicated, a sample was requested of the suspect's breath and/or blood, which the suspect refused to provide a sample in violation of the Texas Implied Consent law. This is an indication to me that suspect is attempting to hide evidence of his/her intoxication.

AFFIDAVIT FOR SEARCH WARRANT

WHEREFORE, based upon this affidavit and Beeman v. State, 86 S.W.3d 613 (Tex. Crim. App. 2002), Affiant asks for a search warrant that will authorize Affiant or Affiant's agent to search the person of the suspect for the blood evidence described above and seize the same as evidence that the offense described was committed and that the suspect committed the said offense.

Further Affiant asks for issuance of an order to appropriate third parties directing them to assist Affiant in the execution of said warrant.

Wj O #692
Affiant

Subscribed and sworn to before me on this 11th day of August, 2023.

Big R. Williams Jr.
Magistrate/Notary / Peace officer, State of Texas

SEARCH WARRANT FOR BLOOD

The State of Texas to the Sheriff or any Peace Officer of GALVESTON County, Texas:

GREETINGS

WHEREAS an affidavit in writing, under oath, has been made before me by William Osteen [affiant], which said affidavit is attached hereto and expressly incorporated herein and made a part hereof, and said affidavit and the attachments thereto having stated facts and information in my opinion sufficient to establish probable cause for issuance of this warrant for seizure of BLOOD from the person of Matthew O. Reardon [defendant] described in the affidavit for issuance of this warrant and that Matthew O. Reardon [defendant] committed the offense of Driving While Intoxicated PC 49.04.

YOU ARE THEREFORE, COMMANDED to forthwith seize from the person of Matthew O. Reardon [defendant], taking of blood from the human body and the said physician, registered nurse, qualified technician or medical laboratory technician shall take samples of the BLOOD from the person of Matthew O. Reardon [defendant] in the presence of a law enforcement officer and deliver the said samples to the said law enforcement officer.

Further, authority is hereby granted to forensically analyze the blood seized pursuant to this search warrant for the presence of intoxicating substances.

Authority is hereby granted that said peace officer may remove the blood seized pursuant to this warrant to any place in the State of Texas for the purpose of forensic analysis.

This court grants you leave and authority to remove such seized property from this county if and only if such removal is necessary for the safekeeping of such seized property by you or if such removal is otherwise authorized by the provisions of Article 18.10, Texas Code of Criminal Procedure.

HEREIN FAIL NOT, but have you then and there this warrant within three days, exclusive of the day of its issuance and execution, with your return thereon, showing how you have executed the same.

witness my signature this 11th day of August, 2023 at 2:49 o'clock P.M./A.M. (M)

Billy A. Williams, Jr.
Signature of Magistrate/Judge

Billy A. Williams, Jr.
Printed or Typed Name of Magistrate/Judge

JP 3
Court
GALVESTON County, Texas

RETURN AND INVENTORY

The undersigned Affiant, being a Peace Officer under the laws of Texas and being duly sworn, on oath certifies that the foregoing Warrant came to hand on the day it was issued and that it was executed on the 11th day of August, 20 23, by making the search directed therein and seizing during such search the following described property:

A specimen of Matthew O. Reardon (defendant's) blood.

W. Osteen #692
Affiant

SUBSCRIBED AND SWORN to before me, the undersigned authority on this _____ day of _____, 20 ____.

- _____
 Peace Officer, State of Texas
 Magistrate, GALVESTON County, Texas

ORDER FOR ASSISTANCE IN EXECUTION OF SEARCH WARRANT

To any physician, nurse, medical technician, or phlebotomist, licensed by the State of Texas or other person qualified in the intravenous removal of human blood:

Whereas, the affiant whose name appears on the affidavit attached hereto is a peace officer under the laws of Texas and did heretofore this day subscribe and swear to said affidavit before me (which said affidavit is here now made a part hereof for all purposes and incorporated herein as if written verbatim within the confines of this Order), and whereas I find that the verified facts stated by affiant in said Affidavit show that affiant has probable cause for the belief he/she expresses herein and established existence of proper grounds for issuance of a search warrant;

And whereas, this court has issued a warrant to search for and seize blood from the suspect name and described in the Affidavit, to-wit:

Name: Matthew O. Reardon
Race: White Sex: Male DOB: 3/24/1987 TDL: 801186335
Height: 5 ft., 9 in. Weight: 140 lbs. Hair Color: Bald

Therefore you are hereby ordered and commanded to cooperate with any peace officer requesting your professional assistance in the execution of this warrant.

Herein fail not, as this order is directed to any individual whose aid and assistance is requested by the officer bearing the accompanying search warrant, is authorized by the full authority of this Court to issue warrants and orders to enforce the laws of the State of Texas, and Article 18.08 of the Texas Code of Criminal Procedure. Any individual who fails to comply with this Order when requested may be liable for contempt of this Court and subject to all penalties authorized by law.

Witness my signature on this 11th day of August, 2023 at 2:49 o'clock P.M. (A.M.)


Magistrate GALVESTON County, Texas

TEXAS DEPARTMENT OF PUBLIC SAFETY



STEVEN C. McCRAW
DIRECTOR
FREEMAN F. MARTIN
DWIGHT D. MATHIS
WALT GOODSON
DEPUTY DIRECTORS

CRIME LABORATORY
12230 West Rd
Building C
Houston, TX 77065-4523
Voice 281-517-1380
HoustonCrimeLab@dps.texas.gov



COMMISSION
STEVEN P. MACH, CHAIRMAN
NELDA L. BLAIR
LARRY B. LONG
STEVE H. STODGHILL
DALE WAINWRIGHT

Laboratory Case Number: HOU-2308-10286 Toxicology (Alcohol/Volatiles) Laboratory Report Issue Date: September 06, 2023

William Osteen
Galveston Police Department
601 54th Street
Galveston, TX 77551

Agency Case Information: Galveston Police Department - 2023005559

Offense Information: 8/11/2023 - Galveston County

Subject(s): REARDON, MATTHEW OLIVER (DOB 03/24/1987) MS DL 801186335

Submission Information:

01 - Blood Kit on August 11, 2023 by Samuels, Christopher VIA In Person

Requested Analysis: Analyze for alcohol/volatiles and drug content.

Test Method(s): Instrumental Analysis (*Headspace Gas Chromatography with Flame Ionization Detection*)

Evidence Description, Results of Analysis and Interpretation:

01 : Blood Kit

01-01 : Blood in gray top tubes (2) from Matthew Oliver Reardon

No alcohol detected.

Note:

*The evidence listed is being forwarded to the DPS Austin Crime Laboratory for the requested drug analysis .
Please advise via email (AustinToxicology@dps.texas.gov) if analysis is no longer needed so that the DPS Austin
Crime Laboratory may devote efforts to other cases in the Toxicology backlog .*

This report has been electronically prepared and approved by:

Zachary Augustyn
Forensic Scientist
Texas DPS Houston Crime Laboratory
SOQ ID Number: ZA1340

This report has been issued via email to:

William Osteen (wosteen@galvestontx.gov)
GalvestonCoDA LabReports1 (darecpt@co.galveston.tx.us)
GalvestonCoDA LabReports2 (Miyoshi.Rougely@co.galveston.tx.us)
Austin ALR (ALRBAC@dps.texas.gov)
Lisa Citizen (lccitizen@galvestontx.gov)
Wanda Draper (wdraper@galvestontx.gov)

The results in this report relate only to the items tested or sampled as listed in the body of this report.

A test report may not be reproduced by the customer except in full. This report contains conclusions, opinions, and interpretations based on and supported by data obtained from using appropriate and validated scientific methods and procedures. The laboratory's current methods and procedures are available online at <https://www.dps.texas.gov/section/crime-laboratory/publications>.

Evidence Disposition: All evidence submitted by non-DPS entities is returned to the submitting agency. The Laboratory retains internal DPS customer evidence until authority to destroy, transfer, return, or forward the evidence is received. If evidence requires additional analysis, the laboratory will communicate this to the customer.

The Statement of Qualifications for this analyst(s) can be found at <https://www.dps.texas.gov/apps/soq>. The SOQ ID Number is located in the signature block of this report.

In addition to this report, the lab maintains a complete case record which may be discoverable under Article 39.14 of the Texas Code of Criminal Procedure. A list of Quality Incidents involving the laboratory is available online at <https://www.dps.texas.gov/section/crime-laboratory/crime-laboratory-quality-incidents>.



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Disclosure Form

LAB-302 LIMS Rev.01a (04/2023) p.1 Issued by: SQM

The information included on this document is required by Texas DPS Crime Laboratory policy published online at <https://www.dps.texas.gov/section/crime-laboratory/publications>, specifically in the Crime Laboratory Division Manual. The information disclosed is provided in accordance with Brady, Giglio, and Michael Morton Act and is intended for prosecutor evaluation.

Any events requiring disclosure for the indicated employee are listed below. If there are no disclosure-required events, this will be indicated by listing "None".

NOTE: Entries listed below do not necessarily relate to the case to which this Disclosure Form may be attached.

Name: Augustyn, Zachary
Title: Forensic Scientist

Date: 9/1/2020

Disclosure Event: None

Tracking Number: None

Description of Incident: None

Reviewed by Andrew Gardiner on 09/25/2020

THE STATE OF TEXAS

IN THE _____ COURT

VS.

MATTHEW OLIVER REARDON

GALVESTON COUNTY, TEXAS

PETITION FOR REIMBURSEMENT UNDER ARTICLE 42A.301(b) (17), CODE OF CRIMINAL PROCEDURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW THE STATE OF TEXAS by and through the undersigned attorney and moves the Court to include in the terms and conditions of probation, ordered under Article 42A.301(b) (17), Code of Criminal Procedure, in this case, reimbursement to the law enforcement agency, the Texas Department of Public Safety, Crime Laboratory, for its costs incurred in the (analysis) (1), (storage) (2), or (disposal) (3) for alcohol content in connection with this offense. The sum (4) of the cost to be reimbursed is \$60.00.

1. Analysis	\$ <u>60</u>
2. Storage	\$ <u>0</u>
3. Disposal	\$ <u>0</u>
4. Sum	\$ <u>60</u>

Signature of Attorney Representing the State

Printed Name

DPS Laboratory Number: HOU-2308-10286
Agency File Number: 2023005559

IF REIMBURSEMENT IS ORDERED AS A TERM OF
COMMUNITY SUPERVISION, SEND PAYMENT TO:

Texas Department of Public Safety
RESTITUTION ACCOUNTING
P.O. Box 15999
Austin, Texas 78773-0130

512-424-5461

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

District _____ Arrest # (if different from Case) _____

Defendant Information

Defendant: **Matthew Oliver Reardon** Age: **36**

Race: **White** Sex: **M** DOB: **3/24/1987** Ethnicity: **Non-Hispanic**

Hair Color: **Bald** Eye Color: **Blue** Weight: **140** Height: **5' 9"** Skin Complexion: **Light**

Scars, marks, tattoos, amputations: _____

Place of Birth (city/state): _____ Alias Name: _____

Social Security #: _____ Mother's Maiden Name: _____ US Citizen: **YES**

Address: **503 County Road 371** City: **Water Valley**

State: **MS** Zip Code: **38965**

Phone #: _____ Occupation: _____ Work #: _____

Place Of Employment / School: _____

DL #: **801186335** ID Card #: _____ State: **MS** Type/Class: _____ Year Expires: **2028**

DPS SID#: _____ Education Level: _____ Special Needs: _____

Defendant was wearing a safety belt Defendant was wearing a helmet

Condition Of Defendant at time of booking: _____

Emergency Contact Information:

Name: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Phone #: _____ Relationship to the Defendant: _____

Offense Information

Offense Type: **49.09 (b) Driving While Intoxicated 3rd or More**

Classification of Offense: **Third Degree Felony** DPS Offense Code: **54040011**

Explain Enhancement for subsequent DWI (Date of conviction, name of court, county of court, and charge): _____

Date of Conviction: **11/03/2014 in the Cobb County State Court in Cobb County, Georgia - DUI Driving Under the Influence of Alcohol (40-6-391 (a) (1) Georgia Statute**

Date of Conviction: **02/01/2021 in the Lafayette County Justice Court in Lafayette County, Mississippi - DUI 1st (63-11-30) Mississippi Statute**

Open containers: **No**

Describe condition of open container(s) and where found: _____

N/A

Offense Location: **4300 Broadway Avenue J, Galveston, TX 77550** Offense County: **Galveston** Date of Offense: **8/11/2023** Time of Offense: **1:52 AM**

Date of Arrest: **8/11/2023** Time of Arrest: **2:11 AM**

Date Booked: **8/11/2023** Time Booked: **3:30 AM**

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Arrest Information

County of Offense: Galveston County of Arrest: Galveston City of Arrest: Galveston
Non-Collision: No Crash Injuries of any party: _____
Location of Arrest: 4300 Broadway Avenue J, Galveston, TX 77550

Conditions

Light Dark - Lighted Weather Clear Offense Location Description Highway
Surface Dry Road Conditions Straight, Grade Road Surface Blacktop
Road marked for traffic lanes: Yes Describe Traffic Lanes: 2 Way 6 Lane Roadway

Initial Contact

What initially caused officer to notice the vehicle and all factors leading up to the stop. List everything from being reported by a 3rd party, crash scene, or first noticing the vehicle, till stopped by officer.

Officer L. Murph advised Affiant that he observed a vehicle traveling east bound approximately 47 in a 35 mph speed zone, failing to maintain a single lane multiple times, fail to use signal when changing lanes, and repeatedly tapping the breaks.

Speed as the factor for stop: YES Posted Speed Limit: 35 Observed Speed: 47
Officer Radar Trained: YES Radar Checked For Proper Function: YES Radar Type: Paced

Reason for Stop:

- Failure to signal or signal inconsistent with action
- Requested by other officer
- Speeding
- Unnecessary acceleration or deceleration
- Varying speed
- Weaving/Fail to maintain single lane

How was defendant identified as the driver? State if defendant was observed by officer or how determined. (State all facts, statements and corroborating evidence that placed the defendant behind the wheel at the time of the offense.)

Officer Murph advised Affiant that he observed the defendant in the driver's seat. Affiant also observed the defendant in the driver's seat.

Statements made by defendant during initial contact

Defendant advised Affiant that he was coming from Mississippi, that he hasn't had a drink of alcohol in 3 years. Affiant smelled a strong odor of an unknown alcoholic beverage emitting from the vehicle.

Suspect's Resistance: None Verbal threat Passive Physical

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Probable Cause

Probable Cause Narrative (short synopsis of case):

On Friday August 11th, 2023, at approximately 0152hours, Affiant was called by Officer L. Murph to make his traffic stop location in the 4300 block of Ave J. Upon making location, Officer Murph advised Affiant that he observed a black 2013 Chevrolet Equinox bearing MSLP: LXE1450 traveling eastbound in the 4700 block of Ave J at approximately 47 mph in a 35 mph speed zone. Officer Murph advised Affiant that he observed the Equinox Fail to Maintain a Single Marked Lane multiple times. Officer Murph advised Affiant that he observed the Equinox Fail to signal when conducting a Lane Change. Officer Murph advised Affiant that he observed the Equinox to have his license plate obstructed. Officer Murph advised Affiant that he conducted a traffic stop in the 4300 block of Ave J.

Upon making contact with the driver, later identified as Matthew Reardon (DOB: 03/24/1987 M/W,) Affiant smelled an odor of an unknown alcoholic beverage emitting from the vehicle. Affiant observed Matthew to have watery, glossy eyes. Affiant asked Matthew where he was coming from to which he advised out of state. Affiant asked Matthew where he was headed to, to which he advised that he was just visiting the city of Galveston. Affiant observed Matthew to have slightly slurred speech. Affiant asked Matthew if he had anything to drink tonight to which he advised that he hasn't had a drink in 3 years. Affiant asked Matthew to step out of the vehicle. Affiant asked Matthew if he would consent to Standardized Field Sobriety Test (SFST's) to which he refused consent.

Based on the above facts, Affiant placed Matthew under arrest for Driving While Intoxicated. Affiant read Matthew a copy of the DIC24 Statutory Warning using the LEADRS recording and requested a specimen of his blood to which he refused. Affiant obtained a Strike Warrant for Matthew Reardon from Judge Williams. Matthew was transported to the JSER where RN Jacob McDougale executed the blood draw at 0316 hours. After looking over Matthew's Criminal History, Affiant observed there to be two previous DUI/DWI charges on his history. Affiant contacted ADA B. Agbu and advised her of the incident to which she agreed to charge Matthew with Driving While Intoxicated 3rd or more with a recommended bond of \$10,000. Matthew Reardon was transported to the Galveston County Jail where he was booked for Driving While Intoxicated 3rd or more with a recommended bond of \$10,000.

Physical Evidence

911 Dispatch Tape included: No Explain why 911 recording is not included if applicable. N/A

Other Physical Evidence such as bar wrist bands, receipts, photos, drug paraphernalia, pill bottles, etc: *State where & when found and disposition of any other evidence :*

N/A

If no Video Tape Explain: N/A

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Vehicle Information

Commercial Vehicle: **No** Hazardous Materials: **No**

Vehicle Make: **Chevrolet** Year: **2013** Model: **Equinox** Body Style: **SUV/Carry-all** Color: **Blue**

License Plate # : **LXE1450** State: **MS** Plate Year **2024** VIN: **2GNALBEK1D6131850**

Impounded? **Yes** Towed By: **Permit 5** Stored At: **N/A**

Vehicle Condition at the Scene _____

Vehicle Placed on Hold: **No** Reason Placed on Hold: _____

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Field Sobriety Tests

Were Field Sobriety Tests given?

Yes No

Defendant refused tests

Physical Injuries

Defendant was more than 65 years of age or appeared to be more than 50 pounds overweight

Field Sobriety Testing Comments:

Defendant Refused SFST's.

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Observations

Clothing	Balance	Walking	Speech	Eyes
<input type="checkbox"/> Disorderly	<input type="checkbox"/> Swaying	<input type="checkbox"/> Staggering	<input checked="" type="checkbox"/> Slurred	<input type="checkbox"/> Red
<input type="checkbox"/> Soiled	<input type="checkbox"/> Unsteady	<input type="checkbox"/> Falling	<input type="checkbox"/> Incoherent	<input checked="" type="checkbox"/> Watery
<input type="checkbox"/> Stained	<input type="checkbox"/> Needed support	<input type="checkbox"/> Swaying	<input checked="" type="checkbox"/> Thick-tongued	<input checked="" type="checkbox"/> Dilated
<input type="checkbox"/> Torn	<input type="checkbox"/> Falling down	<input checked="" type="checkbox"/> Heavy Footed	<input type="checkbox"/> Slow/Mumbled	<input type="checkbox"/> Droopy eyelids
<input checked="" type="checkbox"/> Orderly	<input type="checkbox"/> Normal	<input type="checkbox"/> Normal	<input type="checkbox"/> Normal	<input type="checkbox"/> Normal

Odor of Alcoholic Beverage on breath:

None Slight Moderate Strong

Attitude: Cooperative Combative Indifferent Cocky Apologetic Uncooperative

Suspected impairment caused by: Alcohol only Drug only Alcohol & Drug

Drug Group suspected: CNS Depressant Hallucinogen Narcotic Analgesic Cannabis
 CNS Stimulants Dissociative Anesthetics Inhalant

Comments: Affiant located pill bottles in the vehicle while inventorying the vehicle.

Why suspected: The Defendant has slurred speech, watery, glossy eyes. Lafayette Sheriff's Office called dispatch and got in contact with Affiant and advised Affiant that the defendant is known to use different types of narcotics.

DRE present? NO DRE performed? NO

If DRE not performed, explain: _____

Other Officer Information

	Officer Name & Badge number	Department	Participation (What they did, include case # if different)	Provided Supplement
1	Officer L. Murph #617	Galveston Police Department	Officer Murph initiated the traffic stop.	No

Defendant Statements

Any statements made by defendant after arrested? (Include any Statements during transport, booking, specimen request, issuance of DIC form, etc.)

N/A

Did the defendant leave a business that serves alcohol? No

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Other Paper Work & Evidence Submitted

<input type="checkbox"/> Accident Report	<input type="checkbox"/> Witness Statements	<input type="checkbox"/> Impound Sheet	<input type="checkbox"/> SFST check list	<input checked="" type="checkbox"/> DIC-23	<input checked="" type="checkbox"/> DIC-24
<input type="checkbox"/> DIC-25	<input type="checkbox"/> Intoxilyzer	<input checked="" type="checkbox"/> Search Warrant	<input type="checkbox"/> Officer Supplement	<input type="checkbox"/> Other: _____	

DWI Specimen Report

Statutory Warning

DIC-24 Read By Officer W. Osteen #692

DIC-24 Read By language: English Spanish Time Read DIC-24: _____

Specimen(s) Requested

<input type="checkbox"/> Breath	<input type="checkbox"/> Subject Refused	<input type="checkbox"/> Subject Provided	
<input checked="" type="checkbox"/> Blood	<input checked="" type="checkbox"/> Subject Refused	<input type="checkbox"/> Subject Provided	<input checked="" type="checkbox"/> Blood Specimen Taken
<input type="checkbox"/> Urine	<input type="checkbox"/> Subject Refused	<input type="checkbox"/> Subject Provided	
<input type="checkbox"/> None			

Was a Search Warrant sought to obtain a specimen? Yes

Search Warrant

Time Search Warrant presented to magistrate: _____

Name of Magistrate: Judge Williams Court: _____

Magistrate Issued warrant: Yes If yes, Time the magistrate issued warrant _____

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

Blood Draw

Total number of blood vials during the collection of the blood specimen. 2

Name of person who withdrew blood: J. McDougle Employer of person who withdrew blood: UTMB

Phone # of person who withdrew blood: _____ Person who withdrew blood is employed as: Registered Professional Nurse

Facility of location where specimen was extracted: UTMB ER

Date and time the specimen was extracted: 8/11/2023 3:16:00 AM

Description of location where blood was drawn: UTMB ER Room 102

At time of chemical test, did the defendant appear to be more or less intoxicated than the roadside investigation: About the same

Officer verified that blood vial(s) used had a grey top, the preservative/anti-coagulant powder was visible inside the vial and the vial top appeared to have never been opened? Yes

Officer verified person withdrawing blood used betadine or substance other than alcohol to disinfect arm? Yes

Officer verified blood vial(s) was rotated at least 8 times to mix blood/vial contents? Yes

Name of Lab _____

Address _____ City _____

Phone # of Lab: _____ If used PBT Results _____

DIC-25

Drivers License Confiscated? No

If No, Explain No DL on him.

Interview Of Defendant

Miranda warning read: No Language: English Spanish Stated understood: No

Miranda read by: N/A Date: _____ Time: _____

Comments: N/A

Did not ask any questions Did not ask questions because of a language barrier

Refused to answer questions after read Miranda Warning Interview asked on video

<u>Question</u>	<u>Answer</u>
Do you have anything in your mouth now?	<u>N/A</u>
Were you operating a vehicle/watercraft?	<u>N/A</u>
What road/body of water were you on?	<u>N/A</u>
Who owns the vehicle/watercraft?	<u>N/A</u>
Have you driven this vehicle/watercraft before?	<u>N/A</u>

DWI CASE REPORT

Agency:	Galveston Police Department	Case:	2023-005559
Officer:	William Osteen	Badge:	692

What was your destination?	N/A
Where did you start?	N/A
What time did you leave?	N/A
What is today's date?	N/A
What day of the week is it?	N/A
What time is it now?	N/A
What city are you in?	N/A
When did you last eat?	N/A
What did you last eat?	N/A
Have you been this intoxicated before?	N/A
Have you been drinking?	N/A
How much did you drink?	N/A
When was your first drink?	N/A
When was your last drink?	N/A
Where were you drinking?	N/A
Are you under the influence of an alcoholic beverage now?	N/A
Do you feel that you are intoxicated at this time?	N/A
Are you sick or ill?	N/A
If so, what is wrong?	N/A
Are you currently under the care of a doctor?	N/A
If yes, when did you last see the doctor?	N/A
What is the doctor's name?	N/A
Why did you see the doctor?	N/A
Do you have epilepsy?	N/A
Do you have diabetes?	N/A
Have you had any pills or injections recently?	N/A
If so, what?	N/A
Have you taken any medication at all?	N/A
If so, what?	N/A
When was your last dose?	N/A
When did you last sleep?	N/A
How long did you sleep?	N/A
Do you have any physical handicaps?	N/A
If so, What?	N/A
Is there any statement you wish to make?	N/A

Date of Interview: _____ Time of Interview: _____

DWI CASE REPORT	Agency: Galveston Police Department	Case: 2023-005559
	Officer: William Osteen	Badge: 692

Interviewer: N/A ID# : N/A

Unusual actions observed during the interview: **N/A**
 Defendant's Speech: **N/A**

Officer Information

Arresting Officer: William Osteen ID # : 692
 Agency Name: Galveston Police Department Agency Phone # : 409-765-3702

- Officer Certifications:
- | | |
|--|---|
| <input checked="" type="checkbox"/> SFST Trained | <input type="checkbox"/> ARIDE Trained |
| <input checked="" type="checkbox"/> Certified Breath Test Operator | <input type="checkbox"/> ARIDE Instructor |
| <input type="checkbox"/> Certified SFST Instructor | <input type="checkbox"/> Certified MSEO (Marine Safety Enforcement Officer) |
| <input type="checkbox"/> Certified DRE | <input type="checkbox"/> Seated FST Trained |
| <input type="checkbox"/> Certified DRE Instructor | |

Officer W. Osteen #692 is a certified Texas Peace Officer currently assigned to the Traffic Safety Unit, part of the Special Operations Division with the City of Galveston Police Department in the County of Galveston. Officer W. Osteen has been employed with the Galveston Police Department since November of 2021.

Officer W. Osteen is currently trained and certified in Standardized Field Sobriety Test (SFST's.) Officer W. Osteen is a Certified Breath Test Operator in the State of Texas. Officer W. Osteen has participated in scientific studies including alcoholic impairment as a test, observe, and a participant. These studies involved dosing several individuals with a known amount of alcohol and documenting the signs and symptoms of impairment at different Blood Alcohol Content levels.

Officer W. Osteen has arrested a numerous number of individuals that were determined to be under the influence of Alcohol or Narcotics.

Officer Signature: _____ Date: 8/18/2023

Reviewed and Approved by: Jack Doraty Date: 8/18/2023

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1 BY THE COURT: Call up the case of State of
2 Mississippi versus Matthew Reardon. This is cause
3 number LK22-358.

4 Now Mr. McClinton, you're recognized.

5 BY MR. MCCLINTON: Thank you, Judge. Just for
6 the Court's clarification, Mr. Reardon has requested
7 that he represent himself today and asked me to serve
8 as procedural advisor. So I just wanted the Court to
9 be aware of that. He's requested that he be allowed
10 to give an opening and do all of the cross-
11 examination, direct examination if he has any
12 witnesses to call, and ask that I just give a closing
13 statement at the end.

14 BY THE COURT: All right. Generally, we just let
15 the State put on their proof and you're entitled,
16 Mr. Reardon, to cross-examine any witnesses. Why
17 don't you come up here and we'll get you sworn in.
18 Raise your right hand. You know the process.

19 MATTHEW REARDON,
20 after having been first duly sworn by Official Court
21 Reporter, Dana R. Rakestraw, testified as follows, to-wit:

22 BY THE COURT: Okay. Is that correct,
23 Mr. Reardon, you want to represent yourself in this
24 matter with the assistance of Mr. McClinton as
25 counsel?

1 BY MR. REARDON: With the assistance of
2 Mr. McClinton as counsel.

3 BY THE COURT: Fair enough. Okay. And I know
4 Mr. McClinton had told you this, you can -- any
5 witnesses that the State calls, you're entitled to
6 cross-examine them and then you can call your own
7 witnesses as well, okay?

8 BY MR. REARDON: Yes, sir.

9 BY THE COURT: You'll recognize at the closing
10 statements in a probation revocation hearing, we just
11 let them put on their testimony and then you can kind
12 of make a summation in closing, okay? Any questions?

13 BY MR. REARDON: None at all. I -- well, none at
14 all at this point. I am going to object to the
15 witness, but I don't think right now is the time to do
16 it. First, you've got to call the witness.

17 BY THE COURT: Okay. I do want to rule on some
18 preliminary matters you brought up. Does the State
19 want to respond to the preliminary issues? One is the
20 bench warrant.

21 Mr. Reardon, you can stand right there. You're
22 fine. I want to talk to the State.

23 The bench warrant, you brought up the issue about
24 the wrong conviction being in the document, and I
25 don't have the document with me. It's possession of a

1 controlled substance.

2 BY MR. CREEKMORE: Your Honor, I don't think
3 that's -- I think it's moot. It was a petition that
4 was filed on the former revocation petition, not on
5 the one that we're here on today. That's my
6 understanding.

7 BY THE COURT: Okay.

8 BY MR. REARDON: That's not correct, Your Honor.
9 And, in fact, in the petition --

10 BY THE COURT: All right. Anything else,
11 Mr. Creekmore?

12 BY MR. CREEKMORE: Yeah, he brought up the cause
13 number from Texas was incorrect.

14 BY THE COURT: No, this was as of the conviction
15 hearing. Where is the file? Who has got the file?

16 BY MR. REARDON: You're right about that. It was
17 two things with that, Judge.

18 BY THE COURT: Hold on, let me get the file and
19 then you can speak. Okay. Yeah, here it is right
20 here. This is the bench warrant that was filed --
21 ordered August 17th, 2023.

22 All right. Mr. Reardon you can speak.

23 BY MR. REARDON: Yes, Judge. On the bench
24 warrant, it says at the top that I'm on probation for
25 possession of a controlled substance. Obviously, I've

1 never been charged with possession of a controlled
2 substance. That's not what I was on probation for.
3 So certainly it's relevant, and that's part one. The
4 DA can respond to that.

5 BY THE COURT: Let me -- okay. Anything else
6 Mr. Creekmore?

7 BY MR. CREEKMORE: No, Your Honor.

8 BY THE COURT: Okay. Do you need to finish
9 saying anything else?

10 BY MR. REARDON: On that particular part,
11 Your Honor, that's correct. It's the -- what I was on
12 probation for is not listed correctly.

13 BY THE COURT: All right. The Court finds that
14 this is a moot point. The issue should have been
15 raised probably there back in Texas. That often
16 happens. Sometimes it's a lot of paper, should have
17 been aggravated stalking, and to my knowledge, you
18 don't have any conviction on possession of controlled
19 substance. So your objection is overruled on that
20 matter.

21 Then as to the issue about preliminary probation
22 hearings under 47-7-37, does the State have any
23 response to that?

24 BY MR. CREEKMORE: No, Your Honor.

25 BY THE COURT: All right. Mr. Reardon, you're

1 under what's called unsupervised probation. You had a
2 suspended sentence and that was a sentencing order was
3 entered on September 30th of 2022. You were sentenced
4 to five years, with five years suspended, and placed
5 on unsupervised probation.

6 The procedures that you're referring to under
7 47-7-37 was with someone that was on supervised
8 probation, and that is directing Mississippi
9 Department of Corrections to carry forth those. Now,
10 the Court obviously is going to give you your due
11 process rights that is outside of that statute in
12 terms of you being unsupervised. You're basically
13 before the trial court, which suspended your sentence
14 and determined that you violated in terms of
15 conditions that you agreed to, which is on page 2 of
16 your sentencing order, which you have a copy of.

17 All right. We'll get to those -- the substance
18 of that. So that particular objection you had raised
19 last Thursday is overruled as well.

20 And I think --

21 BY MR. REARDON: Your Honor.

22 BY THE COURT: -- the last issue I think you
23 raised about conflict of interest by this Court, me
24 particular signing the order, I'm going to overrule
25 that as well. There's no conflict on that.

Okay. Now, your last issue, I had not gotten into the substance of these, but I think you'll raise that about the DUI charge. And I'll allow you to bring that up when we get into the evidence. I haven't heard any evidence. Allow the Court to hear from the State first and then you bring up that last issue that you brought up last Thursday. Do you understand?

BY MR. REARDON: Other than one thing.

BY THE COURT: Yes.

BY MR. REARDON: As far as your ruling on the unsupervised probation and 47-7-37 referring to being in custody of Department of Corrections, if you --

BY THE COURT: Under the supervision in that particular issue.

BY MR. REARDON: Under supervision if you look further down in that statute in section 9, under paragraph 9 under 47-7-37, it specifically states that these rules are also applied to Court. And I've got it here in my notes. May I?

BY THE COURT: Yes. You can look at it.

Subsection 9?

BY MR. REARDON: Subsection 9.

BY THE COURT: That is post-release supervision. That is another category, but that is still under

1 supervision of the Court.

2 Let me be clear, too, you're getting all your due
3 process rights here today. As I said, we continued
4 this to give you a right to counsel however you want
5 to use them. You're going to seek his assistance.
6 You're going to be entitled to cross-examine your
7 accuser, which is the State, and you'll be able to
8 call your own witnesses as well. I just want to be
9 clear of that, and you'll certainly be able to speak
10 on your behalf as well. Okay?

11 BY MR. REARDON: I understand. It's just the
12 petition to revoke is confusing because in the
13 petition to revoke it says in the heading that the
14 "Petition to revoke suspended sentence and impose
15 sentence." And then it goes on further to saying that
16 I was on post-release -- I was given post-release
17 supervision. And then it further goes on in the first
18 paragraph of the first issue of the petition saying
19 that I was on unsupervised probation. So there's
20 three separate things listed in the petition. Which
21 one is it?

22 BY THE COURT: All right. Your objection is
23 noted, okay? You can be seated and I'm going to allow
24 the State to put on their witnesses.

25 BY MR. CREEKMORE: Your Honor, the State would

1 call Katreena Thompson.

2 KATREENA THOMPSON,

3 upon being called to testify as a witness on behalf of the
4 State after having been first duly sworn by Official Court
5 Reporter, Dana R. Rakestraw, testified as follows, to-wit:

6 BY THE COURT: You may proceed.

7 DIRECT EXAMINATION

8 BY MR. CREEKMORE:

9 Q. Ms. Thompson, you work as an investigator for the
10 district attorney's office here?

11 A. Yes, sir.

12 Q. All right. So in preparation for the hearing,
13 did you look through the file and gather certain
14 documents?

15 A. Yes, sir.

16 Q. All right. Now, you were aware that Mr. Reardon
17 was charged with a, at one time, felony DUI out of Texas?

18 A. Yes, sir.

19 Q. Was that based on two prior DUIs?

20 A. Yes, sir.

21 Q. One out of Georgia and one out of Mississippi?

22 A. Yes, sir.

23 Q. All right. I'm going to hand you a document. Do
24 you recognize that?

25 A. Yes, sir.

1 Q. What is that?

2 A. Abstract from the Lafayette County Justice Court.

3 Q. Of a prior DUI conviction of Mr. Reardon?

4 A. Yes, sir.

5 BY MR. CREEKMORE: Your Honor, the State would
6 ask this be received into evidence?

7 BY THE COURT: Any objection from the defendant?

8 BY MR. REARDON: I have no objection.

9 BY THE COURT: All right. That'll be admitted as
10 S-1.

11 (THE ABOVE-MENTIONED DOCUMENT WAS RECEIVED INTO
12 EVIDENCE AND MARKED AS EXHIBIT S-1.)

13 BY MR. CREEKMORE:

14 Q. I'm going to hand you another document. Do you
15 recognize that series of documents?

16 A. Yes, sir.

17 Q. What is that?

18 A. It's the State of Georgia versus Matthew Reardon,
19 State Court of Cobb County.

20 Q. Did you obtain those documents?

21 A. Yes, sir.

22 Q. Where did you get them?

23 A. I requested from the Cobb County to send an
24 abstract for a DUI conviction of Mr. Reardon.

25 BY MR. CREEKMORE: All right. Your Honor, the

1 State would ask this be received as the next exhibit?

2 BY THE COURT: Any objection from the defendant?

3 BY MR. REARDON: No, Your Honor.

4 BY THE COURT: All right. That will be marked as
5 S-2 and received into evidence.

6 (THE ABOVE-MENTIONED DOCUMENT WAS RECEIVED INTO
7 EVIDENCE AND MARKED AS EXHIBIT S-2.)

8 BY MR. CREEKMORE:

9 Q. Now, the information you used to know where to
10 look for those abstracts of prior DUI convictions, was
11 that in the file with his criminal history?

12 A. Yes, sir.

13 Q. All right. And as far as you know, prior to
14 being a DA investigator, prior to being a deputy clerk in
15 criminal division in circuit court, you worked as a
16 dispatcher?

17 A. Yes, sir.

18 Q. Law enforcement commonly rely on criminal
19 histories to see whether somebody has been convicted of
20 prior DUIs?

21 A. Yes, sir.

22 Q. So the information that you used would have been
23 available to law enforcement all across America?

24 A. Yes, sir.

25 Q. Even in Galveston, Texas?

1 A. Yes, sir.

2 Q. All right. I'm going to hand you two documents
3 at the same time. Did you obtain those documents from
4 Galveston Police Department?

5 A. I obtained these documents from David Simmons,
6 investigator for the Galveston County District Attorney.

7 Q. The District Attorney's office in Galveston,
8 Texas?

9 A. Yes, sir.

10 Q. One is a toxicology submission form, and the
11 other is the toxicology result?

12 A. Yes, sir.

13 Q. Related to Matthew Reardon?

14 A. Yes, sir.

15 BY MR. CREEKMORE: All right. Your Honor, at
16 this time the State would ask that these be received
17 as the State's next exhibit?

18 BY THE COURT: Any objection from the defendant?

19 BY MR. REARDON: No, Your Honor.

20 BY THE COURT: That'll be admitted and marked as
21 S-3 and received into evidence.

22 (THE ABOVE-MENTIONED DOCUMENT WAS RECEIVED INTO
23 EVIDENCE AND MARKED AS EXHIBIT S-3.)

24 BY MR. CREEKMORE: That's all I have, Your Honor.

25 BY THE COURT: Any cross-examination of

1 Ms. Thompson?

2 BY MR. MCCLINTON: Yes, Your Honor.

3 Mr. Reardon has asked that I cross-examine her if
4 that is all right with the Court.

5 BY THE COURT: That's fine, absolutely.

6 CROSS-EXAMINATION

7 BY MR. MCCLINTON:

8 Q. Good afternoon. So you're intimately familiar
9 with this case; is that fair to say?

10 A. Yes, sir.

11 Q. Were you aware of the request for interstate
12 rendition signed by the governor of Mississippi that was
13 sent to Galveston?

14 A. Yes, sir.

15 Q. Have you had a chance to -- occasion to look at
16 that document?

17 A. I can now.

18 Q. If I showed you that document, would you
19 recognize it?

20 A. Yes, sir.

21 Q. Is that the document as you remember it?

22 A. Yes, sir.

23 Q. Okay. And in that document does it refer to
24 Mr. Reardon as a fugitive or some type of designation of
25 that nature?

1 BY MR. CREEKMORE: Your Honor, I'm going to
2 object to the relevance.

3 BY MR. MCCLINTON: The relevance I'm getting
4 into, Your Honor, is that I guess for the purpose of
5 cross-examining this witness is what's in the record,
6 what's known about the current charges Mr. Reardon is
7 facing. And it's relevant in just the totality of the
8 situation that he's been in jail in Galveston for a
9 year partially because of that document in the hold
10 that the DA's office had. And if that document refers
11 to him as a fugitive, it says he fled to Texas from
12 Mississippi.

13 BY THE COURT: Okay. Well, you just made a
14 statement though this is about his being detained in
15 Texas. We're not here to talk about the detainment in
16 Texas.

17 BY MR. MCCLINTON: That's fine. I guess that was
18 a flight risk.

19 BY THE COURT: Yes.

20 BY MR. MCCLINTON: The Court can take judicial
21 notice that Mr. Reardon was held for a year in
22 Galveston, Texas in an order signed by the governor
23 referring to him as a fugitive.

24 BY THE COURT: Okay.

25 BY MR. MCCLINTON:

1 Q. Were you aware that Mr. Reardon was charged with
2 a felony DUI in Texas?

3 A. Yes, sir.

4 Q. Were you aware that that DUI, felony DUI was
5 dismissed?

6 A. Yes, sir.

7 Q. Have you seen that dismissal?

8 A. Yes, sir.

9 Q. Is that the dismissal that you've seen with the
10 corresponding cause number?

11 A. Yes, sir.

12 Q. Okay. And is it your understanding when a DUI
13 felony is dismissed that felony is dismissed?

14 A. I'm sorry?

15 Q. If a felony DUI is dismissed by a Court, is it
16 still a felony DUI?

17 A. No, sir.

18 BY MR. MCCLINTON: I would offer this as an
19 exhibit to our testimony. This is the order from the
20 trial court in Galveston, Texas dismissing the felony
21 DUI referenced in the motion to revoke Mr. Reardon's
22 probation. That cause number does not correspond with
23 the cause number in the motion to revoke, which the
24 Court addressed preliminarily. But that is the DUI in
25 question.

1 BY THE COURT: Okay. Any objection from the
2 State?

3 BY MR. CREEKMORE: No objection.

4 BY THE COURT: That will be marked as D-4 and
5 received in evidence.

6 (THE ABOVE-MENTIONED DOCUMENT WAS RECEIVED INTO
7 EVIDENCE AND MARKED AS EXHIBIT D-4.)

8 BY MR. MCCLINTON:

9 Q. You testified earlier to being familiar with the
10 MEC or the filings in this case and what is currently
11 pending as far as his previous DUI convictions, correct?

12 A. Yes, sir.

13 Q. Are you aware or have knowledge of the conviction
14 from Lafayette County in Cause No. 21-CV-494?

15 A. That's civil --

16 Q. That would be a Lafayette Circuit. It's a civil
17 docket but it's on his -- an appeal from his, I believe
18 his original --

19 BY MR. REARDON: It's marked appeal from justice
20 court.

21 BY MR. MCCLINTON:

22 Q. It's an appeal from justice court.

23 A. I am familiar with the civil filing.

24 Q. Can I show you that printoff from MEC and you can
25 tell me if it's correct?

1 A. Yes, sir.

2 Q. Okay. Are you aware that Mr. Reardon filed a
3 notice of appeal in that cause number today?

4 A. No, sir.

5 BY MR. MCCLINTON: No further questions.

6 BY THE COURT: All right. Thank you,
7 Mr. McClinton.

8 Any redirect?

9 BY MR. CREEKMORE: Your Honor, the civil matter
10 that was referred to by Mr. McClinton L21-494, there's
11 an order entered in that. I think it will be
12 self-authenticated since it's from this Court, but I
13 would submit the order dismissing that civil appeal
14 for whatever that -- if that is what you actually call
15 it.

16 BY THE COURT: It was just referred to by
17 appealing from justice court.

18 BY MR. CREEKMORE: Well, I think he mentioned
19 too, he mentioned the civil appeal and then what is
20 news to me, maybe an out of time appeal of the DUI.

21 BY MR. MCCLINTON: Possibly, and that's why -- I
22 guess that was why I was questioning the witness on
23 it. The MEC filing, which I assume are current, the
24 last entry is item No. 19, which is a motion for
25 reconsideration which was filed by Mr. Reardon. That

1 is last entry on MEC.

2 BY MR. CREEKMORE: In L21-494?

3 BY MR. MCCLINTON: And the clerk brought this
4 printout up to us today.

5 BY MR. CREEKMORE: Well, as it stands I have an
6 order dismissing that civil appeal, for lack of a
7 better word, that I would ask be received as the
8 State's --

9 BY THE COURT: An order in Lafayette County
10 Circuit Court?

11 BY MR. MCCLINTON: Yes, sir.

12 BY THE COURT: All right.

13 BY MR. CREEKMORE: As long as it's stamp filed we
14 don't have any issue.

15 BY THE COURT: Marked as S-5 and received into
16 evidence.

17 (THE ABOVE-MENTIONED DOCUMENT WAS RECEIVED INTO
18 EVIDENCE AND MARKED AS EXHIBIT S-5.)

19 BY MR. CREEKMORE:

20 Q. Is it your understanding that the felony DUI
21 charge in Galveston was based on two prior convictions?

22 A. Yes, sir.

23 Q. Originally?

24 A. Yes, sir.

25 Q. When they looked behind that is it your

1 understanding from speaking with the investigator with the
2 DA's office there, that they were uncertain whether the
3 DUI in Oxford was on appeal or not?

4 A. That's correct.

5 Q. Okay. Do you know based on what we've talked
6 about the order in the civil case that purported to appeal
7 that whether an order dismissing that action was entered?

8 A. I'm not sure.

9 BY MR. CREEKMORE: That's all I have, Your Honor.

10 BY THE COURT: All right. Let's turn our phones
11 off.

12 Ms. Thompson, you may step down, Mr. Creekmore.
13 Call your next witness.

14 BY THE COURT: State would call Officer Osteen
15 via zoom and via telephone.

16 BY MR. REARDON: Your Honor, I'm going to object
17 to this witness as isn't necessary.

18 BY THE COURT: All right. Your objection is
19 noted and is overruled.

20 You may proceed, Mr. Creekmore.

21 BY MR. CREEKMORE: Officer Osteen, can you hear
22 me?

23 BY OFFICER OSTEEN: Yes, sir.

24 BY MR. CREEKMORE: Can you hear the Court?

25 BY OFFICER OSTEEN: I can hear when he's

1 speaking.

2 BY THE COURT: Yes, can you hear me right now?

3 BY OFFICER OSTEEN: Yes, sir, I can hear you.

4 BY MR. CREEKMORE: Can you be sworn in.

5 WILLIAM OSTEEN,

6 upon being called to testify via zoom as a witness on
7 behalf of the State after having been first duly sworn by
8 Official Court Reporter, Dana R. Rakestraw, testified as
9 follows, to-wit:

10 DIRECT EXAMINATION

11 BY MR. CREEKMORE:

12 Q. All right. State your name for the record.

13 A. William Osteen.

14 Q. William Osteen?

15 A. Yes, sir.

16 Q. Okay. And you're an officer with the Galveston
17 Police Department?

18 A. Yes, sir, I am.

19 Q. All right. Are you primarily involved in DUI
20 investigation?

21 A. Yes, sir.

22 Q. All right. Did you have a chance to encounter a
23 Matthew Reardon while you were on duty --

24 A. Yes.

25 Q. -- as a DUI investigator?

1 A. Yes, sir.

2 Q. Can you tell the Court how you became involved
3 and came into contact with Mr. Reardon?

4 A. I was requested by another officer to assist a
5 traffic stop.

6 Q. Did you talk to that other officer?

7 A. Before I made contact with Mr. Reardon?

8 Q. Yes, sir.

9 A. Yes, sir.

10 Q. Did you find out why he had stopped?

11 A. Yes, sir.

12 Q. Okay. What was your understanding of why
13 Mr. Reardon was pulled over?

14 A. To my understanding, I was told that Mr. Reardon
15 had been speeding and that he failed to maintain in a
16 single marked lane multiple times.

17 Q. You said he was speeding and failed to stay in
18 the center lane multiple times?

19 A. Sorry. He was speeding and he failed to maintain
20 a single marked lane.

21 Q. Single marked lane?

22 A. Yes.

23 Q. All right. When you got there, speak very
24 slowly, but tell the Court what you observed and what you
25 did.

1 A. When I arrived, I spoke with the other officer.
2 He told me that Reardon was stopped. He said that the
3 driver had a camera. He said that he smelled the odor of
4 an alcoholic beverage in the vehicle. And he wanted to
5 know if I could speak with the driver. So I told him I
6 would.

7 I went to the driver side window and made contact with
8 Mr. Reardon, and immediately smelled the odor of an
9 unknown alcoholic beverage in the vehicle. I went to make
10 conversation with Mr. Reardon and saw him having a camera.
11 And I asked Mr. Reardon if he was an auditor and we kind
12 of had conversation about that. And then right after he
13 said, no. I said I smelled the odor of an unknown
14 alcoholic beverage emitting the vehicle. And so I asked
15 Mr. Reardon to step out of the vehicle.

16 Q. All right. At some point, did you suspect that
17 he was impaired by some substance?

18 A. Are you talking about other than alcohol?

19 Q. Yes, sir, other than alcohol.

20 A. Not immediately, no.

21 Q. Tell the Court why you began to suspect that he
22 was not under the influence of alcohol but some other
23 substance.

24 A. So Mr. Reardon and I were faced at a point. And
25 he was extremely jittery. And he said stop moving. He

1 was looking around a lot. And once I got -- once
2 Mr. Reardon stepped out of the vehicle, Mr. Reardon, I
3 continued speaking with him at the rear of his vehicle. I
4 couldn't only detect an odor of an unknown alcoholic
5 beverage emitting from him, and so my opinion was that he
6 was probably under the influence of another substance.

7 Q. Did you notice anything specifically about his
8 eyes?

9 A. His eyes were watery and glossy and I could
10 pinpoint that his pupils were very small.

11 Q. All right. Was there any reluctance on
12 Mr. Reardon's part about taking a intoxilyzer or portable
13 breathalyzer test?

14 A. Mr. Reardon was pretty adamant about wanting to
15 use a breathalyzer. He continued to state that he would
16 do a breathalyzer over and over again. The only thing a
17 breathalyzer can test for is alcohol. So once I continued
18 dealing into this investigation, that's whenever I made
19 the decision that we weren't going to go with the
20 breathalyzer route, that we were going to go the blood
21 route.

22 Q. Okay. Were you able to determine the source of
23 the odor of an intoxicating beverage in the car
24 ultimately?

25 A. No, sir, we searched the vehicle. The floor mats

1 were pretty wet, but there was never a container of
2 alcohol located. There was never a bottle or nothing like
3 that located in the vehicle.

4 Q. But the interior of the vehicle smelled of an
5 intoxicating beverage?

6 A. Yes, sir.

7 Q. Okay. Now then, did you obtain blood that was
8 tested from Matthew Reardon as a result of your
9 investigation?

10 A. Yes, sir.

11 Q. All right. How did you do that?

12 A. Are you asking me how do I receive the results or
13 how was the process?

14 Q. Yes. Did you follow the standard protocol?

15 A. Yes, sir.

16 Q. How did you obtain a blood sample from Matt
17 Reardon?

18 A. I read Mr. Reardon what's called a DNA24. I
19 requested assessment of Mr. Reardon's blood. He
20 completely refused and I filed a blood warrant, and they
21 got --

22 Q. You filed for what?

23 A. It was called a blood warrant.

24 Q. Blood warrant?

25 A. Yes, sir.

1 Q. So he refused to consent to his blood being drawn
2 so you got a blood warrant?

3 A. Yes, sir, signed by a judge.

4 Q. And in that blood warrant, you listed the
5 probable cause for obtaining that blood sample?

6 A. Yes, sir.

7 Q. And then what did you do?

8 A. And then I went to the hospital there in
9 Galveston where a registered nurse drew his blood. And
10 then it was prepared, the blood was packaged, did the
11 procedure that was supposed to be done. And then I
12 transported Mr. Reardon to the Galveston County jail.

13 Q. Okay. Do you know what date you encountered
14 Mr. Reardon where you charged him with felony DUI?

15 A. Let me see if I have the date.

16 Q. I'm going to project an image on the screen. Can
17 you see that?

18 A. Yes, sir.

19 Q. Does it have an offense date listed there?

20 A. I see the date at the top and then the offense
21 date that is August 11th of 2023.

22 Q. Okay. Now then, where is -- we lost you on the
23 screen. I think we have to resend it. Can you bear with
24 us just a little bit. We're going to try to get you
25 another Zoom meeting invitation.

1 A. Okay.

2 (BRIEF PAUSE)

3 BY MR. CREEKMORE: We're going to proceed with
4 the audio subject to the Court's approval.

5 BY THE COURT: As long as I can hear and he isn't
6 shown any documents. Subject to the rules of
7 evidence.

8 BY MR. CREEKMORE: Okay. I just have a few more
9 questions, Your Honor.

10 BY MR. CREEKMORE:

11 Q. Do you recall the toxicology report that came
12 back from the blood submission?

13 A. So I see two, one for alcohol and one for another
14 substance.

15 Q. Okay. Do you recall the result? Was there a
16 positive result for alcohol or a negative?

17 A. There was alcohol detected.

18 Q. Was there a positive result for any other
19 substance?

20 A. Yes, sir.

21 Q. And do you recall what substance and what
22 quantity that was?

23 A. The substance that came back for -- besides
24 alcohol was methamphetamine and the results were .13
25 milligrams per liter.

1 Q. Now then, can you tell the Court here what the
2 current posture of the charges in Texas are? There's been
3 some testimony about the charges originally being a felony
4 DUI.

5 A. Yes, sir. I guess whenever you posture, what
6 exactly do you mean?

7 BY MR. CREEKMORE: He said, "When you say
8 posture, what do you mean?"

9 BY THE COURT: Hold on, Mr. Creekmore.

10 I notice somebody is trying to record in here.
11 There's no recording in the courtroom. There's only
12 one recorder, and that's the court reporter. Do you
13 have a recorder? I want you to shut your phone off
14 and put it in your pocket.

15 (BRIEF PAUSE)

16 BY MR. CREEKMORE: May I proceed?

17 BY THE COURT: Yes, you may proceed,
18 Mr. Creekmore.

19 BY MR. CREEKMORE:

20 Q. All right. What I mean is does Mr. Reardon have
21 any criminal proceeding pending as a result of the charges
22 that you brought against him as a result of that encounter
23 on August 11th, 2023?

24 A. He still has an active case open in the state of
25 Texas, yes, sir.

1 BY MR. CREEKMORE: All right. Tender the
2 witness, Your Honor.

3 BY THE COURT: All right. Cross-examination?
4 Mr. Creekmore, would you hand me both toxicology
5 reports.

6 BY MR. CREEKMORE: It's a collective exhibit,
7 Your Honor.

8 BY MR. REARDON: Your Honor, I'm going to object
9 to the admission of the toxicology report. The
10 witness never sent to the DA a blood warrant. The
11 admission of the toxicology report is prejudicial.

12 BY THE COURT: All right. Thank you. Your
13 objection is noted and it's overruled. You may
14 proceed on cross-examination of Officer Osteen.

15 All right. You're recognized.

16 CROSS-EXAMINATION

17 BY MR. REARDON:

18 Q. Officer Osteen, are you part of a task force with
19 the Galveston Police Department?

20 A. Which task force?

21 Q. Are you a part of any task force with the
22 Galveston Police Department?

23 A. Yes, sir.

24 Q. And what task forces are those, if it's more than
25 one?

1 A. It's called the Traffic Safety Unit.

2 Q. Okay. What exactly does that task force do?

3 A. The Traffic Safety Unit is to focus on
4 intoxicated impaired drivers, impaired drivers causing
5 minor occurrences or major occurrences and respond to
6 major crashes involving injuries or fatalities.

7 Q. Okay. What other officers are part of this task
8 force besides you?

9 BY MR. CREEKMORE: Objection, Your Honor,
10 relevance.

11 BY THE COURT: It's not relevant. Let's stick
12 within the issues on this specific incident,
13 Mr. Reardon.

14 BY MR. REARDON: Okay.

15 BY MR. REARDON:

16 Q. On the eve of August 10th, 2023 or in the early
17 morning hours of August 11th, 2023, did you receive a
18 phone call or any other communication about me coming into
19 Galveston from anyone?

20 A. No, I did not.

21 Q. Okay. Officer Murph was the officer that pulled
22 me over at approximately 2 a.m. on August 11th, 2023, and
23 you pulled up to assist as he was getting my driver's
24 license information. Why did you walk up to Officer Murph
25 and say, "This guy's an auditor," and that he should step

1 aside and let you take over the stop?

2 A. That's not exactly how the conversation went.

3 Q. He said, "That's not exactly how the conversation
4 went," is that correct?

5 A. Correct.

6 Q. How did the conversation go?

7 A. Whenever I got to the scene, Officer Murph
8 advised me that he thinks you were an auditor because you
9 had a camera facing him.

10 Q. At which point you responded saying what?

11 A. I asked him like, if he thought you were
12 heading -- what he could smell in the vehicle, why he
13 pulled you over and then he asked me to go talk to you.

14 Q. Did you say something along the lines of this
15 guy's an auditor and step aside and let you take over?

16 A. I might have. I'm not positive. I don't have my
17 body camera in front of me.

18 Q. You don't have your body cam in front of you.
19 Does the district attorney have your body camera?

20 A. I'm assuming. I assume he has the footage.

21 Q. Well, let's watch the body camera. Let's watch
22 the body camera then.

23 BY THE COURT: I can't. What are you --

24 BY MR. REARDON: Your Honor, he said that he
25 assumes that the district attorney has a copy of his

1 body camera. I would like to see the body camera.

2 BY THE COURT: Proceed with your questioning and
3 then we'll make a request on the camera later.

4 Proceed with the questioning of the witness.

5 BY MR. REARDON:

6 Q. Well, Officer Osteen, was your insinuation, I'm
7 going to completely stick it to this guy for exercising
8 his rights under the First Amendment as a member of the
9 press?

10 A. Can you repeat your question, sir?

11 Q. I said was it your insinuation that I'm going to
12 completely stick it to this guy for exercising his rights
13 under the First Amendment as a member of the press?

14 A. No.

15 Q. No.

16 Prior to our engagement, have you ever had any
17 dealings with First Amendment auditors?

18 A. Yes, I have.

19 Q. And what is your opinion of First Amendment
20 auditors?

21 BY MR. CREEKMORE: Objection to relevance.

22 BY THE COURT: That's not relevant. Let's stick
23 to the issue at hand.

24 BY MR. REARDON: Your Honor, in the body camera
25 video, Officer Osteen clearly makes the remark that

1 this guy is an auditor and to step aside. This goes
2 to Officer Osteen's feelings, his mindset in regards
3 to me being a First Amendment auditor and what type of
4 prejudicial feelings Officer Osteen had going into the
5 matter.

6 BY THE COURT: If you have any questions about
7 the stop, the blood test, the results of the blood
8 test or any of that process, you can ask that. But
9 this is going outside of the area that we're focused
10 on today, okay? Do you have any other questions
11 relating to that?

12 BY MR. REARDON: Absolutely.

13 BY MR. REARDON:

14 Q. Officer Osteen, do you believe that it's
15 important for people to record the police?

16 A. Do I think it's important?

17 Q. Yes.

18 BY MR. CREEKMORE: Objection, relevance.

19 BY THE COURT: Did he say court the police or
20 record?

21 BY MR. REARDON: To record the police.

22 BY THE COURT: Record. Okay. That is not
23 relevant. Disregard the question and move on to your
24 next question, Mr. Reardon.

25 BY MR. MCCLINTON: Judge, if I may have a moment

1 with my client as his advisor.

2 BY THE COURT: Yes. Mr. Reardon, you can go talk
3 to Mr. McClinton.

4 (BRIEF PAUSE)

5 BY THE COURT: Mr. Reardon, you're recognized.

6 BY MR. REARDON:

7 Q. All right. A few more questions, Officer Osteen
8 and I'll be done. Are you currently or have you ever been
9 on the Brady list?

10 A. Have I ever been on the Brady list?

11 Q. Correct.

12 A. No, sir.

13 Q. Have you ever been under investigation or fired
14 from any other department for lying?

15 A. No, sir.

16 Q. Was there a call for service? Did you receive
17 any phone calls about me coming into Galveston? I'm going
18 to reiterate that.

19 BY MR. CREEKMORE: Asked and answered, Judge.

20 A. No, sir.

21 BY MR. REARDON:

22 Q. What was your probable cause for the
23 investigation and asking me to step out of the vehicle?

24 A. What was the probable cause that initiated the
25 investigation?

1 Q. Yes, and asking me to step out of the vehicle,
2 which is part of the investigation.

3 A. So those are two different questions. I've
4 answered the first question by stating that there was an
5 odor of an unknown alcoholic beverage emitting from the
6 vehicle. The driver, Mr. Reardon, he was very edgy and he
7 did start looking around. And he had pinpoint pupils,
8 talking extremely fast.

9 And the second question getting you out of the
10 vehicle, to ask Mr. Reardon to step out of the vehicle to
11 assist in the investigation. And by him stepping out of
12 the vehicle and having a conversation outside of the
13 vehicle, that was starting to see if I could still detect
14 the odor of an unknown alcoholic beverage emitting from
15 him or coming from the vehicle.

16 Q. Okay. Now, are you a drug recognition expert and
17 were you a drug recognition expert at the time of the
18 arrest?

19 A. I am not a drug recognition expert nor was I one
20 during the arrest.

21 Q. Hum, interesting. So it's safe to say that your
22 specialty is in alcohol, correct, the effects of alcohol?

23 A. Can you repeat your question?

24 Q. You specialize in the effects of alcohol in
25 determining the intoxication by alcohol, not drugs?

1 A. I'd say that's -- your question is somewhat
2 confusing.

3 Q. It's very simple, Officer.

4 BY THE COURT: Let him answer the question.

5 You've asked the question. Let him answer it.

6 You can proceed, Mr. Osteen.

7 A. I'm sorry I thought someone was speaking in the
8 background.

9 BY THE COURT: Do you need him to repeat the
10 question?

11 BY OFFICER OSTEEEN: Could you please repeat the
12 question.

13 BY MR. REARDON:

14 Q. You specialize in detecting the presence of
15 alcohol, not drugs then, correct?

16 A. It's more so of detecting impaired drivers.

17 Q. But you just said you're not a drug recognition
18 expert. Why are you not a drug recognition expert?

19 A. I'm not on that course yet.

20 Q. And how long have you been on this Traffic Safety
21 Unit?

22 A. For just over one year.

23 Q. Officer Osteen, were you demanding that I take a
24 breathalyzer or was it me that was demanding to take a
25 breathalyzer?

1 A. You were demanding to take a breathalyzer.

2 Q. You and your supervisor both stated that none of
3 the officers have portable breathalyzers. Why is that?

4 A. Myself and my supervisor and Officer Murph we
5 have several working breathalyzers.

6 Q. Why does the Traffic Safety Unit that specializes
7 in making DWI arrests not have portable breathalyzers?

8 A. Because we don't need it in the state of Texas
9 because portable breathalyzers aren't admissible in court.

10 Q. But they're a great way to determine the presence
11 of alcohol, wouldn't you agree?

12 A. If they're calibrated correct.

13 Q. Are you aware that the majority of the
14 departments around Galveston, Texas employ the use of
15 portable breathalyzers?

16 BY MR. CREEKMORE: Objection.

17 BY THE COURT: Sustained. Mr. Reardon, any other
18 question about this incident, let's speak to this,
19 this incident we're talking about.

20 BY MR. REARDON:

21 Q. Why did you not take me to the police department
22 to do a breath test?

23 A. Because after further investigating, I felt you
24 were under the impairment of more than alcohol.

25 Q. But how could you know that if you're not a drug

1 recognition expert?

2 A. Because you don't have to be a drug recognition
3 expert -- to be a drug recognition expert you need the
4 certification and I don't have that.

5 Q. Which with that comes identifying the signs of
6 being intoxicated by substances other than alcohol,
7 correct?

8 A. You don't have to be a drug recognition expert to
9 understand that someone is impaired under something else
10 other than alcohol.

11 Q. Officer Osteen, do you believe in road fatigue?

12 A. Please explain.

13 Q. Road fatigue as in driving long distances and the
14 effects of road fatigue.

15 BY MR. CREEKMORE: Your Honor, I object.

16 BY MR. MCCLINTON: If I may have another moment.

17 BY MR. CREEKMORE: I think these are questions
18 that are irrelevant and calls for speculation.

19 BY THE COURT: All right. Mr. Reardon, are you
20 about to wrap it up here?

21 BY MR. REARDON: I'm about to wrap it up here.

22 BY THE COURT: All right. Thank you,
23 Mr. Reardon.

24 BY MR. REARDON:

25 Q. I've just got two more questions for you. The

1 first one is, how did you even find out about the DUI in
2 Lafayette County in 2021?

3 A. Say that again.

4 Q. How were you even informed of the DUI in
5 Lafayette County in 2021?

6 A. From your criminal district.

7 Q. Are you sure about that?

8 A. The DUI that you had in Lafayette County?

9 Q. In Lafayette County, Mississippi, yes.

10 A. Yes. I officially found out from your criminal
11 district.

12 Q. Okay. Final question, the felony driving while
13 intoxicated that you charged me with --

14 A. Yes, sir.

15 Q. -- was dismissed May 24th, 2023; is that correct?
16 Have you seen that order of dismissal?

17 A. May 24th, 2023, no, sir.

18 Q. You've not?

19 A. May 24th, 2023 was before --

20 Q. May 24th, 2024, I'm sorry.

21 A. So I have not seen the dismissal personally, no,
22 I have not.

23 Q. Okay. But currently now the charge is pending as
24 a misdemeanor, correct?

25 A. Yes, sir.

1 BY MR. REARDON: No further questions.

2 BY THE COURT: All right. Thank you,

3 Mr. Reardon.

4 Any redirect, Mr. Creekmore?

5 BY MR. CREEKMORE: No, Your Honor.

6 BY THE COURT: All right. May this witness be
7 excused?

8 BY MR. CREEKMORE: Yes, Your Honor.

9 BY THE COURT: We can turn off the media.

10 Any additional witnesses, Mr. Creekmore?

11 BY MR. CREEKMORE: No, Your Honor. The State
12 rests.

13 BY THE COURT: All right. Mr. McClinton,
14 Mr. Reardon, any witnesses?

15 BY MR. MCCLINTON: No, Your Honor.

16 BY THE COURT: Is that correct, Mr. Reardon?

17 BY MR. REARDON: No witnesses, Your Honor.

18 BY THE COURT: You want to go ahead and I'll
19 recognize you to close and then I'll recognize the
20 State to close on their motion to revoke the suspended
21 sentence of four years and revoke the unsupervised
22 probation.

23 BY MR. REARDON: May I please the Court?

24 BY THE COURT: Yes, Mr. Reardon, you're
25 recognized to close.

1 BY MR. REARDON: Your Honor, what's important
2 today is that the underlying felony charge in
3 Galveston was dismissed by the Court. The order of
4 dismissal was entered on the 24th of May, 2024
5 dismissing the felony charge. And furthermore citing
6 *Williams versus State*, "furthermore with the
7 underlying charges are dismissed before a revocation
8 hearing occurs, proof of the arrest alone is
9 insufficient to prove that the defendant committed the
10 act that violated the parole condition."

11 And in this case, that refers to parole *Gagnon*
12 *versus Scarpelli* recognizes that same due process,
13 same protections are reported to a probationer as to a
14 parolee. Yet, that particular procedure is applied
15 when there is an acquittal or dismissal of the
16 underlying criminal charges prior to completion of the
17 revocation hearing, which is what's occurred in this
18 matter.

19 Further goes on in paragraph 24 that the majority
20 notes while settled, supreme court has been, in fact,
21 that when the underlying charges are dismissed before
22 a revocation hearing occurs, proof of the arrest alone
23 is insufficient the proof that the defendant committed
24 the act violated the condition. And that's *Elkins*
25 *versus State* 116 So.3d 185.

1 Your Honor, this is -- I don't think anything
2 further needs to be said. I think the order for
3 dismissal speaks for itself. And this proceeding
4 should be dismissed and I should be released at the
5 conclusion of this hearing.

6 BY THE COURT: All right. Thank you,
7 Mr. Reardon. You may be seated.

8 Mr. Creekmore, close on the State's motion.

9 BY MR. CREEKMORE: Briefly, Your Honor. The
10 State submits to the Court that he does have a pending
11 violation in Texas with DUI, that based on proof it is
12 a felony DUI. I think there was some confusion in
13 Texas as to whether the DUI in Oxford was on appeal or
14 not. But he still has to face what he did in Texas by
15 violating the law.

16 As far as the State's position about why we're
17 here today is because Mr. Reardon can't live without
18 violating the terms and conditions that the Court
19 imposed upon him by breaking the law as evidenced by a
20 toxicology report that shows that he had
21 methamphetamine in his system while he was driving
22 down the road in Texas. State submits that we've met
23 the burden under *Williams V State*, preponderance of
24 the evidence. I think we've met it beyond
25 preponderance of the evidence that he has failed to

1 abide by the terms and conditions of the State and
2 should be revoked.

3 BY THE COURT: All right. Thank you,
4 Mr. Creekmore.

5 In the sentencing order, Mr. Reardon, that was
6 entered your plea of guilty on September 30th, 2022,
7 placing you on unsupervised probation and a five-year
8 sentence which was all five years suspended. The
9 suspension of the sentence is based on the conditions
10 as follows: The defendant shall hereafter commit no
11 offenses of the law of this State or any state of the
12 United States.

13 Based on the testimony presented to the Court and
14 the evidence particularly Exhibit 3 showing .13 level
15 methamphetamine in your system and being charged with
16 a felony DUI, the Court finds that it's more probable
17 than not and by a preponderance of the evidence that
18 you have, in fact, violated the terms and condition of
19 your unsupervised probation.

20 Therefore, your suspended sentence of four years
21 is revoked. Your unsupervised probation is revoked.

22 What is the recommendation of the State?

23 BY MR. CREEKMORE: Your Honor, the State
24 recommends the defendant serve a term of two years
25 resuspend the remaining portion under post-release

1 supervision.

2 BY THE COURT: Supervised.

3 BY MR. CREEKMORE: Supervised. Yes, sir.

4 BY THE COURT: All right. Based on your
5 probation and revocation violating your suspended
6 sentence, Mr. Reardon, the Court hereby follows the
7 recommendation of the State and hereby sentences you
8 to four years in the custody of the Mississippi
9 Department of Corrections, with execution of two years
10 suspended, leaving two years to serve. Upon your
11 release from MDOC custody, you'll be placed on two
12 years of post-release supervision. If the records are
13 right in your file, you have not paid a dime to the
14 Lafayette County Circuit Court Clerk, you still owe
15 \$842.50.

16 Anything further?

17 BY MR. CREEKMORE: Nothing from the State,
18 Your Honor.

19 BY THE COURT: Mr. Reardon, you will be remanded
20 to Lafayette County Detention Center awaiting
21 transport to the Mississippi Department of
22 Corrections.

23 BY MR. REARDON: Your Honor, as far as the back
24 time, I have --

25 BY THE COURT: This matter is adjourned. We have

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drug court. Thank you.

* * *

C E R T I F I C A T E

STATE OF MISSISSIPPI:
COUNTY OF UNION:

I, DANA R. RAKESTRAW, BCR, CCR, Official Court Reporter for the Third Circuit Court District of the State of Mississippi, do hereby certify that to the best of my skill and ability I have reported the proceedings had and done in the hearing of STATE OF MISSISSIPPI VS. MATTHEW REARDON, being Number LK22-358 on the docket of the Circuit Court of Lafayette County, and that the above and foregoing 45 pages contain a true and correct transcript of my stenographic notes taken in said proceedings.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or supervision.

Witness my signature this, the 17th day of October, 2024.

s/Dana R. Rakestraw
DANA R. RAKESTRAW, BCR, CCR #1418

***** brief

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Exhibit E

[Placeholder]

**Osteen Bodycam 1
(to be filed under seal)**

Exhibit F

[Placeholder]

**Osteen Bodycam 2
(to be filed under seal)**

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

TX Injury Group e-service on behalf of David Bleakney
Bar No. 24103798
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Envelope ID: 97769021
Filing Code Description: Motion
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Status as of 2/26/2025 11:06 AM CST

Associated Case Party: The State of Texas

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