

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
FOR FLAGLER COUNTY, FLORIDA

CASE NO. 18-2018-CF-137

STATE OF FLORIDA,

Plaintiff,

vs.

LARRY ANTHONY CAVALLARO,

Defendant.

SUPPLEMENT TO
MOTION IN LIMINE/MOTION TO STRIKE
STATE'S EXPERT TESTIMONY REGARDING ALLEGED
PRESENCE OF CERTAIN DRUGS/SUBSTANCES IN
COMPLAINANT'S BLOOD AND/OR URINE

The Defendant, LARRY ANTHONY CAVALLARO (hereinafter sometimes referred to as "Mr. Cavallaro"), by and through his undersigned attorney, hereby files this Supplement to his previously filed Motion in Limine/Motion to Strike State's Expert Testimony Regarding Alleged Presence of Certain Drugs/Substances in Complainant's Blood and/or Urine in the above-styled case. As grounds therefor, Mr. Cavallaro would state that such evidence should be excluded based upon the same grounds set forth in his previously filed motion in limine regarding this situation. Further, based upon information obtained subsequent to the last scheduled hearing (the defense is waiting for receipt of additional relevant information regarding the Florida Department of Law Enforcement (FDLE) testing), the defense would amend the previously filed motion in limine to request

the Court to exclude any evidence that the Complainant had in her blood or urine Clonazepam, 7-Aminoclonazepam, Tetrahydrozoline, Diphenhydramine or Alprazolam.

1. Since the last hearing in this matter, an additional deposition was taken of FDLE technician Lisa Rohe (herein sometimes referred to as "Ms. Rohe"). This Court should also exclude any evidence of Clonazepam, 7-Aminoclonazepam, Tetrahydrozoline, Diphenhydramine or Alprazolam being in the blood or urine of the Complainant from being introduced in the State's case for the same reasons and upon the same grounds set forth in the previously filed motion in limine, the allegations and grounds of which are incorporated herein.

2. For example, as to Diphenhydramine (amphetamine), Ms. Rohe testified in her more recently taken deposition that she saw possible "trace amounts" in the urine, but did not detect any present in any confirmatory testing. She testified at page 23, lines 8 and 10, of her deposition that she had been able to see as low as 20 nanograms per milliliter possibly in the urine. She indicated that the possible presence of the substance was initially detected at 17 nanograms per milliliter, but that that was too low to be reportable by her and "It didn't have a very good match. . . ." (Pg. 24, lines 11-12.) "It was less than 20 nanograms per milliliter--came in at around 17, and the mass spectra was not an exact match, so indicated to me that that's not something that I was going to try to pursue because it was below our cut off." (Pg. 24, lines 20-24.) Ms. Rohe testified at page 26, lines 1-18, regarding the possible presence of amphetamines:

Ms. Rohe:

A Yeah. And it--and the reason it could not be a good match is because either the amount is very low, and the

chromatography's not good, the instrumentation--you know is just--when it gets to a low, low level, it just doesn't look good. It could be that it wasn't amphetamine. That's a possibility, so I'm not going to report it.

Defense Counsel:

Q It could that--you said that it could be that in fact it was not an amphetamine. That's another alternative?

Ms. Rohe:

A Correct. Yea, it could be that it was maybe something else, and not an amphetamine, so we're not going to report it unless we know for a fact that it is what it is. And so, it could be it was amphetamine in low levels. It could be that it was not amphetamine, still low levels, so that's why we have the protocols that we have. To make sure that we are accurate in our reporting.
[Emphasis supplied.]

At page 26, lines 24-25, and page 27, lines 1-2, she testified:

Defense Counsel:

Q Okay. Is--but you--is there a--is there--but you specifically tested for diphenhydramine and found no presence of it in the urine; is that accurate?

Ms. Rohe:

A That's correct.

3. Ms. Rohe testified she tested for Clonazepam in the urine. However, the results were too low to even be reportable by her in her report.

4. As to the presence of 7-Aminoclonazepam, Ms. Rohe testified in part at page 27, lines 18-25, and page 28, lines 1-11:

Ms. Rohe:

A Well, I just told you it's--was the same procedure that I found the 7-Aminoclonazepam, so it was gas chromatography-mass spectrometry, the same one that I used to do the benzo screen--the second benzodiazepine screen, right? Because the initial benzodiazepine screen using IA was negative. And for sexual assault cases, we go ahead and do a gas chromatography-mass spectrometry screen of benzos. And within that screen, there was indicate of 7-Aminoclonazepam, and supposedly alpha-hydroxyalprazolam, but I'm not--I wasn't going to report that because usually if I have alpha-hydroxyalprazolam, there's going to be the parent present. So the parent wasn't there, and it was a low amount, so that's not reportable.

Defense Counsel:

Q So when you say the parent wasn't there, you weren't sure if you were--if it was actually what you--what it was presumptively testing for, kind of like with the other one?

Ms. Rohe:

A Right. It was just a--

5. As to any arguable trace amount of Alprazolam, Ms. Rohe testified, in part, at page 33, lines 8-20:

Defense Counsel:

Q And then I want to go back to your discussion with another trace drug that you found, but didn't report, was alprazolam. You indicated your findings were less than 20 nanograms per milliliter. What was the level that was found in your screening test?

Ms. Rohe:

A Okay. So the--the screen was--the IA screen was negative, but the benzo screen found alpha-hydroxyalprazolam, which is the breakdown, not--not alprazolam. But alpha-hydroxyalprazolam, we--I believe the IA is--what did I say, 150, but we can see down to 20 in the GC-MS screen, and it was at 17, I believe. Let

me just look. Yeah, it was 17 nanograms per mil, so it was less than the 20.

[Emphasis supplied.]

6. A copy of Ms. Rohe's deposition transcript taken September 10, 2021, is attached to this motion.

7. Subsequent to Ms. Rohe's deposition, another public records request was made for additional records from the FDLE lab to be reviewed by his expert witness. A copy of the initial request and follow up request are attached to this motion. An acknowledgment of receipt of payment was received via email from Brittany Auclair, FDLE, on January 7, 2022 (copy attached). As of this date, undersigned counsel has not yet received that backup material pursuant to that records request to provide to his expert. The defense was waiting to file this motion until his expert had an opportunity to review those requested FDLE records.

8. For all the reasons set forth in the previously filed motion in limine regarding this issue, the Court should enter an order prohibiting the State from introducing any evidence of the substances found in the urine and blood of the Complainant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was filed utilizing the Florida Courts E-Filing Portal and was served via electronic mail this 7th day of January, 2022, to:

Office of the State Attorney, Felony Division, 1769 E. Moody Blvd., Bldg. 1, 3rd Floor,
Bunnell, Florida 32110, eserviceflagler@sao7.org.

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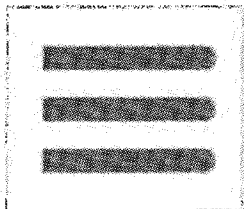
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2 SEVENTH JUDICIAL CIRCUIT, IN AND
3 FOR FLAGLER COUNTY, FLORIDA
4 CASE NO. 18-2018-CF-000137XXXXXX

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6 STATE OF FLORIDA,
7 PLAINTIFF,

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9 VS.

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11 LARRY ANTHONY CAVALLARO,
12 DEFENDANT.

13 _____ /

14 VIDEOCONFERENCE DEPOSITION OF LISA ROHE

15 DATE: SEPTEMBER 10, 2021

16 REPORTER: ALEX SOUDERS

17 PLACE: ALL PARTIES APPEARED VIA VIDEOCONFERENCE

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21

22

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25

1 APPEARANCES

2

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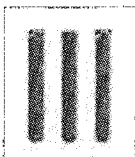
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EXHIBITS

(None marked)



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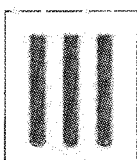
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1 STIPULATION

2
3 The videoconference deposition of Lisa Rohe taken
4 remotely on Friday the 10th day of September 2021 at
5 approximately 10:03 a.m.; said deposition was taken
6 pursuant to the Florida Rules of Civil Procedure. It is
7 agreed that Alex Souders, being a Notary Public and
8 Court Reporter for the State of Florida, may swear the
9 witness and that the reading and signing of the
10 completed transcript by the witness is not waived.
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1 PROCEEDINGS

2 MR. LINDSEY: Good morning. My name is Warren
3 Lindsey. I represent the defendant in this case.
4 The case that we're taking a deposition on is styled
5 as State of Florida, Plaintiff v. Larry, middle name
6 Anthony, last name Cavallaro, C-A-V-A-L-L-A-R-O,
7 Defendant. And it's -- this case is in the Circuit
8 Court of the Seventh Judicial Circuit in and for
9 Flagler County, Florida, and it's case number 18-
10 2018-CF-137, and we are taking the deposition of
11 Lisa, S-I -- L-I-S-A Montgomery, M-O-N-T-G-O-M-E-R-
12 Y-Rohe, R-H-O-E. Did I get that right, Ms. Rohe?

13 THE WITNESS: R-O-H-E.

14 MR. LINDSEY: R-O-H-E, okay.

15 COURT REPORTER: Okay.

16 MS. CLARK: And, for the record, I am Melissa
17 Clark, M-E-L-I-S-S-A, last name Clark, C-L-A-R-K,
18 Assistant State Attorney out of Flagler County.

19 COURT REPORTER: Thank you. Ms. Rohe, will you
20 please state your full name for the record?

21 THE WITNESS: Lisa Rohe, R-O-H-E.

22 COURT REPORTER: Okay. Thank you, ma'am. Can
23 you go ahead and show -- hold your photo ID up to
24 the camera? Okay. Thank you, ma'am. You can put
25 that down. Will you please raise your right hand?



1 Do you solemnly swear or affirm the testimony you're
2 going to give in this matter will be the truth, the
3 whole truth, and nothing but the truth?

4 THE WITNESS: I do.

5 COURT REPORTER: Okay. Thank you. You can put
6 your hand down. Deposition may begin.

7 DIRECT EXAMINATION

8 BY MR. LINDSEY:

9 Q Okay. Ms. Rohe, good morning.

10 A Good morning.

11 Q The -- you had your deposition previously
12 taken in this case. Do you remember?

13 A Yes.

14 Q Did you read the deposition after it was
15 transcribed, or not?

16 A I read most of it.

17 Q Okay. And yesterday I received a -- an e-mail
18 from Melissa Clark, the prosecutor in the case, where
19 she had had a conversation with you, and you had
20 indicated to her some things that were not talked about
21 in the deposition. Do you remember that?

22 A We had talked about some concerns with NMS --
23 some of the things that NMS was -- found, and whether or
24 not it was something that we reported. So we did have a
25 discussion about that.



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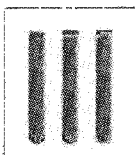
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1 Q All right. Just so I don't reinvent the
2 wheel, what was the discussion? What were the concerns
3 about NMS?

4 A Ms. Clark had stated -- here, I read -- wrote
5 it somewhere -- that they had reported 7-
6 Aminoclonazepam, or clonazepam in the urine, and how
7 that would -- that was different from what was on my
8 report. And so, I didn't report that particular drug,
9 but I explained to Ms. Clark that it was something that
10 was indicated in -- during my analysis, but because the
11 levels were so low, that it was not something that I
12 reported.

13 Q All right. I talked -- before we got on,
14 after we did a recess of the hearing, I talked briefly
15 to my expert about things that we would need to look at
16 in that regard. Do you have a litigation file, or a --
17 what do you call it? What do you -- what records do you
18 have in the case that show what you just said? What
19 written records, or diagnostic records, or records
20 produced by any type of machine or instrument?

21 A So I have my case file with all my bench notes
22 in it, and within that has all the raw data. So I
23 reviewed the raw data yesterday when I was speaking with
24 Mrs. Clark, and that's when I, you know, explained to
25 her about -- that there were some indications of drugs



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1 that I was not able to confirm.

2 Q All right. In your deposition, I specifically
3 asked you some questions about clonazepam, and you never
4 mentioned finding any trace amounts, or any indicators,
5 or anything like that. Why did you not bring that up in
6 your deposition? Why did you not respond in your
7 deposition? Did you forget?

8 A I don't recall. I'm not sure. I didn't read
9 that part of the deposition. Do you know where that is
10 in the deposition, where I said --

11 Q Yes. It's pages 23 to 24. And I think I
12 asked you some questions about it -- well, I start
13 asking questions about -- at page 22, line 17. We were
14 just talking about the drug screen that you did.

15 A Uh-huh.

16 Q Because they -- on the front of the -- your
17 report it talks about -- well, I can ask you. On the
18 front of your FDLE report, it asks about -- or it states
19 different substances that you test for, correct?

20 A Correct.

21 Q And what are the substances on the report that
22 say that you test for?

23 A So they're all listed on the report. I can
24 just go ahead and read them to you if you want.

25 Q Please do.



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1 A So it was analyzed for amphetamines,
2 antidepressants, antihistamines, barbiturates,
3 benzodiazepines, cannabinoids, carisoprodol, cocaine,
4 GHB, methadone, methamphetamine, opiates, oxycodone, and
5 other drugs.

6 Q All right. And clonazepam, as you -- when I
7 asked -- because I ask you at page 22 of your
8 deposition. I ask you, "What is clonazepam? What type
9 of substance is it? What remarks area would that be
10 classified in?" and you answered, "It would be a
11 benzodiazepine," right?

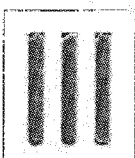
12 A Yeah. Oh, I read that part of the deposition,
13 and that all seems correct. Yes, so we did discuss 7-
14 Aminoclonazepam.

15 Q Right.

16 A You had asked about it, and you asked if it
17 was in a screen, and yes, we do screen for that. I
18 wasn't able to confirm it.

19 Q Right. But when I asked you if you screened
20 for it, and you said you did screen for it, you never,
21 ever indicated anywhere in your deposition that you
22 found any trace, or any presumptive, or anything,
23 correct?

24 A Right, no. I don't usually discuss that. I
25 mean, it's not -- if I don't confirm it, then I'm not



1 really going to talk about whether it's indicated or
2 not.

3 Q Okay.

4 A So, for us, if we screen a drug, if it screens
5 for something, we have to do an additional procedure to
6 confirm it. Otherwise, we can't really say that it was
7 there.

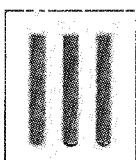
8 Q All right. So in the deposition, when we're
9 discussing you doing a screen for clonazepam, you didn't
10 bring it up because you believed that from a scientific
11 standpoint that it was not important, that it was not
12 validated enough to be necessary to be mentioned; is
13 that correct?

14 A Oh, I didn't mention it because I didn't
15 report it.

16 Q Okay.

17 A The only reason I mentioned it yesterday is
18 because there was some concern that the results that
19 another lab produced and my results were inconsistent,
20 and I wanted to relay to Mrs. Clark that it really
21 wasn't that inconsistent, it's just that we have
22 different reporting procedures, and different cutoffs.
23 And so, what they may have reported doesn't necessarily
24 mean that it was or wasn't there.

25 Q All right. My expert is preparing a request



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1 for information regarding that, and the -- how do you
2 pronounce that, diphenhydramine?

3 A Diphenhydramine?

4 Q Diphenhydramine, right?

5 A Uh-huh.

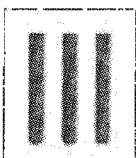
6 Q What -- so it -- so if it doesn't reach your
7 thresholds, you don't put it on a report; is that right?

8 A Right, and we -- and there has to be a certain
9 criteria that is met, and that wasn't met for that
10 particular analyte, or compound. So we do a screen, and
11 then the screen has to pass all the certain quality
12 control criteria, and then whatever screens positive,
13 then it goes on for additional testing, and then that
14 has to also pass additional quality control criteria,
15 and -- in order to report any findings.

16 Q Okay. And to get your -- like your -- did you
17 use a gas chromatograph?

18 A Yes. So part of the screen is either
19 immunoassay screening or gas chromatography. Mass
20 spectrometry can also serve as a screen, and then it's
21 followed up with an additional analysis.

22 Q All right. And what -- how do I -- what do I
23 request to get all that information, the actual raw
24 data? What do I do? How do I make that request to you,
25 or --



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1 A I did notice that that was something that was
2 in the previous deposition. I thought that it was
3 requested previously but, basically, it's a public
4 records request. It was -- think it was mentioned in
5 the previous deposition. So public records request
6 would be -- would be done, and then the case file that I
7 have in front of me, I -- I thought you got a copy of
8 it, but you would get all of my bench notes from the
9 case file that I have in front of me.

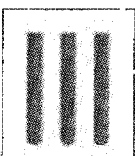
10 Q And what are included in the bench notes?

11 A The bench notes? I feel like this was talked
12 about before, as well, but it also -- it has the raw
13 data from the screening, the raw data from the
14 confirmatory procedures, the evidence inventory form
15 that we do when we open evidence. It has a case
16 tracking form that is -- what is submitted by the
17 agency, with all the information on that. And there's
18 also a victim information form that was submitted with
19 the agency, and --

20 Q Does it have the graphs, the gas chromatograph
21 graphs?

22 A Gas chromatography data is in the bench notes,
23 yes.

24 Q Okay. And the -- well, so where did you --
25 and I'll -- we'll look at those bench notes, but where



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1 did you detect the trace clonazepam, in what type of
2 test?

3 A So it didn't screen positive in the
4 immunoassay. So the immunoassay screened positive for
5 only the carboxy THC. And so -- but clonazepam and
6 lorazepam are two types of benzodiazepine drugs that
7 don't screen very well with our procedures, so we
8 actually use a gas chromatography mass spectrometry as a
9 screen for benzodiazepine drugs. And so, I did a
10 separate analysis procedure to look for those drugs in
11 the urine. And so, it was gas chromatography-mass
12 spectrometry.

13 Q All right. So nothing showed up in the -- you
14 said the amino acid --

15 A It --

16 Q -- testing?

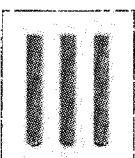
17 A -- immunoassay.

18 Q Okay. Nothing showed up?

19 A As --

20 Q Is that -- does that give a -- an actual
21 numerical figure, or is it just a presumptive test?

22 A It does have -- we do have a cut off for that
23 as well, but like I said, it's -- it doesn't screen very
24 well for certain benzodiazepines -- the two that I
25 mentioned, so we do a different screen if we're looking



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1 for those. And we look for those in sexual assault
2 cases.

3 Q Okay. What is the cut off in the immuno test
4 for benzodiazepine?

5 A 150 nanograms per milliliter.

6 Q All right. And so, when you did the gas -- or
7 the C-H mass spec test, what is the cut off?

8 A For the mass spec -- the gas chromatography-
9 mass spectrometry?

10 Q Yes.

11 A We can see down lower. We can see down to 20
12 nanograms per milliliter, but we -- we pretty much can
13 guarantee that we can see down to 150, but we can see
14 lower than that.

15 Q You can see down to 20 nanograms?

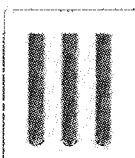
16 A 20 -- yes, 20 nanograms per milliliter.

17 Q Okay. And what, if any, numerical amount did
18 you supposedly get with the clonazepam? If any, on
19 that?

20 A With the 7-Aminoclonazepam it looks like it
21 was less than 20. It was 14 and a half nanograms per
22 milliliter, so the amount wasn't enough for reporting.

23 Q And when you say, "Not enough for reporting,"
24 define that. What does that mean?

25 A We use a 20 nanograms per milliliter cut off.



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1 So anything less than that is not reportable.

2 Q Okay. And it's not reportable because it's
3 not significant scientifically?

4 A No, because that's what we deem to be our cut
5 off, depending on what we can see down to. So it's -- a
6 lot has to do with our instrumentation and how we
7 validated our method. And so that's what we can very
8 confidently see down to, and so 20 nanograms is just
9 what we use. We can see less than that, but with our
10 validation, that's what we decided.

11 Q All right. Who decided that?

12 A Our laboratory.

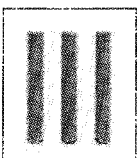
13 Q All right. So if it's below those thresholds
14 that you talked about, it's not reported on a -- on the
15 test results that is provided to whoever is requesting
16 the testing?

17 A Right. So we have cutoffs, and if it's less
18 than what we determine to be our cut off, then we will
19 not report it.

20 Q All right. Do you do validation studies when
21 you're doing these things?

22 A Yes. Validation studies are performed when we
23 develop methods here.

24 Q All right. And are they in those notes that I
25 would be requesting by a -- the public records request?



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1 A You can request the validations for the
2 specific methods you'd like. That is very reasonable,
3 and we've had public records requests do that.

4 Q Okay. And that's how I word it, validation
5 studies and methods for -- in the -- for these two
6 things that we're talking about now? I mention them,
7 specifically?

8 A Yes. You can -- you could just say validation
9 studies in relation to the case, you know, something
10 like that.

11 Q Okay --

12 A Yeah.

13 Q Okay. And did you do testing on -- for
14 benzodiazepines in both the -- in the blood and the
15 urine, or just one?

16 A Just the urine.

17 Q Did you make any attempt to test in the blood?

18 A No. The protocol at the time was if we have
19 blood and urine, we're going to screen the urine because
20 typically the drugs will stay in the urine longer. And
21 so, if we screen anything in the urine, and confirm
22 anything in the urine, then we then look for it in the
23 blood. So I did look for the THC in the blood because
24 that was something that was confirmed in the urine.

25 Q But you didn't do anything with the



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1 benzodiazepine -- the clonazepam because it wasn't
2 confirmed to the levels; is that right?

3 A Correct.

4 Q And I ask you on page 23 of your deposition, I
5 ask you at 17 -- the 17th sentence, I ask, "In the urine
6 screen, no 7-Aminoclonazepam showed up in the urine
7 screen that was conducted on February 15, 2018,
8 correct?" Your answer, line 20, 21, "Correct. It did
9 not show up in this initial screen."

10 A Uh-huh.

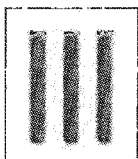
11 Q Is that testimony incorrect?

12 A No. That's true. It did not show up in the
13 initial screen. The benzodiazepine in the IA was
14 negative. The "IA" stands for immunoassay.

15 Q But nowhere after that did you ever bring up
16 that there was any trace amounts of clonazepam in any
17 other testing; is that accurate, in your deposition?

18 A Yeah. I'm reading to see if I mentioned it.
19 Hold on just a second. No, I don't see a mention of it.
20 I think we went on from that to talking about
21 antihistamines and other things, so it was not
22 mentioned.

23 Q Right. But then on page 24, lines 19 -- you
24 know, you talk about -- it's actually -- talk about the
25 threshold detection, you say, "It's actually 150



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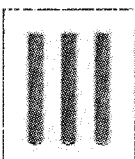
1 nanograms per mil, which is fairly high because we do
2 report lower than that, and that's the reason we
3 actually do a separate procedure to look for lower
4 amounts of clonazepam, lorazepam, and certain
5 benzodiazepines that don't screen very well." You go on
6 -- you never mention anything about results of any other
7 testing, correct?

8 A No. I answered what you had asked, and that
9 was it. It looks like we went from there to talking
10 about creatine.

11 Q Does the -- the -- your -- do your notes that
12 you have, that I'm going to request, do they show
13 calibration runs used to obtain quantitative values with
14 the sequence runs of the stored specimens?

15 A So we do not do quantitative values for the
16 urine, but we do for the blood, and the procedure for
17 analyzing THC, that is a quantitative procedure. The
18 urine procedures are not quantitative, they're
19 qualitative. But all of the quality control data and
20 criteria is shown in the bench notes. So you will see
21 that it did pass our criteria.

22 Q All right. And the -- did you do any other
23 presumptive testing? Anything whatsoever on either
24 blood or urine for benzodiazepine? Anything else that
25 was done? Just to make sure I didn't -- we don't leave



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1 anything out? Any other testing?

2 A Just the immunoassay screen, which does look
3 for benzodiazepine drugs, and the urine benzo method
4 using gas chromatography-mass spectrometry. Those are
5 the two that would look for benzodiazepines.

6 Q And that's only in this case, in the
7 benzodiazepine was only in the urine. That's all you
8 tested for, right?

9 A That's correct.

10 Q Okay. And in the e-mail that I got from Ms.
11 Clark, she says that -- I'm just quoting from the e-
12 mail, "She," meaning you, "indicated to me that she did
13 see trace amounts of clonazepam." Well, we already
14 covered that. So let me move on. She said, "With
15 respect to diphenhydramine, she indicated that she did
16 see trace amounts of amphetamine in the urine, but she
17 did not see it in the confirmatory testing." Before I
18 ask you specific questions, what do you mean by that?

19 A I'm sorry?

20 Q What do you mean when you told her that? What
21 does that mean?

22 A Which part? I -- can you be more specific.

23 Q Yes. Did you test -- is diphenhydramine an
24 antihistamine?

25 A Yes.



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1 Q And did you test for that?

2 A Yes. So we do -- when I do -- it wasn't an
3 immunoassay screen, because we don't screen for that
4 using that one. We use a procedure utilizing gas
5 chromatography-mass spectrometry to try to look for the
6 antihistamines and antidepressant drugs.

7 Q And in your -- the report that you provided,
8 you don't indicate in any way that any antihistamine or
9 diphenhydramine was found; is that correct?

10 A Correct. I did not report diphenhydramine. I
11 didn't even see it in the screen that I did.

12 Q All right. So if you didn't see it in the
13 screen that you did, why did you bring it up to Ms.
14 Clark during the conversation yesterday?

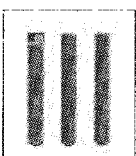
15 A I didn't bring up diphenhydramine. What -- I
16 don't understand what you're asking.

17 Q I thought you did. I thought you said -- so
18 you did not -- did you see -- so in any of the testing
19 you did, did you -- you did not detect, in any testing
20 you did of any kind, diphenhydramine; is that -- am I
21 getting -- is that correct or not correct?

22 A I'm very confused by your question. Are you
23 asking me if I reported it?

24 Q I know you didn't report it, right?

25 A No.



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1 Q Correct?

2 A Because it wasn't --

3 Q And -- but did you --

4 A -- reportable. There was nothing that I
5 found.

6 Q All right. So then, I'm just making sure,
7 because I'm read -- looking at an e-mail. Did you find
8 -- well, okay. What is diphenhydramine? What is it
9 classified under in terms of the general categories in
10 which you -- you've performed testing at the FDLE lab?
11 What is it?

12 A It's an antihistamine.

13 Q All right. And did you -- in your -- in this
14 particular case did you test for antihistamines?

15 A Yes. I screened for the presence of
16 antihistamines and antidepressants.

17 Q All right. And did you -- would that include
18 testing or screening for the existence of
19 diphenhydramine?

20 A Yes.

21 Q And did you -- in this case did you screen --
22 what is the difference between screen and testing? Is
23 there a difference?

24 A So we consider a -- in this particular case
25 with diphenhydramine, the screen and the confirmatory



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1 test are actually the same test. It's just done in
2 duplicate. So -- because it's gas chromatography-mass
3 spectrometry. So those -- that's considered the screen,
4 so we're looking for it in that particular procedure. If
5 we see any indication of it, then we're going to repeat
6 the confirmatory test in order to get two results that
7 match.

8 Q All right. In any -- either screen -- and
9 what screening test do you use? What is it called?

10 A For diphen --

11 Q Is that that immunoassay test, or something
12 different?

13 A The immunoassay is one of the screens. That
14 is the typical screen that we use for the ten different
15 drug classes. Antihistamines is not included in that
16 screen.

17 Q And what is your threshold in the screening
18 test when you're checking for diphenhydramine?

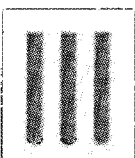
19 A We can see down pretty low, but we can
20 guarantee for diphenhydramine -- I believe it was 200
21 nanograms per milliliter --

22 Q But you can only see --

23 A -- that we can see --

24 Q -- lower than that?

25 A -- that we can -- I'm sorry?



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1 Q I interrupted you. Finish. Please, finish. I
2 interrupted you.

3 A Oh, I was saying that we pretty much can
4 guarantee we can see down to 200 nanograms per
5 milliliter for that particular drug, but we can see
6 lower amounts than that.

7 Q How low?

8 A We can probably go down to 20.

9 Q 20 nanograms per milliliter?

10 A Correct. 20 nanograms per milliliter.

11 Q And in -- just to be sure I get it -- I'm
12 asking the right questions completely, what test or
13 screen did you use in this case for -- to -- for
14 diphenhydramine?

15 A Gas chromatography-mass spectrometry.

16 Q And using that test, or -- do you call that a
17 test or screen, or is it both?

18 A Both.

19 Q Okay. And in using that test and screen, did
20 you find -- were you able to detect any diphenhydramine?

21 A No.

22 Q Okay. Did you do any other tests at all in
23 the case, any tests or screens, or anything at all
24 looking for diphenhydramine other than what you've
25 already testified to?



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1 A No.

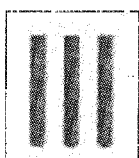
2 Q Did you see -- when you did testing, did you
3 see any -- even any trace amount of amphetamine or
4 diphenhydramine in any testing or screening that you
5 did?

6 A Amphetamine, yes.

7 Q Okay. And tell me about that.

8 A For the same screen we just discussed, the
9 same test. I did gas chromatography-mass spectrometry.
10 In that particular test, I did see amphetamine. Now, it
11 was not reportable for a couple of reasons. It didn't
12 have a very good match, so what we do is when we do this
13 screen, it's a little bit different than the IA screen.
14 That's a color change. This is much more specific. We
15 are actually putting a known standard, and comparing a
16 known to an unknown, so we get a mass spectra, which is
17 an -- essentially a fingerprint of the drug, and we're
18 comparing, you know, what the mass spectras look like.
19 And in this particular case, the amphetamine, the mass
20 spectra was okay, but the amount was very small. It was
21 less than 20 nanograms per milliliter -- came in at
22 around 17, and the mass spectra was not an exact match,
23 so indicated to me that that's not something that I was
24 going to try to pursue because it was below our cut off.

25 Q Okay. When you say it's not a good match,



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1 it's -- that the results are suspect, and so you don't
2 report them?

3 A I'm not sure what you're asking.

4 Q What do you mean by not a good match?

5 A Okay. So when we do gas chromatography mass
6 spectrometry, we are comparing known substances, so we
7 actually are analyzing a known, and comparing it to the
8 unknown. And so, we know with the mass spectra -- mass
9 spectra is just -- the easiest way for me to explain it
10 is, like I said, it's a fingerprint. It's basically how
11 the ions look for that compound. And the mass spectra
12 for amphetamine, we know what it is, and so when we
13 analyze unknowns, we get a mass spectra, and we compare
14 that unknown to the known. And so, there's criteria
15 that we have to meet in order to report a drug, and this
16 didn't meet that criteria. So I did not report the
17 drug.

18 Q But by the criteria, you're looking at the
19 mass spectrometer result in your comparing it with a
20 known; is that right?

21 A Yes.

22 Q And in this case it -- when you did that
23 comparison, it -- professionally you believed it was not
24 a good match, and so that -- you did not report it for
25 that reason; does that --



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1 A Yeah. And it -- and the reason it could not
2 be a good match is because either the amount is very
3 low, and the chromatography's not good, the
4 instrumentation -- you know is just -- when it gets to a
5 low, low level, it just doesn't look good. It could be
6 that it wasn't amphetamine. That's a possibility, so
7 I'm not going to report it.

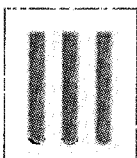
8 Q It could that -- you said that it could be
9 that in fact it was not an amphetamine. That's another
10 alternative?

11 A Correct. Yeah, it could be that it was maybe
12 something else, and not amphetamine, so we're not going
13 to report it unless we know for a fact that it is what
14 it is. And so, it could be it was amphetamine in low
15 levels. It could be that it was not amphetamine, still
16 low levels, so that's why we have the protocols that we
17 have. To make sure that we are accurate in our
18 reporting.

19 Q So after that, do you -- did you do any
20 further testing for either, you know, diphenhydramine or
21 amphetamines after the tests that we just talked about,
22 or not?

23 A No.

24 Q Okay. Is -- but you -- is there a -- is there
25 -- but you specifically tested for diphenhydramine and



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1 found no presence of it in the urine; is that accurate?

2 A That's correct.

3 Q Did you test for anything -- you know, and did
4 you find traces of anything else that I haven't already
5 asked you that you didn't report because it didn't meet
6 thresholds, or anything?

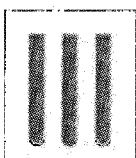
7 A Well, there was also alpha-hydroxyalprazolam
8 indicated in the benzodiazepine screen, but not
9 reportable.

10 Q Okay. What was that one called?

11 A That was alpha-hydroxyalprazolam, which is --
12 if it was what it -- you know, if it was actually that,
13 then that is the breakdown product for alprazolam, and
14 alprazolam is also known Xanax. It's a benzodiazepine.

15 Q All right. Did you -- tell us about that.
16 I'll look at the records with -- but tell us about that.
17 What did you -- what testing did you do on that?

18 A Well, I just told you it's -- was the same
19 procedure that I found the 7-Aminoclonazepam, so it was
20 gas chromatography-mass spectrometry, the same one that
21 I used to do the benzo screen -- the second
22 benzodiazepine screen, right? Because the initial
23 benzodiazepine screen using IA was negative. And for
24 sexual assault cases, we go ahead and do a gas
25 chromatography-mass spectrometry screen of benzos. And



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1 within that screen, there was indication of 7-
2 Aminoclonazepam, and supposedly alpha-hydroxyalprazolam,
3 but I'm not -- I wasn't going to report that because
4 usually if I have alpha-hydroxyalprazolam, there's going
5 to be the parent present. So the parent wasn't there,
6 and it was a low amount, so that's not reportable.

7 Q So when you say the parent wasn't there, you
8 weren't sure if you were -- if it was actually what you
9 -- what it was presumptively testing for, kind of like
10 with the other one?

11 A Right. It was just a --

12 Q It may not even be that, right? May be
13 something else?

14 A Well, with alpha-hydroxyalprazolam, it could
15 be something else, yes. But it -- in this particular
16 case -- actually the chromatography looked really good,
17 so it could've been that there was very, very low
18 amount, and the parent was already metabolized, and all
19 that was left was the metabolite in the urine, but it
20 wasn't enough for me to report. It was less than 20
21 nanograms per mil, and I don't usually report that
22 without the parent.

23 Q And when you say the parent, what are you
24 referring to?

25 A The parent drug. The alprazolam.



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1 Q Okay. And there was no presence of the parent
2 drug?

3 A Correct.

4 Q What day did you do these tests on -- or these
5 procedures on?

6 A Looks like it was on February 23, 2018.

7 Q And when you did it, had the -- what did the
8 sample look like that you were testing? What was it in?
9 Because you just tested the urine, right?

10 A Correct. It was in a plastic -- you know, the
11 -- the sample was in a urine cup, which is a plastic
12 cup.

13 Q Was it -- how was it -- was there a -- what
14 was on the top of it, or how was it opened or closed?

15 MS. CLARK: You know, what? I'm going to
16 object. I think we went through this during the
17 last deposition, so I'm not really sure that we need
18 to go through this again. This is really just meant
19 to get through the trace levels that were not
20 included in the last deposition. But I remember you
21 went through this at length with her in the first
22 depo.

23 MR. LINDSEY: No, I did. But I didn't know
24 anything about all this other stuff she's talking
25 about, and so I think it's -- think I should be able



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1 to inquire a little bit about it. I mean, if you're
2 instructing her not to answer, then she will --

3 MS. CLARK: I'm not. I just was hoping we
4 could kind of stay on track.

5 MR. LINDSEY: Okay. Well, I'll just ask a few
6 questions. I won't go too long.

7 BY MR. LINDSEY:

8 Q What was -- how was the top of it? How was it
9 closed?

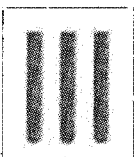
10 A They're in a -- typically -- this was a DFSA
11 box, a drug facility -- facilitated sexual assault, so --
12 - and it contained two blood tubes, and a urine cup.
13 Usually, it's a screw top. And there was seal over it,
14 so there was a security seal that had to be broken in
15 order to open the urine specimen. There was no evidence
16 of leaking, so everything was intact.

17 Q Did you take any pictures, photographs of the
18 box or the tubes or the cups or anything like that?

19 A No.

20 Q Had any of them been opened by any other
21 technicians, or anyone doing previous testing before you
22 got them that you could tell?

23 A It was opened by FDLE, and it was opened by
24 the forensic technologist in this case, Jose Ramirez
25 (phonetic), when he did the immunoassay screen.



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1 MR. LINDSEY: Okay. I think those are the
2 questions I had. I'll be making a public records
3 request to you for the materials that we talked
4 about, and I'll copy Ms. Clark on the public records
5 request.

6 MS. CLARK: And Ms. Rohe, I just have a few
7 follow-up questions.

8 CROSS EXAMINATION

9 BY MS. CLARK:

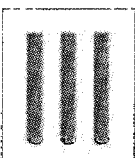
10 Q First, I just wanted to make sure we were
11 clear, and that by understanding was correct. Going
12 back to your testing of benzodiazepines, my
13 understanding is that you did the GC-MS screening/test
14 on the urine, but did not do any confirmatory test on
15 the blood due to the threshold levels found; is that a
16 correct statement?

17 A So yes, I did the screen of the urine, and
18 because there was nothing found that I could report,
19 nothing reportable, I did not look for anything in the
20 blood. So the blood was not tested for benzodiazepines.

21 Q Okay. And then, with respect to potential
22 trace levels of amphetamines, would you expect to see
23 amphetamines if someone had taken an antihistamine?

24 A No, not typically.

25 Q So maybe educate me. Amphetamines --



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1 obviously in my world, I think of methamphetamine, or
2 Ritalin, something along those lines. Where else would
3 we see amphetamines?

4 A Well, Ritalin is methylphenidate, so it's a
5 completely different substance. Amphetamine can be
6 prescribed, in and of itself, for ADD and ADHD. There
7 is -- and let me see if I can find the information real
8 quick on that. So there is the -- the tradenames are
9 Adderall, Benzedrine, and Dexedrine for amphetamine,
10 itself. But no, it's not typically something that you
11 -- you're going to screen or test positive for
12 amphetamine from taking over-the-counter medication.

13 Q Let me just ask you this, because again, maybe
14 this is just me not understanding it, but I thought
15 that's why, for example, if I go to CVS to purchase
16 anti-allergy medications, you know, whether it be
17 Sudafed, or whatever other tradenames are out there,
18 they take down your name and your driver's license,
19 because people were taking those and using those to make
20 methamphetamine. So I always thought that meant you got
21 amphetamines from those particular drugs; am I
22 incorrect?

23 A So what you're thinking of is ephedrine, which
24 is what is in pseudoephedrine, and all those. So the
25 ephedrine is used in meth labs in order to make meth. I



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1 will say though, that methamphetamine -- methamphetamine
2 users, especially, they will have trace amounts of
3 amphetamine in their system because methamphetamine does
4 break down into amphetamine. Amphetamine does not break
5 down into methamphetamine. So the presence of
6 amphetamine can indicate amphetamine use, or it could
7 also indicate methamphetamine use.

8 Q And then I want to go back to your discussion
9 with another trace drug that you found, but didn't
10 report, was alprazolam. You indicated your findings
11 were less than 20 nanograms per milliliter. What was
12 the level that was found in your screening test?

13 A Okay. So the -- the screen was -- the IA
14 screen was negative, but the benzo screen found alpha-
15 hydroxyalprazolam, which is the breakdown, not -- not
16 alprazolam. But alpha-hydroxyalprazolam, we -- I
17 believe the IA is -- what did I say, 150, but we can see
18 down to 20 in the GC-MS screen, and it was at 17, I
19 believe. Let me just look. Yeah, it was 17 nanograms
20 per mil, so it was less than the 20.

21 Q Was 20 the reporting level for your lab?

22 A Yes.

23 Q Do you know what the half-life is for
24 alprazolam? And I'm asking because I know you've said
25 one of the reasons you don't report is the level was



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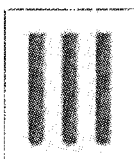
1 below 20, and you didn't see the parent drug. So what
2 is the, if you know, the half-life for alprazolam in the
3 human body?

4 A Think it's six to 12 hours. Let me just look
5 real quick. Six to 22 hours. So the half-life is
6 anywhere between six to 22 hours, just -- it kind of
7 depends. It's kind of a big range. You can use 12 as
8 the mean, or whatever. So, if you think about it, half
9 of it's going to be gone in 12 hours. If -- if the
10 half-life is six hours, then it's really fast, right?
11 It's going to be gone pretty quickly. If the half-life
12 is 22 hours, it's going to be gone less quickly.

13 Q And if an individual is prescribed alprazolam
14 -- so presumably they would be taking it on a regular
15 basis, would you expect to find, you know, either the
16 parent drug, or the metabolite in their system more so
17 than you would in someone, you know, for example, that
18 is not prescribed alprazolam, and took one dose of it?
19 Do you understand what I'm asking?

20 A Yeah, sure. So if they're on a regimented
21 dosage, daily dosage, then yeah, they're -- they're
22 likelihood of it being in -- in -- in -- present in the
23 urine is higher than if somebody just took it once a
24 couple days ago.

25 Q And again, to make sure I understood, you



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1 found -- I'll call it a trace amount, because it was
2 less than your 20 threshold, and that was in the urine,
3 you did not do any testing of the blood for that because
4 it didn't meet your threshold levels?

5 A Correct.

6 Q But I think you indicated that the
7 chromatography was good, but very low level.

8 A That's true.

9 Q So even with the chromatography being good, is
10 there pretty much a bright-line rule if it's below that
11 20 you're not going to do any testing in the blood?

12 A Yeah. That's what our protocol was at the
13 time, where we -- if we didn't see it, or report it in
14 the urine, then we wouldn't even look for it in -- in
15 the blood.

16 Q Is that also true for clonazepam?

17 A Correct.

18 Q And that was basically a bright-line rule for
19 your lab, if it's below that 20 you guys are not testing
20 it in the blood.

21 A Right. If we're not reporting it -- which the
22 20 was a pretty hard cut off. If it's less than 20,
23 we're not going to report it. If we're not going to
24 report it in the urine, then there's no need to go look
25 for it in the blood.



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1 MS. CLARK: I don't have any additional
2 questions, but Mr. Lindsey, I don't know if you have
3 any follow-up based on --

4 MR. LINDSEY: No. What is -- so what is your
5 e-mail address over there to send this request to?

6 THE WITNESS: My e-mail address is
7 lisaroh@fdle.state.fl.us

8 MR. LINDSEY: @fdle -- what comes after that,
9 dot --

10 THE WITNESS: State --

11 MR. LINDSEY: Okay.

12 THE WITNESS: -- .fl.us.

13 MS. CLARK: And does he send the public records
14 request directly to you, or to a different e-mail?

15 THE WITNESS: I can forward it to where it
16 needs to go, so that's fine.

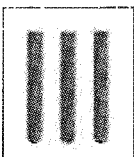
17 MR. LINDSEY: And I'll copy -- Melissa, I'll
18 copy you on it.

19 MS. CLARK: Thank you.

20 MR. LINDSEY: I don't have any other questions.
21 Melissa, do you have any others, or --

22 MS. CLARK: I do not.

23 MR. LINDSEY: You -- would you like to read or
24 waive if it's going to be typed up? Do you want to
25 read it?



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1 THE WITNESS: Yes.

2 COURT REPORTER: Okay. That e-mail that you
3 gave us, lisarohe -- where did it go? I just had it
4 -- lisarohe@fdle.state.fl.us, I can send the
5 transcript there for you to read it?

6 THE WITNESS: That would work, yes.

7 COURT REPORTER: Okay, perfect. And Mr. Lindsey,
8 you said you are ordering at this time?

9 MR. LINDSEY: Yes. I'll order.

10 MS. CLARK: And I'd like a copy.

11 COURT REPORTER: So -- sure. Are we okay with
12 electronic delivery, and a standard seven business
13 day turnaround time?

14 MR. LINDSEY: Yes.

15 MS. CLARK: Yes.

16 (DEPOSITION CONCLUDED AT 10:54 A.M.)

17

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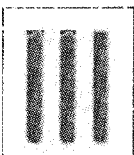
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CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF ORANGE

I, the undersigned, certify that the witness in the foregoing transcript personally appeared before me and was duly sworn.

Identification: Produced Identification



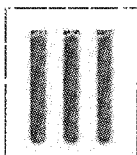
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6 I, ALEX SOUDERS, Court Reporter and Notary Public
7 for the State of Florida at Large, do hereby certify
8 that I was authorized to and did report the foregoing
9 proceeding, and that said transcript is a true record of
10 the said proceeding.
11

12 I FURTHER CERTIFY that I am not of counsel for,
13 related to, or employed by any of the parties or
14 attorneys involved herein, nor am I financially
15 interested in said action.
16

17 Submitted on: September 22, 2021.
18
19
20

21 

22 _____
23 ALEX SOUDERS

24 Court Reporter, Notary Public
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ERRATA

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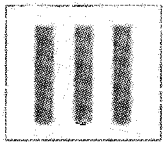
I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the Errata Sheet and authorize you to attach the changes to the original transcript.

Date _____ NAME _____



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September 22, 2021

Lisa Rohe
LISAROHE@FDLE.STATE.FL.US

RE: Deposition of Lisa Rohe taken on 9/10/2021
STATE OF FLORIDA vs. LARRY ANTHONY CAVALLARO

Dear Ms. Rohe,

IMPORTANT NOTICE FOR DEPOSITION TRANSCRIPT READ AND SIGN

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter, as considered reasonable under Federal Rules*.

 Attorney - Copy of Transcript Enclosed: Signature of the Deponent is required. Please have the deponent make any corrections/changes necessary on the Errata Sheet ONLY, sign name on the form where indicated. Please return ONLY the original signed Errata Sheet to our offices within 30 days from the date of this memorandum. If you have any questions, please call our offices.

 Attorney - No Copy Ordered: Since you did not request a copy of the transcript, it will be necessary for the Deponent to call our offices to arrange for an appointment to read and sign the transcript of the Deposition within 30 days of this memorandum.

 x **Deponent:** At the time of your deposition, you did not waive your right to read and sign the transcript of your testimony, therefore, attached please find a copy of the transcript and Errata Sheet. Please read the transcript, make any corrections necessary on the Errata Sheet ONLY, sign the bottom of the Errata Sheet, and return it within 30 days from the date of this memorandum. Please call our offices if you have any questions.

 Deponent: At the time of your deposition, you did not waive your right to read and sign the transcript of your testimony, therefore, it is necessary for you to come to our offices to read and sign same. Please call Milestone Reporting Company to arrange for an appointment at your earliest convenience.

 The attached executed copies of the Errata Sheet(s) are sent to you for your files. If you have any questions, please call our offices.

Thank you for your attention to this matter.

No. 189244

cc:

Waiver:

I, Lisa Rohe, hereby waive the reading and signing of my deposition transcript.

Deponent Signature

Date

*Federal Civil Procedure Rule 30 (e) / Florida Civil Procedure Rule 1.310 (e)

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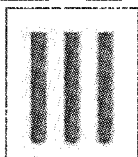
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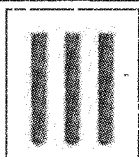
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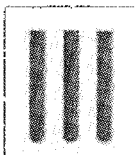
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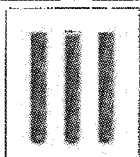
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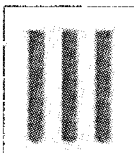
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From: dee@warrenlindseylaw.com
Sent: Friday, September 10, 2021 3:12 PM
To: 'LisaRohe@fdle.state.fl.us'
Cc: clarkm@sao7.org; 'headl@sao7.org'; warren@warrenlindseylaw.com
Subject: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts
Attachments: CAVALLARO.FDLE.ROHE.pdf

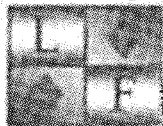
Dear Ms. Rohe,

Attached please find correspondence from Warren Lindsey dated September 10, 2021.

If questions, please **Reply All**. Thank you.

With kind regards.

Dee Copley
Secretary to Warren W. Lindsey, Esquire



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September 10, 2021

Via LisaRohe@fdle.state.fl.us
Original via U.S. Mail

Lisa Rohe, Analyst
Florida Department of Law Enforcement
2331 Phillips Road
P.O. Box 1489
Tallahassee, FL 32302-1483

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

Dear Ms. Rohe:

On behalf of my client, Larry A. Cavallaro, please accept this correspondence as a request for litigation packets for all analyses performed by your laboratory on blood and urine specimens from [REDACTED] reported on March 8, 2018, with the FDLE laboratory accessioning number 20180400264. I am requesting that the litigation packet contain each of the following items as appropriate to the analyses performed:

1. Validation studies for all testing/screening performed in this case.
2. Laboratory Report (Toxicology Analysis), including the name and description of the kind of test(s) or analysis performed on [REDACTED] specimen(s).
3. External chain of custody documentation that accompanied [REDACTED] specimen(s) to the laboratory as well as any photocopying or photographs of the shipping containers and specimen(s) as received into the laboratory.
4. Internal chain of custody documentation for [REDACTED] specimen(s) within the laboratory.

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

5. Results from ALL analytical procedures performed on [REDACTED] specimen(s) along with quality control procedures used in the sequence run on which [REDACTED] specimen(s) was/were processed. This would include a copy of the Sequence (batch) form showing the order standards, controls, verifiers, and unknown specimens were processed on the day in which [REDACTED] specimen(s) was/were processed.
6. Any graphs, charts, or other material compilations (such as chromatograms, mass spectra, or spread sheets) reflecting the test results in this case as well as the test results for ALL calibrators, controls, and verifiers, and unknown specimens processed on the batch run upon which [REDACTED] specimen(s) was/were processed.
7. For all calibration runs used to obtain quantitative values associated with the sequence runs of [REDACTED] specimen(s), provide printouts of the chromatograms (if not already included in 5 above) with accompanying data such as retention times, area, etc, as well as the calibration curve(s).
8. Provide Levey-Jennings plot(s) of controls and verifiers processed on the chromatographic column used from the time of installation until [REDACTED] specimen(s) was/were processed.
9. A copy of any written material or descriptive documents describing the manner of testing or analyzing [REDACTED] specimen(s), including any protocol for the performance of this test (commonly referred to as the laboratory's Standard Operating Procedures [SOP]).
10. Provide the methods used and data for the validation studies used to place the SOP into service and provide the date the method was placed in service.
11. Identify the manufacture and model number of each analytical device used in processing [REDACTED] specimen(s).
12. Provide copies of the maintenance logs for each of the analytical devices identified in 10 above for 2-years prior and 6-months following processing of [REDACTED] specimen(s).

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

13. Toxicology Worksheet, as well as any other lab notes or calculations specific to this analysis, including any failed runs or other runs not normally provided in discovery.
14. Copies of ALL results of external proficiency testing on drugs other than ethanol as received from the agency providing the proficiency surveys performed by the laboratory for 5-years prior to analysis of [REDACTED] specimen and for 6-months following. Document any failed performance EVER by the laboratory with regards to proficiency testing on drugs other than ethanol.
15. Document whether the analyst(s) who participated in [REDACTED] specimen(s) analysis performed any of the external proficiency surveys and if so which dates.
16. Provide validation studies for any drug that will be testified as being present in [REDACTED] specimens. These validation studies must include how the laboratory established the limit of quantitation and limit of detection for each analyte to be opined as present.
17. Description of methodology used by the laboratory in reporting uncertainty associated with any reported quantitative results (if not already covered in the laboratory's SOP requested in 8 above.
18. Provide validation data used to establish the laboratory's uncertainty associated with any reported quantitative results.
19. Curriculum vitae of all laboratory personnel who participated in the processing of [REDACTED] specimen(s).
20. Copies of all certifications achieved by the laboratory and any correspondence between the laboratory and the certifying body concerning problems and solutions to any aspect of the certification process.
21. All other testing documents of any kind.

Lisa Rohe, Analyst
Florida Department of Law Enforcement
September 10, 2021
Page 4

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

Thank you in advance for your assistance in this matter.

Very truly yours,



WARREN W. LINDSEY

WWL/dc

cc: Melissa L. Clark, Assistant State Attorney
(via clarkm@sao7.org; headl@sao7.org)

dee@warrenlindseylaw.com

From: tara@lindseyandferry.com
Sent: Wednesday, November 3, 2021 12:28 PM
To: lisarohe@fdle.state.fl.us
Cc: clarkm@sao7.org; Head, Lea (HeadL@sao7.org); warren@warrenlindseylaw.com; dee@warrenlindseylaw.com
Subject: FW: 19-230.01 Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts
Attachments: CAVALLARO.FDLE.ROHE.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon Ms. Rohe,

I hope this email finds you well.

I'm reaching out to follow up with our request for certain records which we submitted to you via email (below) on September 10, 2021.

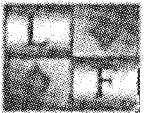
We have not yet received any of the requested items.

If you would please be so kind as to advise as to the status of our request, it would be much appreciated.

Thank you.

Tara Suttisarn

Legal Assistant



Lindsey & Ferry, P.A.

1150 Louisiana Avenue

Suite 2

Winter Park, FL 32789

Mail: P. O. Box 505

Winter Park, FL 32790-0505

Tel: (407) 644-4044

Fax: (407) 599-2207

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From: dee@warrenlindseylaw.com
Sent: Friday, September 10, 2021 3:12 PM
To: 'LisaRohe@fdle.state.fl.us'

Cc: clarkm@sao7.org; 'headl@sao7.org'; warren@warrenlindseylaw.com
Subject: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts

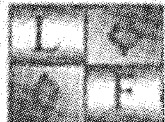
Dear Ms. Rohe,

Attached please find correspondence from Warren Lindsey dated September 10, 2021.

If questions, please **Reply All**. Thank you.

With kind regards.

Dee Copley
Secretary to Warren W. Lindsey, Esquire



Lindsey & Ferry, P.A.
1150 Louisiana Avenue
Suite 2
Winter Park, FL 32789
Mail: P. O. Box 505
Winter Park, FL 32790-0505
Tel: (407) 644-4044
Fax: (407) 599-2207

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LINDSEY & FERRY, P.A.

ATTORNEYS AT LAW

1150 LOUISIANA AVENUE, SUITE 2

WINTER PARK, FLORIDA 32789

MAIL: POST OFFICE BOX 805

WINTER PARK, FLORIDA 32790-0505

TELEPHONE (407) 644-4044

FAX (407) 899-2207

www.lindseyandferry.com

www.warrenlindseylaw.com

*WARREN W. LINDSEY
MATTHEW P. FERRY
ASHLEY D. PARKER

*FLORIDA BAR BOARD
CERTIFIED CRIMINAL LAW
TRIAL LAWYER

September 10, 2021

Via LisaRohe@fdle.state.fl.us
Original via U.S. Mail

Lisa Rohe, Analyst
Florida Department of Law Enforcement
2331 Phillips Road
P.O. Box 1489
Tallahassee, FL 32302-1483

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

Dear Ms. Rohe:

On behalf of my client, Larry A. Cavallaro, please accept this correspondence as a request for litigation packets for all analyses performed by your laboratory on blood and urine specimens from [REDACTED] reported on March 8, 2018, with the FDLE laboratory accessioning number 20180400264. I am requesting that the litigation packet contain each of the following items as appropriate to the analyses performed:

1. Validation studies for all testing/screening performed in this case.
2. Laboratory Report (Toxicology Analysis), including the name and description of the kind of test(s) or analysis performed on [REDACTED] specimen(s).
3. External chain of custody documentation that accompanied [REDACTED] specimen(s) to the laboratory as well as any photocopying or photographs of the shipping containers and specimen(s) as received into the laboratory.
4. Internal chain of custody documentation for [REDACTED] specimen(s) within the laboratory.

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

5. Results from ALL analytical procedures performed on [REDACTED] specimen(s) along with quality control procedures used in the sequence run on which [REDACTED] specimen(s) was/were processed. This would include a copy of the Sequence (batch) form showing the order standards, controls, verifiers, and unknown specimens were processed on the day in which [REDACTED] specimen(s) was/were processed.
6. Any graphs, charts, or other material compilations (such as chromatograms, mass spectra, or spread sheets) reflecting the test results in this case as well as the test results for ALL calibrators, controls, and verifiers, and unknown specimens processed on the batch run upon which [REDACTED] specimen(s) was/were processed.
7. For all calibration runs used to obtain quantitative values associated with the sequence runs of [REDACTED] specimen(s), provide printouts of the chromatograms (if not already included in 5 above) with accompanying data such as retention times, area, etc, as well as the calibration curve(s).
8. Provide Levey-Jennings plot(s) of controls and verifiers processed on the chromatographic column used from the time of installation until [REDACTED] specimen(s) was/were processed.
9. A copy of any written material or descriptive documents describing the manner of testing or analyzing [REDACTED] specimen(s), including any protocol for the performance of this test (commonly referred to as the laboratory's Standard Operating Procedures [SOP]).
10. Provide the methods used and data for the validation studies used to place the SOP into service and provide the date the method was placed in service.
11. Identify the manufacture and model number of each analytical device used in processing [REDACTED] specimen(s).
12. Provide copies of the maintenance logs for each of the analytical devices identified in 10 above for 2-years prior and 6-months following processing of [REDACTED] specimen(s).

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

13. Toxicology Worksheet, as well as any other lab notes or calculations specific to this analysis, including any failed runs or other runs not normally provided in discovery.
14. Copies of ALL results of external proficiency testing on drugs other than ethanol as received from the agency providing the proficiency surveys performed by the laboratory for 5-years prior to analysis of Ms. Starnes specimen and for 6-months following. Document any failed performance EVER by the laboratory with regards to proficiency testing on drugs other than ethanol.
15. Document whether the analyst(s) who participated in Ms. Starnes specimen(s) analysis performed any of the external proficiency surveys and if so which dates.
16. Provide validation studies for any drug that will be testified as being present in Ms. Starnes specimens. These validation studies must include how the laboratory established the limit of quantitation and limit of detection for each analyte to be opined as present.
17. Description of methodology used by the laboratory in reporting uncertainty associated with any reported quantitative results (if not already covered in the laboratory's SOP requested in 8 above.
18. Provide validation data used to establish the laboratory's uncertainty associated with any reported quantitative results.
19. Curriculum vitae of all laboratory personnel who participated in the processing of Ms. Starnes specimen(s).
20. Copies of all certifications achieved by the laboratory and any correspondence between the laboratory and the certifying body concerning problems and solutions to any aspect of the certification process.
21. All other testing documents of any kind.

Lisa Rohe, Analyst
Florida Department of Law Enforcement
September 10, 2021
Page 4

Re: State of Florida v. Larry A. Cavallaro
Case No. 18-2018-CF-137

Thank you in advance for your assistance in this matter.

Very truly yours,



WARREN W. LINDSEY

WWL/dc

cc: Melissa L. Clark, Assistant State Attorney
(via clarkm@sao7.org; headl@sao7.org)

dee@warrenlindseylaw.com

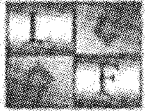
From: warren@warrenlindseylaw.com
Sent: Thursday, December 16, 2021 2:15 PM
To: Auclair, Brittany; dee@warrenlindseylaw.com
Cc: clarkm@sao7.org; headl@sao7.org
Subject: RE: 19-230.01 Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts and FDLE DOCKET PRR-L-2021-612

Brittany,

Yes. For now, we will amend our request to eliminate the accreditation emails. When will our records request be fulfilled? Thank you.

Warren

Warren Lindsey



Lindsey & Ferry, P.A.
1150 Louisiana Avenue
Suite 2
Winter Park, FL 32789
Mail: P.O. Box 505
Winter Park, FL 32790-0505
Tel: (407) 644-4044
Fax: (407) 599-2207
www.lindseyandferry.com
warren@warrenlindseylaw.com
Florida Bar No. 299111
Florida Bar Board Certified Criminal Trial Attorney

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From: Auclair, Brittany [mailto:BrittanyAuclair@fdle.state.fl.us]
Sent: Thursday, December 16, 2021 12:15 PM
To: dee@warrenlindseylaw.com
Cc: clarkm@sao7.org; headl@sao7.org; warren@warrenlindseylaw.com
Subject: RE: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts and FDLE DOCKET PRR-L-2021-612

Good afternoon,

I have been reviewing the records from your request and your deposit invoice has been expended.

The only records left are the accreditation emails. There are approximately 237 accreditation emails (that need to be converted to .pdfs and then reviewed). My best guess is that this process will probably take approximately an additional 2-3 hours.

Please let me know if you would like to amend your request to no longer include the accreditation emails and we can complete the request and send out the records or let me know if you would like for me to send an additional deposit invoice to continue processing the accreditation emails.

Just let me know how you would like to proceed.

Thank you,
Brittany

From: Auclair, Brittany
Sent: Monday, September 20, 2021 8:47 AM
To: 'dee@warrenlindseylaw.com' <dee@warrenlindseylaw.com>
Cc: 'clarkm@sao7.org' <clarkm@sao7.org>; 'headl@sao7.org' <headl@sao7.org>; 'warren@warrenlindseylaw.com' <warren@warrenlindseylaw.com>
Subject: RE: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts and FDLE DOCKET PRR-L-2021-612

Good morning,

RE: Public Records Request Response, FDLE Docket No. PRR-L-2021-612
Deposit invoice: \$110.76

Your request for toxicology records has been received. FDLE requires a good-faith deposit payment to continue processing your records request for supplemental records because your request requires extensive use of information technology resources, extensive clerical and/or extensive supervisory assistance. Costs are assessed pursuant to ss. 119.07(4)(a), 119.07(4)(d), and 92.153(2)(a), Florida Statutes (<http://www.leg.state.fl.us/Statutes>). An itemized deposit estimate is attached. This may not be the final amount due, but the best estimate of initial costs available at this time.

After our office receives your good-faith deposit payment, your public records request will return to the queue of records requests for processing. You may receive additional deposit invoices once the balance of the original deposit payments have been expended.

Your request will be closed October 20, 2021 if we do not receive the balance due. Should you choose to cancel the request please notify our office immediately.

Please remit a check or money order (we cannot accept credit or debit cards) in the amount of \$110.76, with our docket number PRR-L-2021-612 to:

Florida Department of Law Enforcement
Office of the General Counsel
Attn: Public Records Request PRR-L-2021-612
P.O. Box 1489
Tallahassee, FL 32302

If you have questions concerning your request, please contact us at (850) 410-7676 or publicrecords@fdle.state.fl.us.

A "policy of requiring an advance deposit seems 6ther an abuse of discretion is shown." Morris Publishing Group, LLC at 534.

An agency may refuse to produce additional records if the fees for a previous request for records have not been paid by the requestor. See *Lozman v. City of Riviera Beach*, 995 so. 2d 1027(Fla. 4th DCA 2008) (s. 119.07[4], F.S., "does not require the City to do any more than what it did in this case," i.e., require Lozman to pay the bill for the first group of records he requested before the city would make any further documents available). Cf. AGO 05-28 (custodian authorized to bill the requestor for any shortfall between the deposit and the actual cost of copying the public records when the copies have been made and the requesting party subsequently advises the city that the records are not needed). Please visit the Sunshine Manual, [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-B9QQ79/\\$file/SunshineManual.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-B9QQ79/$file/SunshineManual.pdf).

Sincerely,
Brittany Auclair
Office of General Counsel
Florida Department of Law Enforcement
Post Office Box 1489
Tallahassee, FL 32302-1489
(850) 410-7676
PublicRecords@fdle.state.fl.us

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From: dee@warrenlindseylaw.com <dee@warrenlindseylaw.com>
Sent: Friday, September 10, 2021 3:13 PM
To: Rohe, Lisa <LisaRohe@fdle.state.fl.us>
Cc: clarkm@sao7.org; headl@sao7.org; warren@warrenlindseylaw.com
Subject: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts

This email originated outside of FDLE. Please use caution when opening attachments, clicking links, or responding to this email.

Dear Ms. Rohe,

Attached please find correspondence from Warren Lindsey dated September 10, 2021.

If questions, please **Reply All**. Thank you.

With kind regards.

Dee Copley
Secretary to Warren W. Lindsey, Esquire



Lindsey & Ferry, P.A.

1150 Louisiana Avenue

Suite 2

Winter Park, FL 32789

Mail: P. O. Box 505

Winter Park, FL 32790-0505

Tel: (407) 644-4044

Fax: (407) 599-2207

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From: Auclair, Brittany <BrittanyAuclair@fdle.state.fl.us>
Sent: Friday, January 7, 2022 9:44 AM
To: warren@warrenlindseylaw.com; dee@warrenlindseylaw.com
Cc: clarkm@sao7.org; headl@sao7.org
Subject: RE: 19-230.01 Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts and FDLE DOCKET PRR-L-2021-612

Good morning,

The payment of the final invoice has been received. The records have been copied to a disc and are being mailed out via USPS. Please let me know if you do not receive the disc.

Have a great weekend!
Brittany

From: Auclair, Brittany
Sent: Monday, December 20, 2021 1:14 PM
To: 'warren@warrenlindseylaw.com' <warren@warrenlindseylaw.com>; 'dee@warrenlindseylaw.com' <dee@warrenlindseylaw.com>
Cc: 'clarkm@sao7.org' <clarkm@sao7.org>; 'headl@sao7.org' <headl@sao7.org>
Subject: RE: Larry Anthony Cavallaro (18-2018-CF-137) [Flagler]: Req for Lit Pkts and FDLE DOCKET PRR-L-2021-612

Good afternoon,

RE: Records Request Response, FDLE Docket No. PRR-L-2020-612
Final Invoice, \$49.19

Your request for supplemental laboratory records in FDLE Laboratory case 20180400264 has now been completed. Please regard this as the final invoice for \$49.19 for the processing and review of the records based on the information you provided in your request. Costs are assessed pursuant to ss. 119.07(4)(a) and 119.07(4)(d), Florida Statutes (<http://www.leg.state.fl.us/Statutes>). After our office receives your payment for your records request, the records will be copied to a disc and mailed. As I stated before if you respond to this email as an officer of the court that the final invoice will be paid I will prepare the records for mailout and mail them in good-faith of the anticipated payment of the invoice.

Your request will be closed January 22, 2022 if we do not receive the balance due. At that time the request will be flagged with an outstanding balance. Please understand that it is FDLE's policy not to process future requests when invoices are outstanding.

Please remit a check or money order (we cannot accept credit or debit cards), in the amount of \$49.19, with our docket number PRR-L-2020-612, to:

Florida Department of Law Enforcement
Office of the General Counsel
Attn: Public Records Request PRR-L-2020-612
P.O. Box 1489
Tallahassee, FL 32302