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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 you 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 OSTEEN: 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

1 drug court. Thank you.

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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
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