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**IN THE FOURTH JUDICIAL DISTRICT COURT  
UTAH COUNTY, STATE OF UTAH**

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**STATE OF UTAH,**

**Plaintiff,**

**vs.**

**PETERSON DREW MATHESON**

**Defendant.**

**STATE’S BRIEF ON BINDOVER  
DECISION**

**Case No. 231402248**

**Judge Robert A. Lund**

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The State of Utah, through Deputy Utah County Attorneys Rachelle Shumway and Greg Johnson, hereby submits its Brief on the Bindover Decision and respectfully requests the Court to bind Defendant over on counts.

**FACTUAL BACKGROUND**

A preliminary hearing was held on September 28, 2023. At that hearing, the Court received Exhibits 1-19, which included the 1102 Statement of Michael Landon (Exhibit #19), and heard testimony from the following witnesses: Jod Booker, Lyndon Bryce Crowley, Detective Adam Drake Hickman from Utah County Sheriff’s Office, and Adam Nott.

Jod Booker testified that he is a federal police officer for the Department of the Interior and has worked for Arches National Park for the last 10 years. *See* Transcript of Preliminary

Hearing at 5-23, State v. Matheson (231402248), a copy of which will be filed with this brief. Mr. Booker is also a trained EMT as well as involved in search and rescue. He testified that on June 4, 2023, joined a convoy of approximately 15 to 20 vehicles, including two motorcycles, on a Sunday drive. Mr. Booker was driving in the back of the convoy and was following a black Porsche (later identified as the black Porsche that was involved in the crash, *see Id.* at 17;22-23 and Exhibit #7). He further testified that the convoy traveled under I-15 where the group eventually made it to the Cory B. Wride Memorial Highway (also identified as SR73), a two laned road, traveling westbound. *See* Map, Exhibit #2.

Mr. Booker testified that the convoy was traveling approximately 60-65 miles per hour. He testified that as they were traveling westbound, it appeared that a truck was trying to perform a left-hand turn, so he initiated his brakes and by the time his brain caught up with what was actually going on, he heard the impact of the crash and moved out of that lane and managed to dodge a lot of damage.

Mr. Booker testified that he saw the truck involved in the collision, (*see Id.* at 22;23) make contact with the Porsche that he was following and that after the “brief collision” he was focused on his own safety and not getting in a crash as well. He testified that Exhibit #14 was a photograph showing his vehicle near the black Porsche that he was following and the white truck that made contact with it. He testified that there was no spot for a lefthand turn in that area. Mr. Booker was shown Exhibit #15 and testified that the photograph shows his vehicle with significant damage from hitting the debris.

Mr. Booker testified that after his vehicle came to a stop, he looked in his rearview mirror and saw the damage done to the Porsche and the truck. He approached the Porsche and saw significant damage to the car and saw two individuals in the driver’s seat and passenger seat

slumped over in their seats. He testified that he checked the driver for his radial pulse and didn't get a radial pulse. He tried to stimulate the driver with a shoulder pinch and the driver did not respond to this "pain stimulus". He then checked the driver for his jugular pulse and found no active pulse. He performed the same procedures with the passenger and found no pulse on the passenger. At that point, Mr. Booker testified that he could not do anything for those individuals, as he believed they were deceased, so he walked over to the truck to check on the driver.

Mr. Booker testified that the driver of the truck was exiting the vehicle, and he made contact with the driver and performed some minor medical checks him. He testified that the driver then sat down and called a family member. Mr. Booker testified that he thought the driver was speaking to his wife and that he heard him on the phone saying, "I can't believe this is happening to me" and the driver then informed the person on the phone that he had been in a car crash. Mr. Booker testified that he asked the driver (he identified as the defendant, *see Id.* at 23;23) what happened, and the driver said he was trying to merge back into his lane. Mr. Booker testified that the driver made a second call, this time to his mother, and the driver again said that he couldn't believe what was going on and that he was attempting to get back into his own lane.

Lyndon Bryce Crowley testified that on the morning of June 4<sup>th</sup>, 2023, he was in Astro Burger in Salt Lake City where a group of local friends, all Porche enthusiasts, who gather to look at cars, take pictures and see friends. *See Id.* at 26-35. After the gathering, he was invited to go on a drive towards Rush Valley with the car group. He was driving a 2009 Porsche Carrera 4S. He testified that he was the 5<sup>th</sup> car back in the convoy of cars. Once the car group reached SR73 they traveled southwest. He testified that he has a dash cam in his vehicle that he keeps on regularly and it records 24/7, as a continuous loop, whether the car is parked and off or driving.

As he was driving, Mr. Crowley observed three vehicles coming northeast toward him, grouped very closely together: the white Ford F-150, the white Nissan Altima and a silver Kia SUV. He said the Kia was in front of the two white vehicles and all three vehicles were as close as you could get together on the white line on the road, he thinks this is called fog line.

Mr. Crowley testified that the two white cars were parallel to each other, and the Kia was a few feet in front of them. He testified that he was able to observe them in his field of vision for only a few seconds as they were coming towards him. After they passed his vehicle, he watched in his passenger mirror and testified, “what I thought was a white truck crossed the road, roll over and my initial statement was, ‘I thought the truck crossed the road and went through the fence and put a hole in the fence’ and in the video you can hear me loudly exclaim, ‘holy shit’, as I thought I saw somebody roll their truck”. *See Id.* at 33; 2-8. Mr. Crowley testified that at that point, he continued for a few miles but decided to go back to the crash scene because he had the video. He returned and provided the video to detectives.

Adam Drake Hickman then testified that he was a detective for the Utah County Sheriff’s Office and had been a police officer for almost 14 years and his primary duties were to respond to death investigations. *See Id.* at 35-63. He was on duty on June 4th, 2023, and responded to an accident on SR73 in Eagle Mountain, which is also known as Cory B. Wride Memorial Highway, also referring to the map, Exhibit #2. He described the same road as a single lane road in each direction. He testified that he received a call letting him know that two people had been deceased in an accident and he was assigned to respond as the investigator for the death investigation. When he arrived, the road had already been shut down by law enforcement and traffic had been stopped in each direction. He spoke with detectives and deputies on scene to try to figure out what had happened and to deal with the medical issues.

Detective Hickman then testified that he discovered through his investigation that there was a dash camera video that had been provided by Mr. Crowley. The Court then watched the video, Exhibit #1, (9:57:33 to 9:57:48), while Detective Hickman explained that that portion of the video was of the area on SR73 close to where the accident had occurred. He described a little dirt area on the right where he thought the F-150 roughly came to a stop after the accident. As the video played more, he pointed out that it showed three vehicles, a silver Kia Sorento in front that was driven by Mr. Adam Nott; the white vehicle behind him, driven by Mr. Michael Landon; and on the shoulder of the roadway, the white F-150, which was the vehicle driven by Mr. Peterson Matheson (9:58:15 to 9:58:28). He described the vehicle directly behind the silver SUV (Kia) as the Nissan Maxima and then the Ford F-150 (9:59:12 to 9:59:17). Detective Hickman testified the video shows the Kia traveling in its lane of travel with a Nissan Maxima in its lane of travel close behind the Kia and the F-150 appeared to be driving on the shoulder of the roadway. He described the fog line that marks the edge of the roadway and said it appeared that there was not enough space between the Kia and Maxima for the F-150 to pass. He testified that the truck was passing on the right, which was an illegal driving move. He also testified that the speed limit in that area is 65 miles per hour. Detective Hickman then described more about the area where vehicles were seen in the video. He described the road as being a single lane in each direction with not much shoulder on each side.

Detective Hickman testified about the condition of the vehicles and the State admitted several Exhibits – #3 through #9 which showed the damage to the victims' Porsche, Defendant's F150, and the Audi previously described. The photographs corroborated the accounts of the witnesses by showing significant damage to the front ends of the Porsche and F150 and debris-related damage to the Audi. Hickman also testified about Exhibits #10 - #13 showing the Nissan

Maxima where he described that there appeared to be black tires or tire marks all up the side of the Nissan from the F-150 tires rubbing up against it and what looks like a gash in the door that may have been from an impact. Detective Hickman testified about Exhibit #14, which is a photograph that shows the Audi pulled over in the roadway, and behind the Audi, the Porsche and to the northeast of that is the F-150 and the Nissan Maxima is on the south side of the road.

Detective Hickman then testified about meeting with the Medical Examiner's Office where he collected the two deceased individuals' autopsy reports. He testified about Exhibit #16, as the autopsy report of Rodney Salm with the cause of death as blunt force trauma. He also testified about Exhibit #17 as the autopsy report of Michaela Himmelberger with a cause of death as blunt force trauma.

Detective Hickman then testified that he met with the Mr. Peterson, the defendant, in the hospital and sought a warrant for his bodily fluids. He then testified that Exhibit #18 showed the lab results from the blood draw from the defendant. The report shows Defendant's blood contained nine nanograms of THC per milliliter and that there was also metabolite present. He further testified that the defendant did not have a medical marijuana card as confirmed through UCJIS.

The Court received Exhibit #19, the 1102 Statement of Michael Landon which states the following:

Driving east to leave the Brylee Farms and Brandon Park Subdivision, I pulled up behind a white Ford pick-up at the light. When the light turned green, and he eventually started moving, he did so at a rudely slow pace. I hit my turn signal indicators, changed lanes, and sped up to the speed limit. If the driver wanted to go slow, that was his choice. I saw him speed up and I sped up, so he accelerated more, and changed lanes (into his lane) to avoid a brown (?) minivan going the speed limit. The white truck gave me an acceptable limit for the rest of the road down to SR-73, so I thought nothing more. On SR73-, going east, I accelerated to 60-65 mph. The white truck tailgated me so I tapped the brakes long enough for the brake light to illuminate, then released and continued driving. I heard a horn behind me, presumably from the white pickup truck. The next thing I recall next

was that the white pick-up left the road and pulled up, while driving at 60-65 mph, to drive next to me on the shoulder. I saw many exotic (mostly Porsches) coming in the opposing lane. I then saw the truck speed up, so I closed the distance with the brown/tan SUV in front of me to about a suburban's length. To this point, the truck has not made any contact with my car. Then the truck impacted my car > I more heard a loud noise then felt it. I don't remember hitting my brakes, but I slowed down. The front of my car was pushed towards the dotted lines in the road slightly and I saw the white truck shot into my lane and then into the oncoming traffic lane. That was when the truck hit the black Porsche. I immediately pulled over, just out of traffic / the land and I called 911. While on the phone, I saw other people rushing over to the truck and Porsche. The 911 operator kept me on the phone until officers arrived. At one point, I was asked to move my car further off the road. (To where it is now.) I wanted to help the occupants of the other vehicles, but I was concerned that too many bodies might hurt more than help and I was already on the phone with 911. By the time I got off, officers were on scene and I had faith that that they could direct help as needed.

Adam Nott testified that on the morning of June 4<sup>th</sup>, 2023, he was driving on SR73, having just turned right off Eagle Mountain Boulevard, driving a 2018 Kia Sorento. *See Id.* at 63-73. He stated that right after he turned right onto SR73, he was in the merging lane when he saw the Nissan pull in behind him and that was the first time he noticed it. He further testified that immediately after the Nissan, the pickup truck pulled onto the main lane of SR73, "not the merging lane. So a wide turn on the main lane." He testified that both vehicles were traveling in the same direction at an estimated speed of 75 miles per hour. He noticed that since the truck went wide onto the main lane, the Nissan immediately pulled in front of the truck, cutting it off. *See Id.* at 74;5-6.

On cross-examination Mr. Nott testified that he travels this road all the time and that it is normal that vehicles make wide turns when a vehicle is trying to pass slower vehicles on the road (*Id.* at 74;13-17). He also testified that the truck went back into the merging lane in an attempt to pass the Nissan, but the Nissan sped up so as not to allow the truck to pass. He testified he was observing this through his rearview mirror and side mirror. He continued to keep an eye on his

mirror, just because of the erratic behavior. He testified that both the Nissan and the F150 were speeding up or rather the Nissan was keeping the truck from passing.

He said that the Nissan was in the main lane and the truck was in the merging lane and they were getting very close to his back bumper. He testified that there is a merge lane that is less than a quarter mile, not very long and that the merging lane ends by merging to the left into the main lane. He testified the F150 and Nissan were neck-and-neck and then the merging lane ended, and the truck stayed on the shoulder. He said that the two vehicles had gotten within inches of each other. When the lane ended, the truck stayed on the shoulder lane. He testified that after they were there for a bit, at one point, he believed they came within like a foot of his bumper. He testified that his focus was on trying to go faster to get away and at that point he realized that he was going too fast to be able to pull off the side of the road.

He described further that the road is level but then the shoulder kind of dips to the right, so the truck was at an angle with, what he believed to be, the two right tires on dirt and then the two left tires probably still on the asphalt. He explained that the two vehicles were parallel with each other. The “fronts were pretty much even with one another. At times one vehicle would be ahead of the other but they were pretty much fronts lined up”. *Id.* at 68; 15-18).

Mr. Nott further testified that it was obvious things were escalating and stated, “I can’t say for sure who initiated it, but the vehicles did collide into each other”. He said, “it felt like at that moment as if they were stuck”. *Id.* at 68; 21-23. “[T]hey hit each other and stuck for a few moments and they’d separate and then hit each other again and stick for a few moments and then separate and I believe that happened two times where they hit, separated, then hit.” *Id.* at 68-69.

He described that “after the second hit together, the truck pulled to the right again there – I believe it was on the shoulder tilted and, on the dirt, it lost control, especially at those speeds



and it weaved back and forth twice, so it weaved out, back in, out and it was a wider weave and then...”. *Id.* 69;15-20. And he testified:

The whole time this Nissan is going straight, swerves to the right – not swerves, sorry because they keep separating. So, he separates again and at that point he kind of lost - you could tell just from the weaving of the truck that it lost control. So he swerved to the right and then you could tell he was trying to correct, so he banked it to the left hard enough to where I vividly remember the truck dipping down on those right shocks and then before hitting back at the Nissan, he took a right again back away – sorry, back further into the shoulder, again tipping onto the left shocks and then went a little bit further away than he did the first time, cranked it again, dipping back on the right shocks and that’s when he – at this point that slowed him down enough where the Nissan was not ahead of him and swerved behind the Nissan and into the other lane of traffic.

*Id.* at 70;3-20. On cross examination he stated that the truck lost control was due to the slant of the vehicle being off the shoulder and the speeds. Transcript at 81;19-20.

Mr. Nott testified that the Nissan was still in the lane of traffic behind him as observed through his rearview mirror. He said, “[w]hen the truck comes back...I see it pulling into the other lane and I see the underside of the truck as it hits another vehicle and at that point I saw – because of where they were, they kind of went into my blind spot at that point. I just saw scraps of metal flying through the air.”

He testified that he pulled off the side of the road and the Nissan driver was getting out of his car and said he was okay, so he went and stood on the opposite side of the road from the Porsche, and he could see that the front and the back ends of the car (Porsche) were smashed in, and the roof was gone and the driver side door was gone. And that the truck landed upright, and he could see the male victim, Rodney, tilted over. He stated that he wanted to go check but he couldn’t move. Other people on scene indicated that the male victim was already deceased. Mr. Nott then testified that he didn’t want his wife to see the accident, and the police got there quickly so he and his wife left. He thought there were plenty of witnesses there and it wasn’t

until later that he realized he probably had a vantage point that no one else had and he then spoke to police later on. *Id.* at 80:1-3.

When questioned on cross-examination that all the Nissan needed to do frankly was to slow down and let the truck pass, Mr. Nott responded that you could say that about both vehicles. *Id.* at 80:1-3.

### **STANDARD OF PROOF**

At a preliminary hearing, the State must present probable cause—a reasonable belief—that the charged offenses were committed, and that the defendant committed them. *See State v. Schmidt*, 2015 UT 65, ¶¶ 17–20, 356 P.3d 1204. The magistrate must view the evidence presented at a preliminary hearing in the light most favorable to the State and must also draw all reasonable inferences in favor of the State. *See id.* ¶ 4. Importantly, the “evidence does not need to be capable of supporting a finding of guilt beyond a reasonable doubt, nor do we require the prosecution to eliminate alternative inferences that could be drawn from the evidence in favor of the defense.” *Id.* ¶ 18 (quotation simplified).

### **ARGUMENT**

The State has charged Defendant with seven counts in a Second Amended Information dated August 25, 2023. Counts 1 and 3 pertain to the death of Rodney Salm and represent alternative charges. Counts 2 and 4 pertain to the death of Michaela Himmelberger and represent alternative charges. The charges are as follows: Count 1, Manslaughter a second-degree felony, Count 2, Manslaughter a second-degree felony, Count 3, Negligently Operating a Vehicle Resulting in Death, a second-degree felony, Count 4, Negligently Operating a Vehicle Resulting in Death, a second-degree felony, Count 5, Reckless Driving, a class B misdemeanor, Count 6, Following too Close, an infraction, and Count 7, Failure to Stay in One Lane, and infraction.

Counts 5 through 7 do not require a bindover decision as they are low level misdemeanor offenses. Because there was sufficient evidence to establish probable cause that Defendant committed the charged crimes, this Court should bind Defendant over on all felony counts.

**I. Sufficient Evidence was Presented at the Preliminary Hearing for the Court to Bind Defendant Over on Manslaughter, Counts 1 and 2**

In this case, the State has satisfied its burden, particularly as the evidence is considered in the light most favorable to the State and drawing all inferences in the State's favor. An individual is guilty of Manslaughter when they recklessly cause the death of another individual.

Utah Code Annotated §76-2-103 defines reckless as follows:

Recklessly with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

In *State v. Glosenger*, 2022 UT App 129, the State presented evidence at preliminary hearing that the defendant, who had been driving for many hours and had stopped to take only one nap, veered into oncoming traffic and crashed into another vehicle killing its occupants. In an interview, the defendant told detectives she thought she had tried to pass a vehicle when the passing lane ended, and she believed it was the better choice to try and complete the pass before returning to her lane of travel but judged wrong and crashed. *Id.* at ¶ 18. The evidence showed that speed, weather, condition of roadway, mechanical issues, and medical issues were not factors in the collision. *Id.* at ¶ 9. The State put forward multiple theories about why the defendant veered into oncoming traffic, including the defendant's statement about her decision to pass another vehicle, inattentive driving, and tiredness. The magistrate denied bindover and the State appeal. The Court of Appeals reviewed the evidence and found that the magistrate had

erred and that the evidence was adequate for bindover of manslaughter. The lower court only analyzed one theory – the defendant’s own account of crossing into the oncoming lane when attempting to pass, and found this theory was sufficient to support bindover of manslaughter because it showed that the defendant was aware of the risk of harm to others and disregarded it by staying in the oncoming lane rather than slowing and returning to her own lane. *Id.* ¶ 19. As a result, the court of appeals reversed the magistrate’s decision and ordered bindover of the manslaughter charges.

In this case, Defendant acted recklessly because his driving was a gross deviation from the standard of care that an ordinary person would exercise in his circumstances. Any ordinary person in his circumstance would know that driving a vehicle weighing thousands of pounds in the manner he did – speeding, braking, swerving, tailgating, driving off the roadway and onto the shoulder to try to pass the Nissan on the single lane road, and ramming the Nissan – would cause a substantial and unjustifiable risk of killing another motorist or person on or near the road. An ordinary person in his circumstances would have slowed down and disengaged the Nissan rather than driving off the roadway and onto the shoulder to continue to try to pass the Nissan.

Defendant’s behavior was far more than a gross deviation from the standard of care – the standard of care, at very least, would be to keep his vehicle on the road. But not only did Defendant avoid that, he rammed the Nissan, according to the Nissan driver’s testimony. This created a substantial and unjustifiable risk to the Nissan occupants and others on the roadway. There certainly was no legitimate justification for his actions.

Not only were Defendant’s actions reckless, but they were also illegal – passing on the right shoulder of the road is a violation of U.C.A Section §41-6a-710, following too close is a traffic offense, as charged in the information, and ramming another vehicle is likely aggravated

assault under U.C.A. §76-5-103, as a vehicle is often considered a dangerous weapon capable of causing death or serious bodily injury. As such, Defendant's actions clearly show recklessness. In addition, Defendant was driving with active THC and its metabolite in his body. He did not have a prescription and its ingestion was therefore illegal. Driving with the substance in his body was also illegal – which is a gross deviation from the standard of care that an ordinary person would use. Each of Defendant's actions – from the various traffic violations, to driving on the shoulder, to ramming the Nissan, to driving with drugs in his system – show his recklessness.

As to the actus reas element: Defendant caused the death of the victims. In *State v. Dunn*, 850 P.2d 1201, 1215 (Utah 1993) the court addressed causation in the manslaughter context. In that case, Dunn and another robbed the victim and tied him up. Without much discussion about it, the co-defendant shot the victim. Dunn was convicted of manslaughter (the appellate court reduced the conviction to manslaughter) and challenged the sufficiency of the evidence of causation. The court stated: “the linchpin of causation is whether the superseding party's acts were reasonably foreseeable.” The court considered *State v. Hallett*, 619 P.2d 335 (Utah 1980) where the defendant vandalized a stop sign which led to a fatal traffic collision. In *Hallett*, the court reasoned,

Where a party by his [or her] wrongful conduct creates a condition of peril, his [or her] action can properly be found to be the proximate cause of a resulting injury, even though later events which combined to cause the injury may also be classified as negligent, so long as the later act is something which can reasonably be expected to follow in the natural sequence of events. Moreover, when reasonable minds might differ as to whether it was the creation of the dangerous condition. . . , which [\*\*34] was the proximate cause, or whether it was some subsequent act. . . , the question is for the trier of fact to determine.  
State v. Dunn, 850 P.2d 1201, 1215 (Utah Sup.Ct. 1993)

Relying on *Hallet*, the *Dunn* court found that the accomplice's action of shooting the victim was "reasonably foreseeable and therefore not sufficiently independent to break the causal chain." *Id.* at 1216.

In this case, there is no real intervening or superseding cause. The facts and causation are straight forward: Defendant chose to drive his truck the way he did – recklessly – and because of his driving, his truck crossed into oncoming traffic and collided with the victims' car, killing them. But for Defendant's actions, they both would have lived. Of course, Defendant may argue that there was some intervening or superseding cause – for instance, he may argue that he lost control of his vehicle which caused the swerving into the oncoming lane or that the Nissan's driver braked which caused him to miss the Nissan and cross over into the oncoming lane. But crediting these arguments requires drawing the inferences in the defendant's favor. At this stage, that is inappropriate. All inferences are drawn in the State's favor and those inferences show that Defendant's actions caused the victims' deaths.

As explained above, this case far surpasses the evidence presented in *Glosenger*. Therefore, the Court should bind over the charges.

## **II. Sufficient Evidence was Presented at the Preliminary Hearing for the Court to Bind Defendant Over on Negligently Operating a Motor Vehicle Resulting in Death, Counts 3 and 4**

Counts 3 and 4, Negligently Operating a Vehicle Resulting in Death constitute alternative charges to counts 1 and 2. An individual is guilty of Negligently Operating a Vehicle Resulting in Death when he operates a vehicle in a criminally negligent manner causing the death of another individual and has in his body a measurable amount of a controlled substance. Utah Code Ann. 76-5-207(2).

The State has already explained how the evidence shows recklessness in this case. Accordingly, an analysis of criminal negligence is not necessary here because criminal negligence is a lesser mens rea than recklessness which is subsumed by the recklessness mens rea. *See e.g., State v. Dunn*, 850 P.2d 1201 (Utah 1993) (“A finding that Dunn intentionally or knowingly caused [the victim’s] death necessarily includes a finding that he did so recklessly.”) Similarly, the State addressed causation above and there is no need to repeat that analysis here.

The evidence also showed that Defendant had a measurable amount of THC in his body at the time, as demonstrated by Exhibit 18. Therefore, in addition to meeting the elements of manslaughter being met, the evidence also satisfies the elements of Counts 3 and 4, Negligently Operating a Vehicle Resulting in Death. Consequently, the Court should bind over all charges – with counts 3 and 4 as alternative charges to counts 1 and 2.

### **CONCLUSION**

The evidence at the preliminary hearing showed a troubling and outrageous driving pattern by Defendant where he tailgated the Nissan and the Kia, he repeatedly tried to pass the Nissan, he drove off the road and onto the shoulder to try and pass the Nissan, he rammed the Nissan, and eventually swerved across his lane of traffic and into the oncoming lane where he crashed into the Mr. Salm and Ms. Himmelberger’s vehicle and tragically killed them both. This evidence is sufficient to satisfy the preliminary hearing standard of probable cause that he recklessly caused the death of these individuals. Inherent in that conclusion is that the evidence is also sufficient to show that he negligently caused their deaths. He also had THC in his blood, satisfying the elements of the alternative charges of counts 3 and 4. Accordingly, the Court should bind over all counts.

Signed this 27<sup>th</sup> Day of October, 2023

/s/ Rachelle Shumway  
Rachelle Shumway  
Deputy Utah County Attorney

/s/ Greg Johnson  
Greg Johnson  
Deputy Utah County Attorney

**CERTIFICATE OF DELIVERY**

I certify that this document was filed on October 27, 2023, through the court's e-filing system and was thereby delivered to Ed Brass, attorney for the Defendant.

/s/ Rachelle Shumway  
RACHELLE SHUMWAY  
Deputy Utah County Attorney