

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

<p>STATE OF UTAH, Plaintiff, v. PETERSON DREW MATHESON, Defendant.</p>	<p>RULING AND ORDER ON BINDOVER Case No. 231402248 Judge Robert Lund</p>
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Following a preliminary hearing held on September 28, 2023, the parties submitted briefing on the issue of bindover. A request to submit was filed on December 5, 2023. Neither party requested oral argument. Being now fully apprised of the matter, the court finds probable cause for Counts 1 through 5 or the Second Amended Information, and the court binds the Defendant over to stand trial on those charges.

CONTROLLING AUTHORITY

Pursuant to Rule 7B(a) of the Utah Rules of Criminal Procedure, the State holds the burden of proof at a preliminary examination of the evidence hearing in a criminal case. To bind a defendant over to stand trial on a charged offense, Rule 7B(b) requires that the magistrate find “probable cause to believe that the crime charged has been committed and that the defendant has committed it.”

“[T]he primary purpose of the preliminary hearing [is the] ‘ferreting out [of] . . . groundless and improvident prosecutions.’” *State v. Clark*, 2001 UT 9, ¶ 16, 20 P.3d 300 (quoting *State v. Anderson*, 612 P.2d 778, 783-84 (Utah 1980)). The prosecution’s burden “is light,” *State v. Jones*, 2016 UT 4, ¶ 12, and merely requires the State to produce “believable evidence of all the elements of the crime charged,” *State v. Clark*, 2001 UT 9, ¶ 15. “This is the

same standard that applies on review of an arrest warrant.” *Jones*, 2016 UT 4, ¶ 12.

Additionally, the court “must view all evidence in the light most favorable to the prosecution and must draw all reasonable inferences in favor of the prosecution.” *Id.* ¶ 10. “An inference is reasonable unless it falls ‘to a level of inconsistency or incredibility that no reasonable jury could accept it.’” *State v. Maughan*, 2013 UT 37, ¶ 14 (quoting *State v. Ramirez*, 2012 UT 59, ¶ 14 (internal quotation marks omitted)). In drawing these inferences, the court must not assess whether “such inference is more plausible than an alternative that cuts in favor of the defense. That is a matter of factfinding, which is left for the jury at trial.” *State v. Ramirez*, 2012 UT 59, ¶ 10 (citing *Virgin*, 2006 UT 29, ¶ 21). Nevertheless, “magistrates are free to decline bindover where the facts presented by the prosecution provide no more than a basis for speculation—as opposed to providing a basis for a reasonable belief.” *Virgin*, 2006 UT 29, ¶ 21.

FINDINGS OF FACTS

Based on the evidence offered at the preliminary hearing, a jury could reasonably find the following facts:

1. On June 4, 2023, in Utah County, Utah, near Eagle Mountain, the Defendant, Peterson Matheson, while driving his white, Ford F-150 pickup truck on Eastbound State Route 73 (SR-73), lost control of his truck and collided with a black Porche Carrera 911 traveling Westbound.
2. The driver of the Porche, Rodney Salm, died at the scene. The passenger riding in the Porche, Michaela Himmelberger, also died at the scene. The coroner determined that both individuals died from blunt force trauma associated with the car accident.
3. Prior to the accident, Mr. Matheson turned Eastbound from Eagle Mountain Boulevard onto State Route 73. A white Nissan Maxima, driven by Michael Landon, also turned Eastbound

from Eagle Mountain Boulevard onto SR-73 at the same time. State Route 73 narrows to a two-lane highway shortly after the Eastbound turn from Eagle Mountain Boulevard.

Initially, the road consists of two Eastbound lanes before merging into one lane. A dirt shoulder exists outside of the white fog line on SR-73. The posted speed limit is 65 miles per hour on that road.

4. While Mr. Landon and Mr. Matheson turned onto SR-73, Mr. Landon maneuvered his car in front of Mr. Matheson's truck and effectively cut off Mr. Matheson's attempt to pass Mr. Landon. Mr. Landon then sped up so that Mr. Matheson could not execute a pass from the merger lane. Thereafter, Mr. Matheson began to tailgate Mr. Landon. Mr. Landon brake checked, and Mr. Matheson honked back in response.
5. When the two vehicles reached the point where the lanes merge, Mr. Landon was ahead of Mr. Matheson. Both vehicles were traveling significantly above the speed limit, and Mr. Matheson was tailgating Mr. Landon, traveling within only a few feet of Mr. Landon's car.
6. When the lane ended, Mr. Matheson attempted to pass Mr. Landon on the right by traveling on the shoulder of the road.
7. At top speed, Mr. Matheson and Mr. Landon were driving more than 75 miles per hour when Mr. Matheson was tailgating Mr. Landon.
8. When Mr. Matheson's truck came even with Mr. Landon's car and the two vehicles traveled parallel to each other, Mr. Matheson struck Mr. Landon's car with his truck multiple times, leaving damage and black tire marks on the side of the Nissan.
9. At the time that Mr. Matheson and Mr. Landon were contending with each other, a car club of Porche enthusiasts traveled Westbound on SR-73. Mr. Salm and Ms. Himmelberger were part of that group.

10. During the altercation with Mr. Landon, Mr. Matheson lost control of his truck. The truck rolled and crossed into the lane of on-coming traffic striking the front of Mr. Salm's Porche.
11. After the accident, a blood draw revealed the presence of tetrahydrocannabinol (THC) in Mr. Matheson's system in the amount 9 nanograms per milliliter. THC is the principal psychoactive component of marijuana. The presence of THC in the blood indicates recent or chronic daily use of marijuana. The detection limit for THC is 1 nanogram per milliliter in the blood. The toxicology report also revealed the presence of a THC metabolite in Mr. Matheson's body in an amount greater than 50 nanograms per milliliter. The detection limit for that substance is 5 nanogram per milliliter in the blood. Mr. Matheson did not possess a prescription for the lawful use of marijuana.

CONCLUSION

Viewing the evidence summarized above in the light most favorable to the prosecution, the court concludes that the State presented sufficient evidence to support a finding of probable cause as to the following charges:

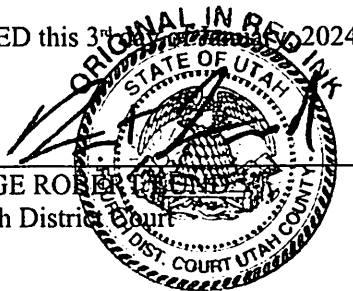
1. **Count 1:** Manslaughter corresponding to the death of Rodney Salm, a second-degree felony, in violation of Utah Code Ann. § 76-5-205.
2. **Count 2:** Manslaughter corresponding to the death of Michaela Himmelberger, a second-degree felony, in violation of Utah Code Ann. § 76-5-205.
3. **Count 3:** Negligently Operating a Vehicle Resulting in Death, a second-degree felony, in violation of Utah Code Ann. § 76-5-207.
4. **Count 4:** Negligently Operating a Vehicle Resulting in Death, a second-degree felony, in violation of Utah Code Ann. § 76-5-207.
5. **Count 5:** Reckless Driving, in violation of Utah Code Ann. § 41-6a-528.

The evidence and all reasonable inferences drawn from that evidence supports the conclusion that Mr. Matheson became angry when Mr. Landon cut him off in traffic. In an attempt to pass Mr. Landon, Mr. Matheson acted recklessly. In driving significantly in excess of the speed limit, in following another car too closely at high speeds, in failing to stay in one lane, and in attempting to execute an unsafe and unlawful pass on the shoulder of the road, Mr. Matheson operated his vehicle with willful and wanton disregard for the safety of other persons and property. The evidence also supports the inference that Mr. Matheson intentionally struck Mr. Landon's vehicle with his vehicle. The evidence further supports a finding that Mr. Matheson operated his motor vehicle in a criminally negligent manner, while having a measurable controlled substance in his body for which he did not possess a valid prescription. Finally, the evidence supports the conclusion that the collision with Mr. Matheson's truck constituted the proximate cause of the death of Mr. Salm and Ms. Himmelberger.

Accordingly, because the State established probable cause to believe that the Defendant committed Counts 1 through 5 of the Second Amended Information, the court binds the Defendant over to stand trial on those charges. It is so ordered.

DATED this 3rd day of February 2024

JUDGE ROBERT E. EVANS
Fourth District Court



CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 231402248 by the method and on the date specified.

MANUAL EMAIL: EDWARD BRASS ED@EDBRASSLAW.COM

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01/03/2024

/s/ COLLEEN NUNN

Date: _____

Signature