

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,)
)
 Plaintiff,)
)
 v.) ID No. 1309012464
)
 MICHAEL IRWIN,)
)
 Defendant.)

STATE’S POST-HEARING RESPONSE TO MOTION IN LIMINE

COMES NOW, the State of Delaware, by and through the undersigned, and opposes Defendant Michael Irwin’s Motion In Limine for the following reasons:

FACTS AND BACKGROUND

On September 17, 2013, Delaware State Police (“DSP”) arrested Irwin after he fled from an attempted traffic stop and threw suspected drug evidence, ecstasy, out of the window of his car. Upon taking Irwin into custody, additional drug evidence, marijuana, was discovered in his car. On September 18, 2013, DSP executed a search warrant on Irwin’s known residence - 2812 Washington Avenue, Elsmere, Delaware. During the search, DSP located Irwin’s girlfriend, their newborn child, and additional drug evidence - marijuana and ecstasy. When officers collected the evidence, they noted on evidence envelopes that the seized marijuana blunts totaled .8 grams, loose marijuana weighed 30.9 grams, ecstasy weighed 25.3 grams, and a rock of ecstasy weighed 2.3 grams. (7/8/14 Tr. at 67, 69, 71).

A New Castle County Grand Jury indicted Irwin on November 25, 2013 for Drug Dealing (Ecstasy), Aggravated Possession (Ecstasy), Disregarding a Police Signal,

Tampering with Physical Evidence, Possession of Marijuana, Resisting Arrest, Drug Dealing (Marijuana), Possession of Drug Paraphernalia, and Endangering the Welfare of a Child.

Irwin filed this Motion *in Limine* to Exclude Drug Evidence on June 20, 2014, and this Court held an evidentiary hearing on July 8-10, 2014.¹ This is the State's post-hearing response in opposition to Irwin's Motion *in Limine*. For the reasons set forth herein, the State respectfully requests that this motion be denied.

ARGUMENT

The State has shown as a matter of reasonable probability that the drug evidence seized in this case is the drug evidence proffered by the State. The State has shown this through chain of custody documentation and evidence that Irwin's drugs were properly identified and not tampered with. Evidence of administrative problems at the Office of the Chief Medical Examiner's Controlled Substances Unit ("OCME" and "CSU") goes to the weight of Irwin's drug evidence, not its admissibility. Irwin has not shown any basis for pretrial preclusion of the drug evidence.

I. The State has met its burden of establishing the integrity of the drug evidence by a reasonable probability.

The drug evidence in this case was seized by DSP, transported to OCME, stored at OCME without being tested, seized by and transported to DSP, and tested by an independent laboratory. DSP and OCME documentation confirm this chain of custody.

¹ Another defendant, Dilip Nyala, also filed a motion in limine heard by this Court in tandem with Irwin's Motion. Superior Court has dismissed *State v. Nyala*, such that Nyala's motion in limine is no longer pending.

This Court heard a *Daubert* motion on many of these same facts in *State v. Nesbitt*, ID No. 1310018849, on August 19-21, 2014. That record is also cited herein.

A condition precedent to the admissibility of evidence is the requirement that the evidence be authenticated.² Generally, to authenticate drug evidence – to demonstrate that the drugs tested are, in fact, the drugs associated with a particular defendant – the State offers evidence establishing the “chain of custody” of the items. Chain of custody may authenticate evidence where a foundation is offered to eliminate possibilities of misidentification and adulteration, not to absolute certainty, but as a matter of reasonable probability.³ The chain of custody standard does not require the State to produce evidence as to every link in the chain of custody; rather the State must demonstrate an orderly process from which the trier of fact may conclude that it is improbable that the original item has been tampered with or exchanged.⁴ Establishing chain of custody in Delaware “is a lenient burden that requires only that the State eliminate the possibilities of misidentification and adulteration, not absolutely, but as a matter of reasonable probability.”⁵ To authenticate drug evidence, the State simply needs to adequately trace its whereabouts.⁶

The factors to be considered in a chain of custody analysis include, but are not limited to: (1) the nature of the article of evidence; (2) the circumstances surrounding its preservation in custody; and (3) the likelihood of intermeddlers having tampered with the article.⁷ Against this backdrop, the State has traced the whereabouts of Irwin’s drugs and has shown it is reasonably probable that the drug evidence it intends to introduce in Irwin’s trial has not been misidentified, adulterated, or otherwise tampered with.

² D.R.E. 901(a).

³ *Demby v. State*, 695 A.2d 1127, 1131 (Del. 1997) (citing 10 *Del. C.* § 4331).

⁴ *Id.*

⁵ *Id.*

⁶ *Loper v. State*, 1994 WL 10820, *3 (Del. Jan. 3, 1994).

⁷ *Tricoche v. State*, 525 A.2d 151, 153 (1987).

1. *The Chain of Custody Accurately Reflects Police Seizure, Storage, and Transport to OCME.*

During the traffic stop on September 17, 2013, Irwin fled in his car and discarded approximately 25 grams of suspected ecstasy from his window. When he was ultimately stopped and arrested, DSP located two cigars containing suspected marijuana in his car. During the search of 2812 Washington Avenue, additional suspected marijuana and ecstasy evidence was seized. The suspected drugs were seized and packaged in evidence envelopes sealed with blue Delaware State Police evidence tape. (7/8/14 Tr. at 66-67). DSP stored most of Irwin's drugs at the Troop 2 evidence locker, which is secured by key card and is under video surveillance. (7/8/14 Tr. at 49-50, 109). One evidence envelope was processed for latent fingerprints and was securely stored at Troop 6. (7/8/14 Tr. at 59-60). The envelopes were properly labeled with Irwin's name and type of evidence. (7/8/14 Tr. at 64-72). Irwin does not allege any defect in the chain of custody between the seizing officer and DSP's transportation of the drugs to the OCME.

Delaware State Police Sergeant Scott McCarthy delivered most of Irwin's drugs to the OCME, specifically to Kelly Georgi, at his regularly scheduled 1:00 pm appointment on September 24, 2013. (7/8/14 Tr. at 50, 56, 57, 133; A135). McCarthy delivered a final envelope of Irwin's drugs to James Daneshgar at his standing 1:00 pm appointment on November 5, 2013, after it had been processed for fingerprints. (7/8/14 Tr. at 58-59; A127). These transfers were memorialized on spreadsheets signed by McCarthy and the OCME personnel who accepted the evidence. (7/8/14 Tr. at 56-57, 115-16; A127, 135). The control numbers on the spreadsheets corresponded to the control numbers on the evidence envelopes. (7/8/14 Tr. at 66). DSP also logged the evidence out of their database and provided basic information about the evidence for the

OCME's database.⁸ (7/8/14 Tr. at 50, 61-63, 143; A126, 134). McCarthy and the accepting OCME employees inspected the evidence envelopes and found no imperfections or evidence of tampering. (7/8/14 Tr. at 51, 135-36).

2. *The Chain of Custody Accurately Reflects Irwin's Drugs Were Stored at the OCME and Never Tested.*

Once at the OCME, Irwin's drugs were maintained in the secure vault and in secure lockers, and never tested, as reflected by the OCME's chain of custody documentation. OCME personnel would enter information about the evidence into the Forensic Laboratory Information Management System ("FLIMS") to create a digital record of the evidence's time at OCME. (7/8/14 Tr. at 138-39). The evidence is secured in a designated area of the secure vault pending entry into FLIMS. (7/8/14 Tr. at 153-54; 7/9/14 Tr. at 7-8, 116). FLIMS automatically populated the date and time for the evidence's arrival at OCME with the date and time the OCME employee logged it in, and the OCME employee was unable to change that date and time. (7/8/14 Tr. at 141, 152). FLIMS also automatically populated the field for the OCME employee who received the evidence based on the employee who was logged in to FLIMS. (7/8/14 Tr. at 148-49).

After receipt, OCME stored the drugs in the vault. The OCME building can only be accessed with a key fob or if a receptionist permits entry. (7/8/14 Tr. at 158). Key fobs were restricted to employees. (7/8/14 Tr. at 158-59). The office area where OCME

⁸ Contrary to Irwin's argument, the police's provision of this basic information to the OCME is not problematic. (See Def. Post Hrg. Br. at 29). The police officers enter basic information – the defendant's name, officers involved, and a description of the evidence, and the case is uploaded and assigned a four-digit number. Using that four-digit number, OCME then imports the case into its database. (7/8/14 Tr. at 143). There is no evidence that police officers could access the OCME database itself, and Irwin's expert Joseph Bono agreed that law enforcement did not have direct access to FLIMS. (7/10/14 Tr. at 53). Indeed, when DSP took over the CSU, they required OCME staff to enter the transfer of custody in the OCME database. (7/8/14 Tr. at 79).

received evidence required a six-digit code to enter, and the code was unique for each of the limited group of employees with access during the time Irwin's drugs were stored in the vault: James Daneshgar, Kelly Georgi, Aretha Bailey, Laura Nichols, and Caroline Honse. (7/8/14 Tr. 160-61, 164-65). The evidence vault is located within the office area, and requires a four-digit code unique to the vault door to enter. (7/8/14 Tr. at 163-66). Daneshgar, Bailey, James Woodson, and Nichols had access to the vault while Irwin's drugs were there. (7/9/14 Tr. at 88). The vault door, inside the secure office area, was sometimes propped open. (7/8/14 Tr. at 110; 7/9/14 Tr. at 9-10).

James Daneshgar testified that red tape was used to properly seal any drug evidence submitted with imperfections at the time of submission, and that he did not see red tape used for any other purpose than a February 2014 OCME internal audit. (8/19/14 Tr. at 142, 155). James Daneshgar never saw DSP blue tape in the secured office area or vault area. (8/19/14 Tr. at 143). Lab manager Robyn Quinn did not see any blue tape either. (8/19/14 Tr. at 78). An OCME employee, Laura Nichols, testified that she saw blue tape only once, in the secure office area, approximately four years prior. (8/21/14 Tr. at 14-20).

Chemists did not have access to the vault. (7/8/14 Tr. at 166). When a chemist was ready to work on a case, Forensic Evidence Specialist personnel would retrieve the evidence from the vault and place it in lockers in the lab area ("the general lab lockers") secured by combination locks; the combination was known only to James Daneshgar and the chemists. (7/8/14 Tr. at 173-76; 7/9/14 Tr. at 15). This transfer to the chemist's custody was noted in FLIMS. (7/9/14 Tr. at 17). The lab area itself was secured by a six-digit code unique to each FES employee, chemist, and Bailey and Nichols. (7/8/14 Tr. at

173-74). Chemists would then move evidence to lockers at their work station, secured by a key held by that chemist. (7/8/14 Tr. at 176). Chemists would return cases to the vault by placing the evidence in a secured locker referred to as “the pass-through” with external access to the lab area and internal keyed access to the vault. (7/8/14 Tr. at 169-70). Only James Daneshgar had a key to the vault side of the pass-through. (7/8/14 Tr. at 171-72).

The FLIMS documentation accurately indicates that James Daneshgar removed Irwin’s drugs and spreadsheet from the secured locker and entered the drugs into FLIMS. (7/9/14 Tr. at 40-54, 59-60, 63-65; A129, 137, 147). FLIMS indicates the proper date and time for when James Daneshgar returned the drugs to the vault; that next, Nichols removed the drugs from the vault and placed them in chemist Patricia Phillips’ lab locker for analysis; that Phillips removed the drugs from the general lab locker and put them in her personal locker; and that Phillips returned the drugs to the general lab locker. FLIMS accurately reflects that Phillips did not test Irwin’s drugs. (7/9/14 Tr. at 51, 69, 123-24, 126).

3. *The Chain of Custody Accurately Reflects the Transfer from OCME to Delaware State Police.*

Due to the investigation at the OCME, Irwin’s drugs were never tested by the OCME. Instead, on February 20, 2014, DSP locked the drug vault door, restricted access to just two DSP officers, and stopped OCME operations, and thereafter removed the evidence to Troop 2’s evidence locker. (7/8/14 Tr. at 75, 76, 81-82, 96-97). DSP’s seizure of each piece of evidence was reflected in the OCME’s chain of custody database, which could be used to generate a submission receipt as additional documentation (although DSP does not normally request such documentation). (7/9/14 Tr. 21-24, 30,

56). FLIMS accurately indicates James Daneshgar removed Irwin's drugs from the general lab locker and turned them over to DSP. (7/9/14 Tr. at 52-53, 58-59, 64). While FLIMS had several glitches including errors with batch printing of submission receipts, the whereabouts of Irwin's drug evidence are still accurately documented in the login sheets and by FLIMS screen shots. (7/8/14 Tr. at 141, 152; 8/19/14 Tr. at 125-27). Irwin's expert, Joseph Bono, agreed that there were no problems in Irwin's chain of custody other than the delay in logging the evidence into FLIMS. (7/10/14 Tr. at 80). Irwin has not challenged the chain of custody for Irwin's drug evidence from DSP to NMS Labs.

In sum, the evidence envelopes and containers in this case were properly labeled with Irwin's name and type of evidence. The drugs were never opened while at the OCME and were secured in a locked vault, which required a four-digit alarm code and a key fob to access, and in chemist lockers, which required a six-digit code to access the lab and then a combination or key to access the locker within the lab. In this case, a review of the original sign-in sheets and the FLIMS case file information confirms the drug evidence was securely stored and that no subject arrested in conjunction with the OCME criminal investigation came in contact with the drug evidence in this case. The State has demonstrated an orderly process from which the trier of fact may conclude that it is improbable that Irwin's drugs have been tampered with or exchanged.

II. The reasonable probability that the drug evidence seized in this case is the same drug evidence that the State intends to introduce at trial against Irwin is not undermined by differences in marijuana weight, the nature of the criminal discrepancy cases, or Irwin's expert's opinion.

Irwin does not suggest that his drugs were compromised; rather, he asserts they are inadmissible because State cannot show they were *not* compromised. After the drugs

left the OCME, DSP confirmed the absence of any criminal discrepancy, and an independent laboratory confirmed the substances and their weights consistent with the absence of any tampering.⁹

The auditing officers did not locate any cuts or other indicia of tampering with any of the evidence containers. (7/9/14 Tr. at 150). The audit team concluded that any discrepancy between the drug evidence as collected from Irwin and as it was inspected in 2014 did not rise to the level of a criminal discrepancy, *i.e.*, a discrepancy that should be noted in the criminal investigation into the OCME. (7/9/14 Tr. at 150). Thereafter, the drug evidence was sent to NMS Labs for confirmatory testing. NMS Labs analyzed the drugs and confirmed the seized and submitted items were ecstasy and marijuana, respectively. NMS weighed the two blunts at .75g; the ecstasy at 24.16g; the rock of ecstasy at 2g; and two parcels of marijuana at 11.01g and 5g. (A132, 141, 150). NMS placed each evidence envelope and its contents inside a heat-sealed clear plastic bag. (7/8/14 Tr. at 73).

The difference in the weight of Irwin's marijuana between testing in May 2014 and seizure in September 2013 can be attributed to variations in weighing techniques, including whether or not the seizing officer weighed the drugs inside or outside of the packaging material, including the three plastic bags for the marijuana; a lack of calibrated scales outside of the laboratory setting; and loss of several grams per ounce of marijuana due to drying. (7/10/14 Tr. at 86; 8/21/14 Tr. at 19-22, 53-54). Differences in weight

⁹ Irwin points to an additional, internal audit performed by OCME employees before DSP seized the OCME vault. (Def. Post Hrg. Br. at 6). This audit has no bearing on the integrity or chain of custody of Irwin's evidence, as his envelopes were not part of this audit based on the absence of red OCME tape and any notes in FLIMS. (8/19/14 Tr. at 22-24).

from the time of arrest to the time of testing have reached well over 100 grams in some cases. (8/21/14 Tr. at 51-52). With marijuana drug evidence, there is no scientifically reliable formula to precisely determine a reasonable discrepancy in weight difference from the time of the arrest to the time of testing. (8/21/14 Tr. at 19-22; 58-60). Irwin's expert, Joseph Bono, agreed that in almost every case, the weight noted by police at seizure will be different than the weight noted by the lab at pretrial testing, and that marijuana in particular dries out. (7/10/14 Tr. at 39-40, 65). That officers weighed Irwin's marijuana at 30.9 grams when seized in September 2013, and NMS weighed it at 16.01 grams in May 2014, does not automatically indicate that Irwin's marijuana was tampered with, particularly in the absence of any indicia of tampering with the evidence containers.

Irwin points to cases that were not tested at the OCME with criminal discrepancies and suggests the range of criminal discrepancies and documentation thereof casts doubt on the integrity of Irwin's drug evidence. Lieutenant John Laird of DSP testified that, as the Chief Investigating Officer over the OCME investigation, he looked at a case in its entirety when determining whether a difference in weight rose to the level of a criminal compromise: the package, the tape, and the condition of the drugs.¹⁰ (8/20/14 Tr. at 20-21). In some of the discrepancy cases, further inspection revealed the point of entry, and in one case, the evidence was a block of marijuana from which clumps

¹⁰ Irwin also points to Laird's testimony about discrepancy cases identified by police agencies other than DSP, and erroneously concludes that DSP audited those cases without consistent documentation. (Def. Post Hrg. Br. at 48). In fact, Laird testified that several compromised cases were identified by other agencies auditing their own cases that OCME had previously returned to those agencies in the ordinary course of business. (A967-69). Those agencies then brought those compromised cases to the attention of the investigative team. (A967-68).

of marijuana had clearly been picked off. (8/20/14 Tr. at 17). Irwin's expert agreed that the manner in which the investigation was performed did not impact the reliability of the evidence in this case. (7/10/14 Tr. at 50). Irwin's case presents an expected weight loss for marijuana evidence; nothing about Irwin's case rises to this criminal level of discrepancy or tampering.

Irwin also argues that the evidence container in *State v. Tyrone Walker* showed no signs of tampering. (Def. Post Hrg. Br. at 3-4). To the contrary, after trial, the evidence envelope and its contents were returned to Troop 3 of the Delaware State Police. Investigators discovered a small cut concealed beneath a folded flap of OCME evidence tape. This discrepancy was noted, and the envelope was resealed and placed back into secure storage. The more detailed level of scrutiny given to Irwin's evidence would have revealed the criminal discrepancy in the *Walker* case. (8/20/14 Tr. at 23-24, 28). Here, this more detailed inspection was performed on all of the evidence seized in conjunction with Irwin's arrest and no such tampering was identified.

Finally, Irwin offers the opinion of Joseph Bono, an independent forensic consultant, that the OCME CSU was not in compliance with international standards, and that a common root cause behind the criminal discrepancies has not yet been identified, so therefore any evidence held at CSU – including Irwin's – is not reliable.¹¹ (Def. Post Hrg. Br. at 64-72). The State does not dispute that the OCME CSU was operating at a substandard level, and that the criminal investigation into the thefts is ongoing (although

¹¹ One of Bono's contentions was that the lack of an annual inventory of all evidence was unacceptable. (Def. Post Hrg. Br. at 66). Robyn Quinn, the CSU lab manager effective October 20, 2013, testified that such an annual inventory is not required. (8/19/14 Tr. at 7, 77). Quinn has thirteen years' experience as a laboratory manager, and is an assessor against the very international standards Bono relies upon. (8/19/14 Tr. at 8).

it has resulted in two arrests). However, Bono's opinion does not support the ultimate conclusion that Irwin's drugs are inadmissible simply because they passed through the OCME.

As an initial matter, Bono provides no bases for his conclusions other than his opinion as a consultant. (7/10/14 Tr. at 43). He did not review the affidavit of probable cause against Irwin or any police reports in Irwin's case, and did not interview anyone. (7/10/14 Tr. at 45-46). More fundamentally, Bono did not and could not opine that Irwin's evidence was unreliable or should not be admitted. He agreed that weight discrepancies are to be expected in every case, and that marijuana can lose weight by drying. (7/10/14 Tr. at 39-40, 65). He agreed that there were no problems in Irwin's chain of custody other than the delay in logging the evidence into FLIMS. (7/10/14 Tr. at 80). And he agreed that where there is a documented chain of custody, the evidence envelope has zero evidence of tampering or imperfections, and the weight is as expected, the sheer fact that the evidence envelope went to the OCME would not make that case unreliable, and that case "would have to be deemed to be reliable." (7/10/14 Tr. at 54-56). Irwin's case is just such a case. Further, Bono could not identify any real-life scenario in which problems at a drug lab called for throwing out all evidence the lab touched over the period of problematic years. (7/10/14 Tr. at 78). Bono's testimony simply does not support exclusion of Irwin's drug evidence.

III. Problems at the OCME go to the weight, not the admissibility, of Irwin's drug evidence.

The fact finder decides what weight, if any, it will give evidence that has been introduced.¹² It is ultimately up to the fact finder to determine whether there are significant breaks in the chain of custody or possibilities of tampering that warrant affording less or no weight to the evidence.¹³ Irwin urges this Court to ignore this tenet of the American judicial system, in which a jury weighs evidence and finds the facts underlying a case, based on “what is right” for the parties involved. (Def. Post Hrg. Br. at 84-85). It would be wrong to preclude evidence that has no indicia of tampering and a completely documented chain of custody, and was not touched by any person who has been arrested, simply because the evidence sat in secure areas of the OCME for a few months and lost a not unexpected amount of marijuana weight over time.

Delaware law asks juries to evaluate the effect of noncriminal discrepancies on the weight of drug evidence. In *Demby*, the weight of the drugs recorded by officers on the street was greater than the weight recorded by the medical examiner.¹⁴ Further, the complaint number in the medical examiner's report was nine numbers different than the case number as assigned and recorded by the police.¹⁵ Nevertheless, the Delaware Supreme Court concluded that the drug evidence was admissible and that “these discrepancies were questions regarding the weight of the evidence and not its admissibility,” to be evaluated by the jury.¹⁶

¹² *Demby v. State*, 695 A.2d 1127, 1132-34 (Del. 1997); see also *Demby v. State*, 2008 WL 534273, *3 (Del. Feb. 28, 2008).

¹³ *Demby*, 695 A.2d at 1134.

¹⁴ *Demby*, 2008 WL 534273 at *1.

¹⁵ *Id.* at *3.

¹⁶ *Id.*

Permitting the introduction of the drug evidence against Irwin is also in accordance with the Supreme Court of Massachusetts's handling of a similar drug laboratory scandal. In June 2011, Massachusetts police discovered that a chemist at the William A. Hinton State Laboratory Institute had falsified and mishandled drug evidence in thousands of cases. A Massachusetts grand jury indicted Boston chemist Annie Dookhan for her misdeeds, and she ultimately pled guilty to evidence tampering, perjury, and witness intimidation.¹⁷ Due to the scandal, defendants who had drug evidence against them analyzed by the State Laboratory during Dookhan's tenure moved to suppress the evidence or dismiss the indictments.¹⁸ In *Gardner*, the defendant argued, as Defendant does here, that the mere possibility of tampering warranted dismissal. The *Gardner* defendant argued that Dookhan's notarization on the chain of custody forms imputed egregious misconduct that fatally tainted the evidence.¹⁹

The Commonwealth conceded that it was not able to prove with certainty that Dookhan had not tampered with the evidence against Gardner.²⁰ Nevertheless, the Supreme Court of Massachusetts ruled that the lower court's dismissal of the case had been improper.²¹ The fact that the drugs had gone to the State Laboratory during Dookhan's tenure, even combined with her signature as a notary on the drug forms, did not taint the evidence.²²

The facts here are less concerning than those presented in the *Gardner* case. There is no evidence that anybody at the Delaware OCME was deliberately falsifying

¹⁷ *Commonwealth v. Gardner*, 5 N.E.3d 552, 553 (2014).

¹⁸ *Id.* at 554-55.

¹⁹ *Id.*

²⁰ *Id.* at 555.

²¹ *Id.* at 557.

²² *Id.*

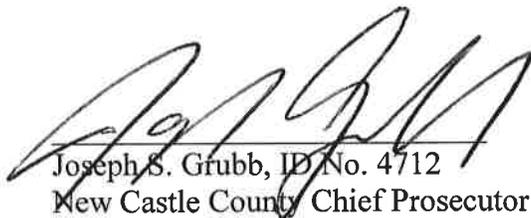
drug analysis reports. The drug evidence against Irwin was never opened or tested at the OCME. The fact that Irwin's drugs were stored at the OCME during its period of substandard operation did not taint the evidence.

CONCLUSION

The State has demonstrated that it is reasonably probable that the drug evidence seized in this case is the same drug evidence that the State intends to introduce at trial against Irwin. The chain of custody is documented and indicates that Irwin's drugs were never touched by anyone arrested in conjunction with the OCME investigation and were never opened at the OCME. Subsequent testing confirms the evidence seized was marijuana and ecstasy, and that their weights are within an expected range. The general problems at the OCME should be presented to a jury, as they go to the weight, not the admissibility, of Irwin's drug evidence.

WHEREFORE, this Court should DENY Irwin's motion in limine.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE



Joseph S. Grubb, ID No. 4712
New Castle County Chief Prosecutor
Morgan T. Zurn, ID No. 5408
Deputy Attorney General
Department of Justice
820 North French Street, 7th Floor
Wilmington, DE 19801
(302) 577-8500

September 26, 2014

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,

Plaintiff,

v.

MICHAEL IRWIN,

Defendant.

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ID No. 1309012464

ORDER

TO WIT, this _____ day of _____, 2014, that the Defendant's Motion to Exclude in the above-captioned matter is **DENIED**.

IT IS SO ORDERED.

J.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,

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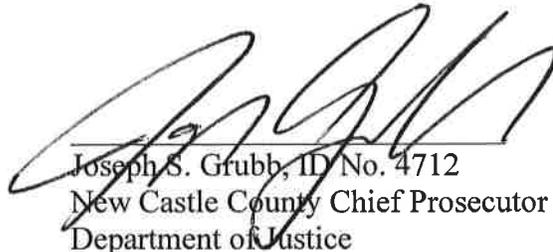
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CERTIFICATE OF SERVICE

The undersigned Deputy Attorney General of the State of Delaware hereby certifies that two (2) copies of the attached Response to Motion were served on:

Patrick Collins, Esq.
8 E. 13th Street
Wilmington, Delaware 19803

STATE OF DELAWARE
DEPARTMENT OF JUSTICE



Joseph S. Grubb, ID No. 4712
New Castle County Chief Prosecutor
Department of Justice
820 North French Street, 7th Floor
Wilmington, DE 19801
(302) 577-8500

September 26, 2014