

Keene District Court
No. 7195

STATE OF NEW HAMPSHIRE

v.

MORTON WHIPPIE

October 31, 1975

Warren B. Rudman, attorney general, and *Robert V. Johnson II*, assistant attorney general (*Mr. Johnson* orally), for the State.

Bell & Kennedy and *Joyce A. Wilder* (*Mr. Ernest L. Bell III* orally) for the defendant.

MEMORANDUM OPINION

Defendant was prosecuted in the Keene District Court for the offense of driving while under the influence of intoxicating liquor by the arresting officer, a State trooper. Defendant's motion that the arresting officer be disqualified as prosecutor was denied by the Acting Justice, *Lichman, J.*, who reserved and transferred the defendant's exception.

The same issue was determined adversely to the defendant in *State v. Aberizk*, 115 N.H. 535, 345 A.2d 407 (1975); *State v. LaPalme*, 104 N.H. 97, 179 A.2d 284 (1962); see *State v. Urban*, 98 N.H. 346, 100 A.2d 897 (1953).

Exception overruled; remanded.