

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.  
DOCKET NO. 226-2019-CR-00814

SUPERIOR COURT  
SOUTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

DALE HOLLOWAY

**STATE'S RESPONSE TO DEFENDANT'S OBJECTION TO APPLICABILITY OF  
EXTENDED TERM OF IMPRISONMENT**

NOW COMES the State of New Hampshire, by and through the Hillsborough County Attorney's Office, with a Response to the defendant's Objection in the above-captioned matter.

The State of New Hampshire sets forth as follows:

1. The defendant's motion, while creative, is without merit.
2. Defendant's argument states no facts to suggest that defendant has been the victim of any racial disparity in sentencing on his Massachusetts cases or that he is being so victimized by this prosecution.
3. In fact, review of defendant's actual sentences indicates that he received lenient sentences for the very serious crimes he committed in Massachusetts.
4. In addition, defendant cannot collaterally attack his conviction for Armed Assault to Commit Murder by merely asserting that he was not guilty because he could have raised self-defense. He pleaded guilty with the assistance of counsel and there are no facts to suggest that the conviction and sentence were defective or illegal in any way.
5. Indeed, it would appear from the minimal sentence he received for this crime that any claim of self-defense was considered in sentencing.
6. While there is no doubt that structural racism has resulted in sentencing disparities for Black men, including here in New Hampshire, defendant has failed to provide any evidence

that his Massachusetts sentences were disparate due to his race.

7. He claims to suffer from Post-Traumatic Stress Disorder citing his mother as the authority. His mother is clearly not qualified in any way to make such a diagnosis and if the defendant intends to rely on this claim, a diagnosis by a qualified expert must be provided.

8. The State is most assuredly not motivated by racism in seeking an extended term for this defendant. The State is motivated to seek justice on behalf of the victims in this case and to protect the community from this defendant for as long as possible.

9. Accordingly, the State's notice of its intent to seek an extended term of imprisonment for this defendant is clearly appropriate. Defendant will remain free to make his racially based arguments about sentencing disparity at his actual sentencing should he be convicted of the crimes for which he has been indicted.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Deny Defendant's Motion;
- B. Schedule a hearing thereon, if necessary; and
- C. Grant the State any such other relief as may be proper and just.

DATED: August 20, 2020

Respectfully Submitted,

/s/ Catherine M. Devine  
Catherine M. Devine #629  
Assistant County Attorney

**CERTIFICATION**

I hereby certify that a copy of the foregoing pleading has this day been sent to Donna Jean Brown, Esq., counsel for the defendant.

/s/ Catherine M. Devine  
Catherine M. Devine