

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

MERRIMACK COUNTY SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

Clerk's Notice of Decision
Document Sent to Parties
on 03/30/2026

LOGAN CLEGG

217-2022-CR-1226

The objection to the State introducing any new or additional evidence is noted. The Court will permit additional evidence solely on the inevitable discovery issue remanded by the NH Supreme Court to this Court. On or before April 10, 2026, the Court expects the State to identify with specificity how the testimony of any witness supports denial of the motion to suppress based on the inevitable discovery doctrine. To the extent the defense elects to call any responsive or rebuttal witness, it must identify with specificity how such witness testimony relates to the inevitable discovery issue on or before April 17, 2026. So ordered.

DEFENDANT'S OBJECTION TO STATE'S MOTION TO REOPEN SUPPRESSION HEARING FOR ADDITIONAL EVIDENCE



Honorable John C. Kissinger, Jr.

March 30, 2026

NOW COMES the defendant, Logan Clegg, by and through counsel, Maya Dominguez,

Esq., and Thomas Barnard, Esq., and respectfully objects to the State's request to reopen the suppression hearing for additional evidence. This objection is based on the following:

1. In January and May 2023, the State obtained from Merrimack County grand juries indictments charging Logan Clegg with two pairs of alternative counts of second-degree murder, four counts of falsifying physical evidence, and felon in possession of a firearm.
2. Prior to trial, Clegg moved to suppress all evidence obtained as a result of the police's warrantless requests for his data from Verizon. He cited Part I, Articles 2-b and 19 of the New Hampshire Constitution and the Fourth and Fourteenth Amendments to the United States Constitution.
3. The State objected. It argued that exigent circumstances justified the warrantless searches. It also argued that the evidence would have been inevitably discovered.
4. In his response to the State's objection, Clegg argued that exigent circumstances did not justify the warrantless searches. Clegg also responded to the State's inevitable-discovery argument.
5. In May 2023, this Court held a three-day evidentiary hearing on Clegg's motion. At the

conclusion of the hearing, this Court denied the motion. It ruled that exigent circumstances justified the warrantless searches. It did not address the State's inevitable-discovery argument.

6. On appeal, the New Hampshire Supreme Court vacated this Court's denial of Clegg's motion. It held that exigent circumstances did not justify the warrantless searches, and thus, those searches were unconstitutional.
7. At oral argument, the parties agreed that, if it held that the searches were unconstitutional, the Supreme Court should remand the case for this Court to address, in the first instance, the State's inevitable-discovery argument. The Supreme Court remanded because it recognized, correctly, that this Court should address the State's inevitable-discovery argument in the first instance; it did not remand because it perceived any deficiencies in the evidentiary record.
8. At the post-remand hearing on March 20, 2026, Clegg stated that the inevitable-discovery issue had been fully litigated and requested that this Court resolve the issue without additional evidence. The State initially agreed. Later in the hearing, however, the State requested additional time to consider whether it would seek to reopen the suppression hearing for additional evidence. This Court granted that request and gave the State until March 23, 2026, to make that decision.
9. On March 23, 2026, the State submitted a pleading entitled "State's Witness List." Although not captioned as a "motion," this pleading clearly constitutes the State's request to reopen the suppression hearing for additional evidence. Clegg thus treats the State's "Witness List" as a motion to reopen the suppression hearing for additional evidence and hereby objects.

10. In the typical case, a trial court has discretion to reopen proceedings for the presentation of additional evidence. State v. Thomas, 133 N.H. 360, 363 (1990). That discretion, however, is not unlimited. “To obtain a hearing, the party seeking it must articulate why a hearing would assist the court.” State v. Tsopas, 166 N.H. 528, 530 (2014). When the parties have already presented evidence on the matter at issue, “articulat[ing] why a hearing would assist the court” means, at a bare minimum¹, identifying some evidence that is both (a) relevant, and (b) new or different from the evidence previously presented. See In re Erik M., 146 N.H. 508, 511 (2001) (noting that juvenile, in seeking to relitigate question of certification as an adult, “did not set forth any reasons why a hearing would assist the trial court”); Provencher v. Buzzell-Plourde Assocs., 142 N.H. 848, 852 (1998) (noting that plaintiff, in opposing defendants’ motions to dismiss, “failed to submit any memorandum, brief statement, or offer of proof to demonstrate what facts or additional information he would have presented at the hearing if he was given the opportunity”; “he simply requested a hearing without setting forth the reasons why such a hearing would assist the superior court in determining whether to grant the defendants’ motions to dismiss”). Undersigned counsel has found no authority from any jurisdiction that holds that a trial court has discretion to reopen a proceeding for additional evidence where the litigant seeking to reopen the proceeding fails to identify any evidence that both (a) relevant, and (b) new or different from the evidence previously presented.

11. Here, the State has failed to identify any evidence that is both (a) relevant, and (b) new or

¹ Clegg’s position is that the State’s identification of new or different evidence is required, but not necessarily sufficient, to justify its request to reopen the suppression hearing. Had the State, between the March 20 hearing and its March 23 deadline, identified new or different evidence, other questions may have arisen. See, e.g., Matter of Penichet, 177 N.H. 227, 237 (2025); Asbury v. State, 765 So. 2d 965, 966 (Fla. Dist. Ct. App. 2000). Because the State’s did not identify any new or different evidence, Clegg does not address these other questions.

different from the evidence previously presented at the three-day evidentiary hearing. Five of the six witnesses identified in the State’s pleading, the State asserts, will testify about the “Concord Police investigation related to [] Clegg, Burlington, VT, actual and anticipated investigative activities related to” “search warrants, process for obtaining search warrants, and actual searches,” “acquisition of [Clegg’s] cell phone location data, including search warrants,” “the search for [Clegg],” “the location, apprehension, interview and arrest of [Clegg], including location of [Clegg’s] camp site and information contained on [Clegg’s] person, cellphone, laptop, and backpack.” At the previous evidentiary hearing, however, three of those five witnesses already testified about each of the subjects the State identifies. See SH² 7-15, 19-28, 32-48, 52-53, 102-23, 179-99, 205-36, 418-35, 437-74 (investigation prior to October 11, 2022); SH 48-49, 53-64, 66-73, 79, 84-86, 126-45, 236-49 (investigation on October 11, 2022, culminating in warrantless searches, including both actual and anticipated investigative activities, search warrants, and the process for obtaining them); SH 67, 73-74, 79-80, 83-84, 132, 139, 153-59, 162-63, 250-59, 476-78, 480-84, 487-94 (the acquisition of Clegg’s cell phone location data); SH 73-82, 146-66, 259-69, 271-97, 301-06, 475-76, 492-97, 526-36 (the search for, location of, apprehension of, and interview of Clegg); T 83, 498-503, 514 (location of and search of Clegg’s camp site); T 82-83, 88, 170, 172, 294, 303-04, 323, 330, 407 (search of Clegg’s person and backpack). The State fails to identify any anticipated testimony that will be new or different from the testimony previously given.

12. The final witness referenced in the State’s pleading is “Sarah Furguson or Other Designee, Verizon Representative,” and the State asserts that this witness is expected to

² SH refers to the transcript of the suppression hearing on May 24-26, 2023.

testify about “Verizon’s procedures related to process of search warrant requests for real-time cell-phone data.” Although no Verizon employee testified at the prior hearing, Denise Riley, a defense investigator, testified that she spoke to a member of Verizon’s Security Assistance Team and recounted the information he provided about Verizon’s policies. SH 538-40. Clegg also introduced Defense Exhibit E, a PowerPoint slide published by Verizon, that set forth its policies. T 478-87, 541-47.

13. For the reasons stated above, the State has failed to identify any evidence that is both (a) relevant, and (b) new or different from the evidence previously presented at the three-day evidentiary hearing. Under these circumstances, a further evidentiary hearing would be an exercise in futility, at best, or ambush, at worst. Even if this were a typical case, reopening the suppression hearing for additional evidence would exceed this Court’s discretion.
14. The real question for this Court, however, is not whether it can reopen the suppression hearing. Even assuming that this Court has discretion to grant the State’s request to reopen the suppression hearing, it also has the discretion to deny it. The real question for this Court is whether it should reopen the hearing. Where a court has discretion to either grant or deny a party’s request, the existence of that discretion in no way answers the question of what ruling the Court should make. State v. Hayward, 166 N.H. 575, 582-84 (2014). Here, the State has offered no explanation for why this Court should grant its request to reopen the suppression hearing for additional evidence. For the reasons stated above, this Court should deny it.
15. Finally, this is not a typical case. This Court’s jurisdiction is circumscribed the Supreme Court’s opinion, which remanded this case for a “limited purpose.” The narrow question

before this Court is retrospective: “whether the defendant’s motion to suppress should have been denied on the basis of the inevitable discovery doctrine.” See State v. Fitzgerald, 174 N.H. 722, 729 (2022) (“the trial court proceedings on remand must be in accord with . . . the result contemplated in the appellate opinion”) (internal quotation omitted). Although the Supreme Court authorized this Court to conduct “further proceedings,” it limited such proceedings to those that this court “deems necessary.” Because the State has failed to identify any evidence that is both (a) relevant, and (b) new or different from the evidence previously presented at the three-day evidentiary hearing, there is no objective basis in the record to conclude that a further evidentiary hearing is “necessary” for this Court to determine whether Clegg’s motion “should have been denied.”

Wherefore, Logan Clegg respectfully requests that this Honorable Court deny the State's request to reopen the suppression hearing for additional evidence.

Dated: March 27, 2026

Respectfully submitted,

/s/ Thomas Barnard
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice is being electronically provided to the office of the Attorney General on March 27, 2026.

/s/ Thomas Barnard
Thomas Barnard, Esq.