

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

MERRIMACK COUNTY SUPERIOR COURT

STATE OF NEW HAMPSHIRE

V.

LOGAN CLEGG

217-2022-CR-1226

**MOTION TO PRESERVE EVIDENCE & RECONSIDER ORDER ON HANDLING OF
EXHIBITS**

NOW COMES the defendant, Logan Clegg, by and through counsel, Caroline L. Smith, Esq., and Maya Dominguez, Esq., and respectfully moves this Honorable Court for an Order. In support of this request the defense states as follows:

1. Logan Clegg was convicted of Second-Degree Murder in the shooting deaths of Stephen and Djeswende Reid as well as several other charges.
2. Mr. Clegg has filed his appeal with the New Hampshire Supreme Court and continues to maintain his innocence.
3. On January 16, 2024, this Court issued an order in response to a Media request to view evidence presented at trial. In this order, the Court wrote, “Items of physical evidence other than photographs and documents may be inspected without touching. Those items will remain in the packaging in which they are stored and opened by a member of the court staff only upon request by a member of the public or media. If such a request is made, the item will only be handled by a member of the court staff or court security and returned to the packaging after the inspection.”
4. By this motion, Mr. Clegg seeks to preserve the integrity of any and all evidence (not just evidence introduced and subject to the aforementioned order) collected in his case as well as to

- preserve the chain of custody for that evidence.
5. Counsel renews the objection to the handling of exhibits by Court personnel on the basis that it is not only important to preserve the evidence for a potential subsequent trial, but also to preserve the integrity for future DNA testing.
 6. While DNA testing was done prior to trial, Mr. Clegg was not excluded (though testimony indicated he was less likely to be a contributor). One of the issues with the testing was with the complexity of the samples collected. Many of those samples were destroyed by the testing so future testing may need to rely on the physical evidence.
 7. The preservation of evidence is of concern to counsel especially in light of the recent events in the matter of State v. Jason Carroll. Mr. Carroll is represented by the New England Innocence Project (NEIP). The attorney in that case spent several months searching for evidence for possible DNA testing. It appeared to be lost, however, a Clerk in the Hillsborough County Superior Court ultimately “found” a box of evidence in October of 2022.¹
 8. More recently, the Attorney General’s office located an additional box of evidence while moving their headquarters.²
 9. Upon information and belief, the next phase of litigation in the Carroll matter is likely to pertain to the defense’s ability to establish proper chain of custody of the recently located evidence.
 10. Accordingly, Mr. Clegg seeks to have the Court order any and all governmental agencies involved in the above-captioned case, including the Office of the Clerk of Merrimack County

¹ This was the subject of Bear Brook Podcast Season 2 Episode 8, “The Box” full transcript available at: <https://www.bearbrookpodcast.com/podcast-transcripts>

² This has been widely reported on in the media. One such report can be found: <https://indepthnh.org/2022/06/17/ne-innocence-project-lawyer-says-convicted-murderer-jason-carroll-didnt-kill-pregnant-woman-in-1988/>

Superior Court, the Attorney General's office, and any law enforcement agencies involved in the above captioned matter, to preserve, retain and prevent the destruction or deterioration of any and all evidence collected or seized during the investigation of the above-captioned case, without regard to whether such evidence was introduced at the trial in the above captioned case. If any agency involved is unable to maintain the evidence in a way that guards against any accidental spoliation or contamination of the evidence, notice should be made to this Court and a hearing held.

11. Mr. Clegg further requests that this Court order that no attempt be made by any governmental agency involved in the above-captioned case, including the Office of the Clerk of Merrimack County Superior Court, the Office of the Attorney General, and law enforcement agencies involved in the above-captioned matter, to open, evaluate, package or repackage any of the physical evidence collected or seized during the investigation in this case without a Court Order and to maintain a detailed chain of custody log for the evidence.
12. This motion should be granted to guard against any accidental spoliation or contamination of the evidence collected or seized during the investigation in this case and to prevent the loss of any relevant information that could be caused by improper handling or viewing of the evidence.

Wherefore, Mr. Clegg respectfully requests that this Honorable Court:

- A. Grant this Motion and issue the orders requested above;
- B. Require the State to specifically instruct all law enforcement agencies regarding the Court's order; or
- C. Hold a hearing on this matter and allow counsel to present witnesses;
- D. Grant such other relief in favor of Mr. Clegg as justice requires.

Dated: January 26, 2024

Respectfully submitted,

Maya Dominguez

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion has been provided to the office of the Attorney General on January 26, 2024.

Maya Dominguez

Maya Dominguez, Esq.