

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

LOGAN CLEGG

No. 217-2022-CR-1226

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO PRESERVE EVIDENCE &
RECONSIDER ORDER ON HANDLING OF EXHIBITS**

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and submits this Response to the defendant's Motion to Preserve Evidence & Reconsider Order on Handling of Exhibits. In support, the State submits the following:

1. On October 23, 2023, after a jury trial, the defendant was convicted of two counts of knowing second-degree murder, two alternative counts of reckless second-degree murder, four counts of falsifying physical evidence, and one count of being a felon in possession of a firearm. The defendant's convictions all relate to the deaths of Stephen and Djeswende Reid in Concord, New Hampshire on April 18, 2022, and subsequent actions the defendant took to conceal his role in the murders. On December 15, 2023, this court sentenced the defendant to consecutive terms of 50 years to life.

2. In response to media requests for access to the trial exhibits, this court asked the parties to submit memoranda on the legal issues associated with these requests. Both parties did so. In his initial filing, the defendant objected to the handling of any physical exhibits.

3. On January 16, 2024, this court issued an order dictating the manner and means in which members of the public and the media may inspect the trial exhibits in this case. With regard to physical exhibits, this court's order held that "Items of physical evidence other than

photographs and documents may be inspected without touching,” and “will remain in the packaging in which they are stored and [will be] 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 inspection.”

4. On January 26, 2024, the defendant filed a Motion to Preserve Evidence & Reconsider Order on Handling of Exhibits. In his motion, the defendant renewed his objection to the handling of exhibits by court personnel, for the stated reason of preserving the integrity of the evidence for future DNA testing. Def.’s Motion, par. 5.

5. The defendant further asked this court to issue an order upon “any and all governmental agencies involved” in this case, including the Office of the Clerk of the Merrimack County Superior Court, the Attorney General’s Office, and any law enforcement agencies involved, to “preserve, retain and prevent the destruction or deterioration of any and all evidence collected or seized during the investigation” of this case, including evidence not introduced at trial. *Id.*, par. 10.

6. The defendant also seeks an order from this court that “no attempt be made by any governmental agency involved” in this case “to open, evaluate, package or repackage any of the physical evidence collected or seized during the investigation without a court order and to maintain a detailed chain of custody log for the evidence. *Id.*, par. 11.

7. The State shares an interest in preserving the integrity of the physical evidence in this case. As such, the State does not object to any measures or restrictions this court deems appropriate related to access or handling of the trial exhibits by court personnel or the public.

8. Notwithstanding the above, the State feels it necessary to respond to certain portions of the defendant's motion, in order to clarify the record. In support of his motion, the defendant references two specific instances involving the handling of evidence, both related to the case of *State v. Jason Carroll*. The defendant's references to the *Carroll* case are inapposite, as the facts and circumstances of that case bear no relation to the instant case.

9. In *State v. Carroll*, 138 N.H. 687 (1994), the New Hampshire Supreme Court affirmed that defendant's second-degree murder conviction for the 1988 death of Sharon Johnson. The issues involved in that defendant's direct appeal pertained exclusively to the voluntariness of that defendant's confession. That defendant did not raise any issues of contamination, spoliation, or loss of evidence in his direct appeal.

10. The defendant notes that in October of 2022, the Hillsborough County clerk found a box of evidence related to the case, and that more recently, the Attorney General's Office located an additional box of evidence while moving its headquarters. Def.'s Mot., par. 7-8. According to the defendant, some of this evidence may be the subject of future DNA testing. *Id.*, par. 7. The defendant provides no further information or context regarding these events.

11. These references to a three-decade old murder conviction and two discrete occasions where evidence was discovered after many years do not provide any helpful or relevant information for this court, either for purposes of determining the appropriate conditions for handling and inspection of the trial exhibits, or otherwise. The defendant has not provided any information, nor is the State aware of any, which indicates that the Hillsborough County clerk's office or the Attorney General's Office engaged in conduct, either intentionally or inadvertently, which led to the contamination, spoliation, or loss of relevant evidence in that case. Nor has the defendant indicated that the defendant in the *Carroll* case has claimed that any

contamination, spoliation, or loss of relevant evidence has in fact occurred. Most importantly, the defendant has made no argument, much less offered any evidence in support, that the events he references are in any way indicative of conditions that would affect the integrity of the evidence in the instant case.

12. The *Carroll* case referenced by the defendant relates to a murder that took place approximately 36 years ago. The manner in which evidence from a case that was investigated and resolved over three decades ago was handled and stored has no bearing whatsoever on issues related to the handling and storage of evidence in this case, in which the murders took place in April of 2022. To the extent that the defendant's motion implies that there are systemic or institutional problems at either the Merrimack County Clerk's Office, the Attorney General's Office, or the Concord Police Department with regard to the handling and storage of evidence in criminal cases, the defendant has failed to provide a modicum of evidence that would support such an assertion, much less justify any restrictive measures.

13. The defendant has not indicated any specific concerns related to the contamination, spoliation or loss of evidence in this case. The State would note that most of the physical trial exhibits in this case were offered and entered into evidence by the defense. Throughout the trial, which lasted three weeks, the physical exhibits were stored, handled, and in some cases manipulated by court personnel, as well as attorneys for both the State and the defendant, at times without gloves. At no point either before or during the trial did the defendant raise any objection to the manner in which such items were handled or stored by either the State or the court.¹ The State believes this should be noted in the event the defendant raises a defense related to contamination or spoliation of evidence in the future.

¹ The State would also note that the jury had access to the physical trial exhibits during their deliberations. The secrecy of jury deliberations makes it impossible to know what (if any) exhibits were handled by jurors, and what

14. As noted above, the State shares an interest in preserving the integrity of the evidence in this case, including both the trial exhibits and other evidence not admitted at trial. To the extent that the defendant seeks an order on the State related to the trial exhibits, however, such an order would be inappropriate since the State is not in custody of the exhibits. Where the trial exhibits are in the custody of this court, the State has no ability to control or dictate the manner or means in which they are kept, handled, accessed, or controlled.

15. To the extent that the defendant seeks an order requiring the State to “preserve, retain and prevent the destruction or deterioration of” any evidence in its possession relating to this case, the State does not object. The State would note that all evidence in this case not introduced at trial remains in the custody of the Concord Police Department. It is thus subject to the department’s standard operating procedures and protocols for the collection, handling, and maintenance of evidence in criminal cases, which the State trusts will suffice to ensure that the evidence is properly maintained.

16. To the extent that the defendant seeks an order requiring the State to “make no attempt to...open, evaluate, package or repackage any of the physical evidence collected or seized during the investigation in this case” without a court order, the State agrees not to open any sealed packaging without permission of the court. The State objects to any order requiring that it not “evaluate” any items in evidence, on the grounds that this term is simply too vague to interpret. Further, the State would object to any order requiring it not to “package or repackage” any items of evidence, as such an order could prevent the Concord Police from effectively transporting or safely managing and maintaining the evidence as part of the normal operation of a secure evidence facility. Such an order could be interpreted to prevent the Concord Police

possible contamination may have occurred. The defendant raised no objections to the handling of physical exhibits by the jury during trial.

from, for example, “packaging or repackaging” items by merely placing sealed packages into a larger receptacle for storage purposes, without any attempt to open them or otherwise manipulate them, much less any actions that could conceivably lead to contamination, spoliation, or loss of evidence.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Order such relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

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Date: February 2, 2024

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CERTIFICATE OF SERVICE

I, Joshua L. Speicher, hereby certify that a copy of this pleading was served upon counsel of record on the above listed date, via the court's electronic filing system.

/s/ Joshua L. Speicher
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