

STATE OF NEW HAMPSHIRE

COÖS SS.

SUPERIOR COURT

State of New Hampshire

v.

Volodymyr Zhukovskyy

Docket No. 214-2019-CR-78

MOTION FOR FUNDS FOR SERVICES OTHER THAN COUNSEL

NOW COMES the Defendant, Volodymyr Zhukovskyy, by and through counsel, Jay Duguay and Steve Mirkin, Public Defenders, and respectfully requests the Honorable Court authorize the additional expenditure of \$ for the depositions of the State's expert witnesses from the Crash Lab.

In support of this Motion, the following is stated:

1. Mr. Zhukovskyy is before the Honorable Court charged with several offenses related to a motor vehicle accident that occurred on June 21, 2019 in Randolph, NH.
2. The State has indicated its intent to call Mr. Sorenson and McAlister as expert witnesses at trial.
3. The Court has previously approved the expenditure of \$3927.84 to pay the expert fees.
4. Subsequent to that deposition the Crash Lab sent an additional invoice for deposition preparation in the amount of \$5260. Such Preparation was apparently necessary for the depositions in this matter.

Granted

/s/ Peter H. Bornstein
Honorable Peter H. Bornstein
April 26, 2022

Clerk's Notice of Decision
Document Sent to Parties
on 04/26/2022

5. Mr. Zhukovskyy has a constitutional right to effective assistance of counsel and to a fair trial pursuant to the Sixth and Fourteenth Amendments to the United States Constitution. In addition, Mr. Zhukovskyy has a constitutional right to be protected against a denial of equal protection pursuant to the Fourteenth Amendment to the United States Constitution and Part 1, Articles, 1, 12, and 15 of the New Hampshire Constitution. Effective assistance of counsel and the right to a fair trial requires, when appropriate, that an indigent defendant be provided with funding for services other than counsel.

“The right to counsel, as guaranteed by the Sixth Amendment and Part 1 Article 15 of our own constitution, would be meaningless if counsel for an indigent defendant is denied the use of the working tools essential to the establishment of a tenable defense because there are no funds to pay for these items.” [citations omitted]

State v. Robinson, 123 N.H. 665, 669 (1983). The services for which money has been requested are essential for counsel to provide effective assistance of counsel and to ensure the Defendant’s right to a fair trial.

6. The equal protection clause guarantees that an indigent Defendant be provided “with the basic tools of an adequate defense or appeal, when these tools are available for a price to other prisoners.” Britt v. North Carolina, 404 U.S. 226, 227, 92 S.Ct. 431, 433 (1971); *see* Douglas v. California, 372 U.S. 353, 83 St.Ct. 814 (1963) (indigent defendant entitled to court-appointed counsel to represent him on an appeal of right); Griffin v. Illinois, 351 U.S. 12, 76 S.Ct. 585 (1956) (indigent defendant entitled to a transcript of lower proceedings at State expense when transcript necessary to effect appeal of right); State v. Cofske, 129 N.H. 133 (1987) (indigent defendant entitled to free transcript of competency hearing when

there was a demonstrated need and no reasonable alternatives); State v. Shute, 122 N.H. 498 (1982) (indigent defendant entitled to free transcript of prior trial for use at new trial).

WHEREFORE, the Defendant respectfully requests the Honorable Court:

- A. Approve the expenditure of additional funds in the amount of \$5260 to pay for the cost of preparation for depositions;
- B. All other relief deemed necessary and just.

Respectfully submitted,

/s/Jay Duguay _____
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were forwarded this 22th day of October, 2021, to John McCormick, Coos County Attorney.

/s/Jay Duguay _____
Jay Duguay, Esq.