

***PUBLIC VERSION - REDACTED***

**STATE OF NEW HAMPSHIRE**

Coös, SS.

Superior Court

State of New Hampshire

v.

Volodymyr Zhukovskyy

Superior Court Case: 214-2019-CR-78

**STATE'S OBJECTION TO DEFENDANT'S THIRD MOTION FOR BAIL HEARING**

NOW COMES, the State of New Hampshire, by and through its attorneys, the Office of the Coös County Attorney and the Office of the Attorney General, who respectfully requests that this Honorable Court deny the defendant's renewed motion for bail. In support thereof, the State submits the following:

1. On June 21, 2019, the defendant caused a motor vehicle crash that resulted in the deaths of seven people, serious bodily injury to another person, and placed numerous additional motorists in danger of serious bodily injury and death. The defendant took those lives, seriously injured another, and risked the lives of additional motorists, while he was distracted, failing to maintain control of his commercial truck and attached trailer, and after having admittedly ingested heroin and cocaine, both of which were in his blood following the collision. Even more troubling—and demonstrative of the defendant's danger, regardless of any conditions placed upon him by the Court—is that he committed these crimes a month after he was released on bail after being charged with driving under the influence of drugs in Connecticut. Had the defendant not continued to escalate his pattern of drug use and driving while impaired, Albert Mazza, Daniel Pereira, Michael Ferazzi, Edward Corr, Joan Corr, Aaron Perry, and Desma Oakes, would

still be alive; Joshua Morin, would still be walking on his own two legs, not having to bear the incredible pain and physical impairment caused by serious injuries from the crash. None of the accident reconstruction reports promulgated by any of the experts in this case, or the updated indictments that were returned by the grand jury on March 11, 2021, change that. The defendant was arraigned on the newest indictments, and the Court entered the new bail order requesting preventative detention submitted by the State on April 2, 2021. The defendant was and remains a danger to the public, and himself. Accordingly, this Court should—for the third time—deny the defendant’s demand to be released.

2. After causing the accident that left motorcycles mangled and bodies strewn across Route 2, the defendant was arrested and charged with seven counts of negligent homicide on June 24, 2019. He waived arraignment on those charges and entered pleas of not guilty on June 25, 2019. On October 18, 2019, the defendant was indicted on seven charges of manslaughter, seven charges of impaired negligent homicide, seven charges of negligent homicide, one charge of aggravated driving while intoxicated, and one charge of reckless conduct with a deadly weapon. The defendant waived arraignment on these additional charges, and waived argument as to the State’s request for preventative detention.

3. On March 27, 2020, the defendant filed a motion for a bail hearing, arguing that updated and contested developments in an expert accident reconstruction analysis report issued by the Crash Lab warranted the defendant’s release on bail. On April 6, 2020, the State filed an objection, arguing that the defendant’s undisputed and substantial recent history of drug abuse, and driving while impaired, warranted his continued detention pending trial. On April 7, 2020, the Court denied the defendant’s motion for bail, citing the reasons set forth in ¶¶ 1-10 of the pleading captioned, “State’s Objection to Defendant’s Motion for Evidentiary Bail Hearing.”

The defendant filed a motion to reconsider, which was objected to by the State, and likewise denied by the Court on April, 20, 2020.

4. The defendant next filed a renewed motion for bail hearing on September 16, 2020, reiterating many of the same arguments found in his first motion for bail, with an emphasis on the merits of the State's case regarding the issue of impairment. The defendant argued the State could not prove that the defendant was impaired and should thus be released from preventative detention. The State filed an objection to the defendant's motion on September 25, 2020, arguing that whether the defendant should be released on bail does not hinge upon whether the State can prove that he was impaired, though the State is capable of proving so. The critical consideration for purposes of preventative detention is whether there is "clear and convincing evidence that release will endanger the safety of [the defendant] or the public." RSA 597:2, IV(a). The State argued that the defendant is a demonstrated threat to the public and himself and nothing in the defendant's motions, or discovery provided to defense, changes that. The Court issued an order denying defendant's renewed motion for bail hearing on October 14, 2020.

5. The defendant's newest motion remains largely unchanged in substance from its predecessors, with the exception of making a more forceful argument that incorrectly lays effectively all of the blame for trial delays upon the State's shoulders. The defendant continues to argue the merits of the case, falsely submitting that the new indictments confirm what he characterizes as the weaknesses with the State's case, notwithstanding the fact that the defendant has been aware since early 2020 that the State intended to re-present the case to the Grand Jury following release of the Crash Lab report. Apart from the additional speedy trial arguments, the defendant's motion presents a repackaged attack on the merits of the case that were presented in his earlier motions for bail.

## TRIAL SCHEDULING

6. Although on August 20, 2020, trial was scheduled for November 2020, the Court and both parties later agreed that the continuing Covid protocols would preclude a November 2020, jury trial, and trial was rescheduled to begin in March 2021. As the defendant noted, in January 2021, “the parties agreed” to a May 2021 trial due to ongoing Covid protocols making a March 2021 trial unrealistic. Def.’s Mot., at ¶ 7. Accordingly, the trial was postponed to May 2021. In February 2021, the parties agreed to postpone the trial to June 2021.

7. While now presenting the veneer of outrage at the trial delays, the defendant acknowledges that both the defendant and the State agreed that due to the Covid protocols being “in place for the foreseeable future, the parties agreed to postpone the trial to May 2021.” Def.’s Mot., at ¶ 7. It has been the State’s understanding that the defense intends to depose approximately twenty State’s witnesses.<sup>1</sup> Yet, as of January 2021 they had failed to depose a single expert or law enforcement witness for the trial scheduled first for November 2020, then for March 2021, May 2021, and ultimately June 2021. That number of outstanding depositions made a trial for March 2021, May 2021, or June 2021 highly unrealistic and unlikely. To date, the defendant has still failed to depose a single State’s witness, or propose any available dates for its experts to be deposed.

8. As this Court is aware, a teleconference was held on March 29, 2021, in which both parties agreed a June 2021 trial was not feasible. The State recommended an early 2022 trial and the defendant requested a September 2021 trial. The State detailed a conflict with the

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<sup>1</sup> Defense counsel have indicated that they will be doing depositions of the following State’s witnesses: approximately ten responding law enforcement officers; the State’s collision analysis and reconstruction experts; and its toxicology experts.

September trial timeframe.<sup>2</sup> In consideration conflicts presented by both parties and the state of Covid-19, the Court focused on jury trial dates in the November 2021/December 2021, timeframe. Following the hearing, the Court issued a scheduling order setting jury selection to begin on November 29, 2021, docketing a ten-day jury trial to begin on December 1, 2021. The State took no position to the defendant's April 1, 2021, motion to reschedule trial for earlier in November, and the Court granted defendant's request to move jury selection to November 16, 2021, with a 17-day jury trial to commence on November 29, 2021.

9. The scheduling history illustrates the degree to which all parties and the Court have been working diligently to set realistic trial dates. To assign responsibility for the most recent delay solely to the State at this point is inconsistent with both external forces surrounding Covid-19 and resulting court closures and restrictions, and disregards the internal actions of the parties in preparation for trial, including [REDACTED]

10. Regarding the emails, the prosecution team contacted defense counsel, at the latest, in January 2021, to inform them that it was made aware of a number of e-mails in the State's custody that would need to be reviewed for exculpatory evidence, and that exculpatory material would be provided to defense counsel to the extent that such material is contained within the e-mails. Due to the substantial volume of e-mails, the State has been providing defense counsel with material determined to be exculpatory on a weekly basis, and anticipates

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<sup>2</sup> As the Court is aware, Assistant Attorney General Scott Chase is currently scheduled for a bi-furcated first degree murder trial in Strafford County from the end of September 2021, until the beginning of November 2021. Due to the scheduling of this matter, the Attorney General's Office is working toward removing Attorney Chase from the Strafford County murder trial.

completing its review and providing all potentially exculpatory material based on its review within approximately 30 days.

11. Although the e-mails being reviewed by the State and provided to defense counsel weekly have been offered by the defendant as the principal reason for the latest trial delay, the defendant has not conducted a single deposition of any of the law enforcement officers or expert witnesses identified by the State (even prior to the State alerting the defendant to the existence of the e-mails when the matter was docketed for a March, 2021, jury trial and November, 2020, before that). Further unacknowledged by the defendant, is that he also continues to provide supplemental expert reports to the State. Defense counsel provided a supplemental expert report from Steve Benanti, its traffic accident reconstruction specialist, on March 26, 2021, the Friday before the most recent status conference. Finally, the defendant has indicated that a further expert report will be forthcoming from its toxicology expert, Edward Sellers.

### **DANGEROUSNESS**

12. The critical consideration for purposes of preventative detention is whether there is “clear and convincing evidence that release will endanger the safety of [the defendant] or the public.” RSA 597:2, IV(a). The defendant is a demonstrated threat to the public and himself. Nothing in the defendant’s newest motion, or discovery provided to defense, change that.

13. Preventative detention is governed by RSA 597:2, which states in pertinent part:

If a person is charged with any criminal offense...the court may order preventive detention without bail, . . . only if the court determines by clear and convincing evidence that release will endanger the safety of that person or the public. The court may consider all relevant factors bearing on whether the release will endanger the safety of that person or the public.

RSA 597:2. Release of the defendant during the pendency of this case will endanger the safety of the public and the defendant. This is demonstrated by the fact that the defendant was already released and on bail of a \$2,500 non-surety bond in connection with another charge of driving under the influence of drugs, on May 11, 2019, in East Windsor, Connecticut, the month before the fatal collision, which notably also involved the defendant's use of drugs.

14. Regarding the defendant's Connecticut arrest on May 11, 2019, the police were dispatched to a Walmart parking lot at about 9:40 a.m., for a man who was acting erratically and had been observed revving the engine of his vehicle in the parking lot. The defendant was identified by the officers as the person of interest, and was observed twitching, making random, spontaneous movements with his arms and legs, appeared to have sores around his mouth, and was speaking in a hyperactive manner, among other observations. The defendant's pants were wet in the area of his crotch, and his pants were unzipped. The defendant agreed to perform a number of field sobriety tests, which he failed. The defendant was arrested for driving under the influence, and submitted to a breathalyzer test at the police station, which came back with a reading of 0.000 blood alcohol concentration. The defendant was given an opportunity to then take a blood test, which he refused. As a result of his refusal to take a chemical alcohol test, the defendant's right to operate a motor vehicle in Connecticut was revoked for a period of forty-five days by the Connecticut Department of Motor Vehicles. The defendant's conduct only escalated in seriousness a month after he was charged and bailed in connection with this incident. Indeed, the defendant has already once been afforded bail in the face of a serious criminal charge involving similar conduct, and yet persisted in a course of drug use while driving, that was patently dangerous to himself and the public. Conduct that culminated in seven fatalities, life-altering injuries, and immeasurable misery to other people.

15. Moreover, neither the immediate collision nor his Connecticut arrest were the defendant's first foray into impaired driving. On January 10, 2014, the defendant pleaded to sufficient facts to support a conviction of operating under the influence of liquor in West Springfield, Massachusetts. In that case the defendant was observed driving straight through a stop sign and striking a parked vehicle, which had been parked on the opposite side of the road from the defendant's lane of travel. The defendant then continued to drive away, and was observed by a witness to have thrown an object from his vehicle into some bushes, the object was later recovered by police and discovered to be a 375 ml. bottle of Hennessy Cognac, that was about a quarter-full of liquid. The defendant failed a number of field sobriety tests, and submitted to a breathalyzer test, which yielded results of 0.148 and 0.146 blood alcohol concentration, almost double the legal limit to drive.

16. The defendant's criminal record also illustrates a dangerous pattern of illicit drug use. On March 21, 2018, the defendant pleaded guilty to possession of heroin, and cocaine. On February 11, 2019, the defendant was arrested by the Baytown, Texas Police for possession of drug paraphernalia, after he was observed acting erratically in a Denny's Restaurant while on a long-distance commercial trucking haul.

17. The dangerousness of the defendant's drug consumption could not have been made clearer to him than it was on May 5, 2019, just prior to his arrest in Connecticut, and also the month before the fatal collision at issue. On that day, the defendant suffered an overdose in a parking lot in Agawam, Massachusetts. Agawam police and fire rescue were called to a parking lot where the defendant was found lying on the ground, blue in the face, with a weak pulse and fixed pinpoint pupils. The defendant was administered two intranasal doses of Narcan by police, and a third intravenous dose of Narcan. After being administered the third dose of Narcan, the

defendant finally became responsive, and confessed that he had snorted three bags of heroin. Thus, there is no doubt that the defendant was aware of the extreme dangerousness and impairing effects of the street drugs he was consuming.

18. Although not explicitly tied to the defendant's drug use on the day of another collision on June 3, 2019, it is important to inform the Court that the defendant, while operating a tractor-trailer carrying five vehicles in tow and traveling down an interstate in Baytown, Texas, flipped the 18-wheeler when an "unknown unit" cut him off – a crash that occurred just 18 days prior to the collision in Randolph that resulted in tremendous tragedy, 29 days after he overdosed at the Pynchon Point parking lot in Agawam, Massachusetts, and 23 days after he was arrested in East Windsor, Connecticut for driving under the influence of controlled drugs.

19. The defendant's perception of his unlawful impairment at the time of the crash is wrong. The evidence demonstrates impaired and reckless driving on June 21, 2019. The defendant readily discards the shocking fact that he admitted that before getting behind the wheel of a commercially operated truck and trailer, he ingested a mixture of potent illegal street drugs.<sup>3</sup> The defendant told police in an interview on June 24, 2019, that he had consumed two "superman" branded baggies of heroin, and a half of a gram of cocaine on the morning of the fatal crash, and that he combined the heroin and cocaine when he used them. The defendant also admitted that was still feeling the effects of the cocaine at the time he left a car dealership in Gorham, New Hampshire, about a half-hour before the crash occurred. He even admitted that he could still **feel the effects of the cocaine at the time the fatal crash occurred**. After the crash, the defendant consented to have a sample of his blood drawn for chemical testing. The test corroborated the defendant's admissions, as his blood contained 6.7 nanograms per milliliter

(ng/ml) of fentanyl, 21 ng/ml of morphine, and over 1000 ng/ml of benzoylecgonine (a metabolite of cocaine). While the defendant claims his admission of feeling the effects of cocaine was “inconsistent” with certain lab findings, he ignores the presence of 6-monoacetylmorphine (6-MAM) in his blood, which is the 6-monoacetylated form of morphine, which is pharmacologically active, and when present, it is generally indicative of recent heroin use.

20. The defendant’s drug use and admissions are further corroborated by eyewitness observations on the defendant’s failure to maintain control of his commercial vehicle on the day of fatal collision. During the half-hour before the crash, multiple witnesses observed the defendant driving in a manner consistent with impairment and certainly in a manner that endangered the public. The witnesses observed the defendant’s truck and trailer weaving within his lane, and cross the double-yellow line on several occasions. More telling, is an oncoming motorist who, immediately preceding the crash, had to slam on his brakes and swerve out of the way to avoid the defendant’s truck, which was driving the wrong way in his lane of travel. Contrary to defendant’s assertions in his motions for bail, many of the State’s witnesses positively identified the defendant’s dangerous, erratic driving moments before the collision that resulted in the deaths of seven motorcyclists and serious injury to an eighth rider.

21. What is more, the fact that he had just caused a crash that killed seven people and maimed another was not enough of a catalyst to halt his drug consumption. The defendant told investigators that after the collision on June 21, 2019, and prior to his arrest on June 24, 2019, that he returned to his home in West Springfield, where he continued to consume what he believed to be heroin.

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<sup>3</sup> The combined weight of the truck and trailer was over 10,000 pounds.

22. While the defendant initially told investigators he historically used about three to four bags of heroin per day, on June 25, 2019, while being held at the Coös County House of Corrections, the defendant requested medical attention because he was detoxing. When asked what he was detoxing from, the defendant responded “dope and alcohol,” stating that he is an “alcoholic.” When asked what quantities of these substances the defendant consumes on a daily basis, he responded that he drinks a bottle of “Hennessy” brand liquor every day, and consumes ten approximately “quarter-sized” bags of heroin each day.

23. The defendant’s motion for bail does not attempt to address these specific and previously articulated points, which demonstrate the out of control and dangerous behavior of the defendant—prior to, the day of, and immediately following the fatal collision in this case. Instead, the defendant simply incorporates the unavailing arguments that he previously made, which sidestep the proper statutory considerations of dangerousness under RSA 597:2, by arguing: (1) the law enforcement officers who interacted with him did not detect his impairment; and (2) the Crash Lab’s February 14, 2020 report and August 31, 2020, addendum conclude that a brake mark indicates the defendant perceived the hazard and applied brakes in a reasonable time.

24. The defendant also plainly mischaracterizes certain findings by The Crash Lab. The defendant claims that The Crash Lab found that “it was the tire failure resulting from that impact that caused his truck and trailer to veer into the oncoming lane.” Def.’s Mot, at ¶24. The Crash Lab made no such conclusion. In the first instance, the Crash Lab concluded that defendant’s driver’s side truck tires were traveling atop the double-yellow centerlines, and that “the outer left edge of the unladen trailer would have been approximately 12 inches into the eastbound lane” (the motorcyclists’ lane of travel) just prior to collision and at the point of initial

collision. See Addendum to our Analysis Report dated February 14, 2020, finalized by the Crash Lab on August 31, 2020 (hereinafter “The Crash Lab Addendum”) at ¶ 56; and see also Fig. 6. Further clarifying its position, The Crash Lab noted, “[W]e determined that the front wheel of the Harley Davidson would have been approximately 6 inches inside the eastbound lane [the motorcyclists’ lane of travel] from the southern yellow centerline.” Id. at ¶ 45. The Crash Lab documented the presence of the Dodge Ram 2500’s front driver’s side tire blowout upon impact that resulted in a catastrophic loss of air, to which defendant now attributes his loss of control. However, the Crash Lab did not conclude that the catastrophic loss of air as the result of the initial contact with the lead motorcycle caused him to veer further into the motorcyclists’ lane of travel. The only conclusion about the air loss to the tire was that “[t]he characteristics of the flat tire mark caused by the catastrophic air loss of the Ram 2500’s left front tire indicates the wheel was still rolling, generally in a forward direction.” Id., at ¶ 37.

25. The State does not need to prove that the defendant was “stumble down drunk.” There is more than sufficient evidence to prove the defendant was impaired beyond a reasonable doubt, especially given that “the State [is] required only to prove that [his] ability to operate [his] vehicle was ‘impaired to any degree.’” State v. Kelley, 159 N.H. 449, 451 (2009). However, the State need not address the merits of the case in this pleading because “[the Court] rules do not provide for a pretrial determination of the sufficiency of the evidence in criminal cases.” State v. Valentin, No. 2016-0209, at 6 (N.H. June 30, 2017) (non-precedential order) (citing State v. Bisbee, 165 N.H. 61, 65–66 (2013)).

26. Even assuming *arguendo* that the evidence of his impairment was insufficient to prove beyond a reasonable doubt that he was legally impaired, the defendant remains charged with seven charges of manslaughter, seven charges of negligent homicide pursuant to RSA

630:3,I, and one charge of reckless conduct with a deadly weapon, all charges which do not require proof that he was legally impaired. Notably, evidence of his impairment would still be admissible to support convictions for those charges. See, e.g., State v. Ebinger, 135 N.H. 264, 267 (1992) (evidence of defendant's alcohol consumption was relevant to charge of criminally negligent vehicular homicide even if the evidence was insufficient to convict him of causing the death of another while driving under the influence of alcohol).

27. Beyond the defendant's impairment by illicit narcotics, the defendant was inattentive. The defendant was driving a commercial motor vehicle with a commercial driver's license. Commercial carriers have a heightened need for attention and safety, given the increased size of the vehicles they operate, and extended periods of driving they engage in. However, the defendant admitted that when he failed to keep his commercial truck in his lane of travel, and smashed into a group of oncoming motorcycles, he had completely diverted his attention from the roadway and oncoming traffic. He said that he was attempting to retrieve a beverage from the center console of his truck. In fact, the defendant was so distracted that after he careened through a group of motorcycles, dragging victim's bodies and motorcycles across the oncoming lane, he told investigators in an interview conducted the night of the crash that he did not even know what he had hit. According to him, he thought he had hit another car, not a group of motorcycles.

28. Based on the facts surrounding the crash on June 21, 2019, the fact that the defendant was on bail, the defendant's unyielding drug use, and his prior related criminal history, preventative detention is the only sufficient means for this Court to protect the public and the defendant.

29. In his latest motion, the defendant cites the State's new indictments that were returned by the Statewide Grand Jury for Coös County on March 11, 2021, in support of his argument that the Court should consider the merits of the charges in reaching a decision on bail. The tenor of his latest motion is that the defendant has only now, upon return of the new indictments by the Statewide Grand Jury, learned of the reason for why the State eliminated certain language from the indictments. Any such inference is inconsistent with the facts. The information that compelled the language adjustment and return of the case to the grand jury was made available to the State and the defendant in early 2020 – at which time the State communicated to defense counsel that it would be returning to the grand jury in order to eliminate certain language.

30. The defendant has offered, as a basis for bail, the Crash Lab's conclusions in their Analysis Report dated February 14, 2020, in every one of his motions for bail, and included the Crash Lab's Addendum to analysis dated August 31, 2020, as one basis for his Renewed Motion for Bail Hearing that was filed on September 16, 2020. But nothing in the Crash Lab's report or addendum change the facts cited by the State that justify preventative detention. The information provided by the Crash Lab's report further cements the fact that the defendant caused the collision with the first motorcycle when he failed to keep his commercial motor vehicle in his own lane of travel, which resulted in his truck and trailer veering into the oncoming lane, where he struck, killed, and maimed additional motorcyclists. That result must be considered in light of the defendant's admitted drug use that day, his history of prior and unrelenting drug use, his bail status at the time, and his criminal history. Together, those facts prove that the defendant should continue to be held pursuant to RSA 597:2.

### **FLIGHT RISK**

31. Beyond the defendant's dangerousness to himself and the community, preventative detention is necessary because he poses a significant flight risk. New Hampshire RSA 597:2 provides:

The court shall order the pre-arraignment or pretrial release of the person on his or her personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, or cash or corporate surety bail, subject to the condition that the person not commit a crime during the period of his or her release, and subject to such further condition or combination of conditions that the court may require unless the court determines by a preponderance of the evidence that such release will not reasonably assure the appearance of the person as required.

The defendant has been indicted on numerous felonies and faces the potential penalty of decades in prison. If his bail conditions on his driving while impaired charge could not keep him from simply driving again—never mind driving safely—there are no conditions that this Court could put in place to guarantee his future appearance.

32. Moreover, the defendant is a Ukrainian national, with a status as a long-term permanent residence in the United States. As a result of the defendant's criminal conduct, an active detainer for deportation has been filed by the United States Immigration and Customs Enforcement Agency. As such, the defendant has a significant motivation to abscond from any future hearings, regardless of any combination of bail conditions imposed by this Court. Additionally, in review of recent summary translations of the defendant's recent recorded jail conversations with his family, the defendant discussed the prospect of residing in Ukraine in the future and his immediate family expressed to the defendant that his family in Ukraine will welcome him with open arms.

33. The defendant's flight risk alone is sufficient to establish by a preponderance of the evidence that release will not reasonably assure the appearance of the defendant. Moreover, upon information and belief, the defendant has immediate family members currently living in Ukraine. Because of his flight-risk, particularly in light of his continued pattern of criminal conduct, discussed *supra*, and his known ties to a foreign nation, this Court should find that no condition or set of conditions could reasonably assure the defendant's appearance in the future.

34. The defendant claims that it would be unconstitutional to continue his pretrial detention, in part, because he is "an individual with no history of violence." Defendant's Mot., at ¶ 13. This is not a question about whether the defendant is "violent." Danger comes in many shapes and sizes. In this instance, it comes from a man, who chose to mix together and snort street narcotics before driving his 10,000 pound commercial vehicle while transporting other cars. He chose to do this despite having previously plead to sufficient facts to support a conviction for operating under the influence and other drug-related crimes; despite having been actively facing another criminal charge for driving while under the influence of drugs; despite having suffered the personal consequences of an overdose the month before; despite crashing a tractor trailer on an interstate in Baytown, Texas two-and-a-half weeks prior to the Randolph collision; and even despite the clear warning signs that he was unable to operate his commercial truck and attached trailer as he weaved back and forth on the road in the time preceding the crash. The defendant may not be "violent," but he is no less dangerous to himself or others. Bail conditions and several other glaring red flags, all of which should have individually served as a sufficient warning as to the dangerousness of his conduct, did not keep him from turning his 10,000 pound truck and trailer into a destructive weapon in Randolph, and there are no bail

conditions this Court is capable of setting that will protect the public or the defendant, short of preventative detention.

35. Lastly, to the extent that the defendant points to an established understanding that the trial in this matter will be continued to a date no sooner than November 2021—the length of preventative detention is not a consideration enumerated in RSA 597:2. For the aforementioned reasons discussed supra, there is sufficient evidence to support by a finding of clear and convincing evidence that the release of this defendant will endanger the safety of the public and himself. The defendant’s motion should therefore be denied.

WHEREFORE, the State respectfully requests this Honorable Court:

- A. Deny the defendant’s renewed motion for bail; and
- B. Hold the defendant on preventative detention; or
- C. Schedule a hearing in this matter; and
- D. Grant such other relief as this Court deems just and equitable.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

April 16, 2021

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**CERTIFICATION**

I certify that this pleading has been provided to Jay Q. Duguay, Esq., and Steve Mirkin, Esq., New Hampshire Public Defender's Office, 134 Main Street, Littleton, NH 03561, through the Superior Court's electronic filing system.

/S/ John G. McCormick

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