

THE STATE OF NEW HAMPSHIRE

COÖS, SS.

MARCH 2022

State of New Hampshire

v.

Volodymyr Zhukovskyy

214-2019-CR-00078

**STATE'S RESPONSE TO SUPPLEMENT TO DEFENSE MOTION *IN LIMINE*:  
EVIDENCE OF DRUG USE ON DAYS PRIOR TO OR AFTER JUNE 21, 2019**

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, and responds to the defendant's supplement to his motion *in limine* regarding evidence of the defendant's drug use on days prior to or after June 21, 2019. In support thereof, the State submits the following:

1. On October 22, 2021, the defendant filed a motion *in limine* seeking an order precluding the State from introducing evidence of, or making reference to, the defendant's alleged drug use on any day other than June 21, 2019.<sup>1</sup> The defendant's motion did not specify any particular evidence he wished to exclude. The State objected, on the grounds that the defendant's motion was insufficiently clear, and on the grounds that such evidence is relevant and material for a number of reasons.

2. The court conducted a hearing on the motion on November 9, 2021. In a November 16, 2021 order, the court denied the defendant's motion without prejudice on the grounds that the defendant had not identified specific evidence he sought to exclude.

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<sup>1</sup> The defendant did not seek to preclude the State from introducing or referencing evidence regarding the defendant's overdose on May 5, 2019 in Agawam, MA. That issue has been separately litigated.

3. The defendant has now filed a supplement to his October 22, 2021 motion *in limine*, in which he identifies specific pieces of evidence he claims should be excluded, based on the authority cited in his previous motion. The State provides its responses to each specific piece of evidence below.

4. The State agrees not to introduce the evidence in paragraphs 1, 4, 5, 6, 7, 8, 8, 10, 12, and 13 during its case-in-chief.<sup>2</sup> The State reserves the right to present this evidence for the purpose of impeachment and/or rebuttal.

5. The evidence the defendant references in paragraphs 2 and 3 comes from the defendant's June 24, 2019 interview with the New Hampshire State Police. The parties have engaged in discussions over which portions of that interview should be redacted. The State has indicated which of the defendant's proposed redactions it will object to, and provided its assent to the defendant's motion to extend the deadline for a motion *in limine* on the issue until April 15, 2022. The court granted the assented-to motion on March 16, 2022. As such, the court should deny the defendant's supplement with regard to these paragraphs without prejudice, and address the evidence contained therein if and when the defendant files an appropriate motion *in limine*. The State objects with regard to the evidence the defendant referenced in paragraphs 2 and 3 on these grounds, and will provide argument in support of its objection at a later time.

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<sup>2</sup> The defendant's supplement includes two paragraphs numbered "8," and skips the numbers "9" and "11." The first paragraph 8 refers to information obtained from a June 26, 2019 interview with Anthony Rogers, and the second refers to evidence of the defendant's arrest in Baytown, TX on a drug charge.

WHEREFORE, the State of New Hampshire respectfully requests that this Honorable Court:

- (A) Grant the relief requested;
- (B) Schedule a hearing on this matter should the Court find it necessary; and
- (B) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

March 25, 2022

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CERTIFICATE OF SERVICE

I certify that this pleading has been provided to counsel of record through the Superior Court's electronic filing system.

/s/ Joshua L. Speicher  
Joshua L. Speicher