

**THE STATE OF NEW HAMPSHIRE**  
**JUDICIAL BRANCH**  
**SUPERIOR COURT**

Rockingham County

Rockingham Superior Court

STATE OF NEW HAMPSHIRE

v.

BRANDON CASTIGLIONE

Docket No.: 218-2019-CR-01132

INTERIM ORDER ON STATUS OF COUNSEL

Defendant Brandon Castiglione stands charged with two alternate counts of Second Degree Murder. See Docs. 94–95 (Indictments). On October 2, 2019, the Court appointed the New Hampshire Public Defender’s office to represent Defendant in this matter. See Doc. 5. The next day, Attorney Eliana Forciniti entered an appearance as lead defense counsel. See Doc. 7. In December 2019, Defendant filed a motion to determine competency. See Doc. 16. The parties spent several months conducting discovery on that issue. Following a July 2020, hearing, the Court (Wageling, J.) found Defendant competent to stand trial. See Doc. 82 (Order issued Aug. 12, 2020).

In September 2020, while still represented by counsel, Defendant attempted to file two motions on his own behalf. See Docs. 88, 90–91. Among other things, Defendant alleged a “breakdown in communication between” himself and his (then) appointed counsel. See Doc. 88 at 2. In response to those filings, the Court (Wageling, J.) issued Orders explaining Defendant could not file his own motions while represented by counsel. See Doc. 88 at 1; Doc. 91.

In February 2021, Attorney Delia McCarthy filed an appearance as co-counsel for Defendant. See Doc. 98. On March 30, 2021, defense counsel filed an ex parte motion concerning the status of counsel. See Doc. 102. Following an April 5, 2021, hearing, no change in counsel occurred. See Doc. 105.

During a July 14, 2021, status conference, the Court (Wageling, J.) and the parties discussed the trial schedule. See Doc. 123 (July 14, 2021, Order). Because Attorney Forciniti would not be available for the then-scheduled February 2022 trial, the Court advised Defendant he would need to agree to continue trial to June of 2022 and waive his speedy trial rights as to that continuance if he wanted Attorney Forciniti to continue to represent him. The Court also recognized during this discussion that any newly-appointed counsel might not be prepared for trial by February 2022. Id.

In August 2021, at Defendant's request, see Doc. 125, the Court (Wageling, J.) held another ex parte hearing with Defendant and his counsel. See Doc. 129 (Aug. 6, 2021, Order). Based on discussions that took place during this hearing, the Court understood that Attorney Forciniti would withdraw and another attorney from the New Hampshire Public Defender's office would take her place. See id. In memorializing these events, the Court observed, "[w]hile the July 14, 2021 order contemplated that the trial might be able to remain in February 2022, because of the delay in obtaining a decision from Defendant, that option is no longer realistic." Id. at 2.

On August 18, 2021, the Court was apprised that Attorney Robin Davis would be joining the New Hampshire Public Defender's office on September 13, 2021, and would thereafter replace Attorney Forciniti as lead defense counsel. See Doc. 134. On August 31, 2021, the Court (Honigberg, J.) held another ex parte hearing regarding the

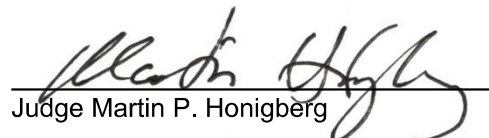
status of counsel. See Doc. 139 (Aug. 31, 2021, Order). After some discussion, the Court deferred making any rulings regarding counsel to allow Defendant an opportunity to meet with Attorney Davis. See id.

On November 17, 2021, Defendant filed another ex parte motion regarding the status of counsel. See Doc. 146. As a result, the Court (Honigberg, J.) converted a previously-scheduled December 1, 2021, hearing on pending motions to another ex parte hearing with Defendant and his counsel. See Doc. 148 (Dec. 2, 2021, Order). Based on the Court's discussion with Defendant that day, the Court "did not find it necessary to issue any further orders on the subject" of counsel at that time. Id. The hearing on pending motions was rescheduled to January 11, 2022. See id.

Prior to the start of the January 11, 2022, hearing, Defendant indicated he again wished to address the Court on an ex parte basis. As a result, this hearing was also converted to an ex parte hearing with Defendant and his counsel. In light of the history of this case, and the Court's observations during the January 11, 2022, hearing, the Court concludes that a further ex parte hearing on status of counsel is warranted. The Court will schedule such a further ex parte hearing as soon as reasonably possible as the docket permits. The Court will thereafter reschedule the hearing on pending motions that was originally scheduled for December 1, 2021, and was later rescheduled to January 11, 2022.

SO ORDERED.

January 13, 2022  
Date

  
Judge Martin P. Honigberg

Clerk's Notice of Decision  
Document Sent to Parties  
on 01/14/2022