

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

AUGUST, 2020

STATE OF NEW HAMPSHIRE

V.

BRANDON CASTIGLIONE

218-2019-CR-1132

MOTION REQUESTING AN EVIDENTIARY BAIL HEARING

NOW COMES the accused, Brandon Castiglione, by and through undersigned counsel, Eliana Forciniti and Sydney Hanson, New Hampshire Public Defender, and respectfully requests that this Honorable schedule an evidentiary bail hearing on the above matter.

The accused makes this motion pursuant to his rights to due process, confrontation, effective assistance of counsel, the presentation of all proofs favorable, and the right to a fair trial under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Part 1, Article 15 of the New Hampshire Constitution.

In support of this motion, the following is stated:

1. The State accuses Brandon Castiglione of Second-Degree Murder. The State is alleging in part, that Brandon recklessly caused the death of Luis Garcia by shooting him with a gun on October 1, 2019.
2. Brandon is pending indictment and jury selection has not been scheduled.
3. On October 2, 2019, Brandon was arraigned on these charges and held without bail at the Rockingham County House of Corrections pursuant to RSA 597:1-c. He has been housed at the house of corrections since that date. At his arraignment, the Defense did not request an evidentiary bail hearing. However, the Defense maintained its right to request one in the future.
4. On December 2, 2019, the Defense filed a motion to determine Brandon's competency. All pre-trial motions were stayed during the determination of competency.
5. On August 12, 2020, the Court issued a written order finding Brandon competent to stand trial (Wageling, J.).

6. The Defense now requests that the Court schedule an evidentiary bail hearing.
7. RSA 597:1-c states that “[a]ny person arrested for an offense punishable by up to life in prison, where the proof is evidence or the presumption great, shall not be allowed bail.
8. The State bears the burden under the statute to establish that Brandon is charged with an offense punishable by up to life and that the proof against Brandon is evident or the presumption great. State v. Furgal, 161 N.H. 206, 211 (2010). !!
9. The standard of proof at the hearing is clear and convincing. Id. at 217.

WHEREFORE the accused, Brandon Castiglione, respectfully requests that this Honorable Court:

- A. GRANT the within motion and schedule an evidentiary bail hearing; AND
- B. GRANT all further and favorable relief as justice may require.

DATED: 8/17/2020

Respectfully submitted,

Brandon Castiglione
By counsel,

/s/ Eliana Forciniti _____

Eliana Forciniti, #21160
New Hampshire Public Defender
142 Portsmouth Ave.
P.O. Box 679
Stratham, NH 03885
603-778-0526

CERTIFICATE OF SERVICE

I, Eliana Forciniti, do hereby certify that a copy of this notice was forwarded the Attorney General's Office on this __17__ day of August, 2020.

/s/ Eliana Forciniti _____

Eliana Forciniti, #21160