

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

SUPERIOR COURT

See narrative Order.

STATE OF NEW HAMPSHIRE

V.

BRANDON CASSTIGLIONE

#218-2019-CR-01132

MOTION TO RECONSIDER



Honorable David W. Ruoff

September 18, 2023

Clerk's Notice of Decision
Document Sent to Parties
on 09/19/2023

NOW COMES the defendant, Brandon Castiglione, by and through Counsel, Wade Harwood, Esq., and Amy Ashworth, Esq., and respectfully requests that this Honorable Court reconsider his sentence and amend his sentence in this matter to conform with the court's stated rationale. The following is stated in support of this Motion:

1. Following a jury trial in May of 2023, Brandon Castiglione (Brandon) was convicted of Second-Degree Murder.
2. At the sentencing hearing, the court imposed a sentence of 42 years to life in the New Hampshire State Prison. The court's stated rationale was that it intended Brandon to be incarcerated until the age of 64, because that was Luis Garcia's (Garcia) age when he was murdered.
3. A motion to reconsider "shall state, with particular clarity, points of law or fact that the court has overlooked or misapprehended." N.H. Rule Crim. Pro. 43.

4. Brandon was born on October 28, 1994. On October 1, 2019, Brandon was less than one month shy of his 25th birthday. Brandon has been incarcerated since that day and was given credit for that pretrial confinement.

5. The court made two mistakes in its math. Brandon was 24 years and 11 months old on October 29, 2019. A stand committed sentence of 42 years to life would make him eligible for parole a few weeks before he turns 67.

6. Additionally, Garcia was 60 years old when he was murdered, not 64. He was born on August 22, 1959. Disc. 4. He turned 60 years old on August 22, 2019. He was murdered approximately six weeks later.

7. The court's stated intention at the sentencing hearing was to have Brandon be eligible for parole at the age Garcia was when he was killed. As the court intended that Brandon become eligible for parole when he reaches the age of 60, which was Garcia's age at the time of his death, the court should have given Brandon a minimum sentence of 35 ½ years.

WHEREFORE, Mr. Castiglione requests that this Honorable Court:

A. Reconsider its sentence of 42 years to life; and

B. Sentence him to a minimum sentence of anywhere from 35 years and one month to 36 years as that meets the court's stated intention of having Brandon remain in prison until he reaches the age that Garcia was at the time he was murdered; and

C. Grant such further relief as justice requires.

Respectfully Submitted,

Dated: September 1, 2023

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion to Reconsider has been forwarded this 1st day of September 2023 to Senior Assistant Attorney General, Benjamin Agati, Esq., and Adam Woods, Esq. through the Court's electronic case filing system.

/s/ Wade Harwood, Esq.
Wade Harwood, Esq.