

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.
DOCKET NO. 218-2019-CR-1132

AUGUST, 2020

STATE OF NEW HAMPSHIRE

v.

BRENDAN CASTIGLIONE

**STATE'S OBJECTION TO DEFENDANT'S MOTION TO COMPEL "OUTSTANDING"
DISCOVERY**

NOW COMES the State of New Hampshire, by and through the Hillsborough County Attorney's Office, and objects to the Defendant's Motion to Compel "Outstanding" Discovery, stating in support as follows:

1. Defendant has been charged with Second-Degree Murder for allegedly recklessly causing the death of Luis Garcia by shooting him with a gun on October 1, 2019. Louis Garcia was Dale Holloway's step-father.

2. The undersigned represents the State in the case State v. Dale Holloway (226-2019-CR-00814). Defendant has been charged with two counts of Attempted Murder, two counts of First Degree Assault, one count of Second Degree Assault, Simple Assault and Felon in Possession of a Firearm relating to a shooting that occurred at the New England Pentecostal Church on October 12, 2019. The State has filed notice of its intent to seek extended term on the felony charges.

3. Defendant has also been charged with two counts of First Degree Assault and additional crimes resulting from a serious violent assault on his defense attorney while incarcerated at the Hillsborough County House of Correction. (Docket 216-2019-CR-1856).

4. Defense counsel for Mr. Castiglione seeks "outstanding" discovery from the State in Mr. Holloway's Attempted Murder case. The State objects to providing said discovery.

5. First, the requested discovery cannot be termed “outstanding” by any stretch of the law or imagination. Just because defense counsel has made a request for discovery in an unrelated case which the State has declined to provide, does not make the requested discovery “outstanding”.

6. Second, while the Attorney General’s office could arguably have intervened to provide the requested discovery, it has rightfully declined to do so as the case is being prosecuted by the Hillsborough County Attorney’s Office for the Southern District. It should also be noted that the Attorney General’s Office no longer has control over criminal cases at the Hillsborough County Attorney’s Office and never actually took any control over the cases in the Southern District.

7. Defense counsel’s bare claim that they are entitled to the requested materials is without merit. While defense counsel has peppered their motion with boiler plate legalese regarding the State’s discovery obligations (of which the State is well aware), defense counsel has utterly failed to state why they are entitled to the requested discovery.

8. The fact that the Holloway discovery exists does not make it discoverable by this defendant. The alleged “relatedness between the two cases alone” does not establish that “the information contained within the Holloway file is discoverable.”

9. While it appears that the alleged murder of Luis Garcia by Mr. Castiglione may have been the motive behind Mr. Holloway’s alleged shootings at the New England Pentecostal Church, the converse cannot be true as Mr. Castiglione clearly could not have been motivated by Mr. Holloway’s actions which had not even occurred at the time of Luis Garcia’s death. Because Mr. Castiglione’s actions occurred 12 days prior to Mr. Holloway’s, there is nothing to suggest that Mr. Holloway’s file could possibly contain any information that could be exculpatory to Mr. Castiglione.

10. It should be noted that despite 18 paragraphs of “factual allegations”, defense counsel has utterly failed to point to any facts or allegations which would support its claim that the Holloway discovery should be provided as “potentially exculpatory.”

11. Accordingly, the State declines to provide the requested discovery.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Deny the Defendant’s Motion to Compel;
- B. Schedule a hearing thereon, if necessary; and
- C. Grant the State any such other relief as may be proper and just.

DATED: August 19, 2020

Respectfully Submitted,

/s/ Catherine M. Devine
Catherine M. Devine #629
Assistant County Attorney

CERTIFICATION

I hereby certify that a copy of the foregoing pleading has this day been sent to Eliana Forciniti, Esq., counsel for the defendant and Donna Jean Brown, Esq., counsel for Mr. Holloway.

/s/ Catherine M. Devine
Catherine M. Devine