

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SEPTEMBER TERM, 2023

State of New Hampshire

v.

BRANDON CASTIGLIONE

218-2019-CR-01132

STATE'S OBJECTION TO DEFENDANT'S MOTION TO RECONSIDER

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and OBJECTS to the defendant's Motion to Reconsider, and in support thereof states as follows:

1. The defendant, through counsel, has filed a motion asking the Court to reconsider the sentence imposed on the defendant on August 25, 2023. For the reasons below, the State objects.

2. First, the defendant fired his prior counsel, Attorneys Harwood and Ashworth, just prior to the sentencing hearing on August 25th, and proceeded thereafter *pro se*. The Court, both orally and by written order, granted the defendant's request on that date to proceed *pro se* and further ordered that Attorneys Harwood and Ashworth were to act only as standby counsel. Their only other obligation as standby counsel following sentencing is to draft and file a Notice of Appeal and Application for Court Appointed Counsel on Appeal. As the defendant's current motion is neither of the pleadings, the motion to reconsider was inappropriately filed by prior counsel on behalf of the defendant and should be denied.

3. Should the Court allow the motion to reconsider, however, it should nevertheless be denied as it fails to state, with particular clarity “points of law or fact that the court has overlooked or misapprehended.” N.H. R. Crim. Proc. 43.

4. At sentencing, the Court (Ruoff, J.) explained its reasoning at length, including all the aggravating factors, of which there were many, and mitigating factors, of which there were none. In explaining the defendant’s sentence, the Court also mentioned that the defendant would be released at age 64, the age his victim, Mr. Garcia, would have been shortly after sentencing had he not been brutally murdered by the defendant. While the Court mentioned the defendant’s and Mr. Garcia’s ages in its reasoning, the lengthy discussion of all the factors necessary at sentencing made clear the Court’s intent was to render the just and fair sentence of 42 years to life at the New Hampshire State Prison. It also makes clear that the Court neither overlooked or misapprehended any point of law or fact in imposing its intended sentence of 42 years to life.

5. The defendant’s motion should be denied.

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

(A) Deny the defendant’s motion to reconsider as inappropriately filed by standby counsel; or

(B) Deny the defendant’s motion to reconsider for failing to state with particular clarity any point of law or fact that the Court has overlooked or misapprehended; and

(C) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: September 5, 2023

/s/ Adam L. Woods

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CERTIFICATE OF SERVICE

I certify that a copy of this pleading was uploaded through the e-filing system which provides service to standby counsel for the defendant, Wade Harwood, Esq. and Amy Ashworth, Esq., as well as by hard copy to the defendant at the New Hampshire State Prison mailed through the U.S. Postal Service.

September 5, 2023

/s/ Adam L. Woods

Adam L. Woods