

THE STATE OF NEW HAMPSHIRE

BELKNAP, S.S.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

VS.

JAXEN COLE

211-2024-CR-62

STATE’S RESPONSE TO MOTION FOR JUDICIAL CONSTRUCTION

NOW COMES THE STATE, by and through counsel, Alexander J. Smeaton, Esq., and opposes the defendant’s motion to compel a drug court evaluation, and respectfully requests that this honorable Court deny the motion.

ARGUMENT

The Court should adopt a plain meaning definition of the term identifiable individual

1. The Legislature did not include a definition of the term ‘identifiable individual’ in RSA 638:26-a. In this situation, the Court has held that when interpreting a statute where possible “we ascribe the plain and ordinary meanings of the words used.” *State v. Cobb*, 143 NH 638, 644 (1999) quoting *Great Lakes Aircraft Co. v. City of Claremont*, 135 NH 270, 277 (1992). The word identify is defined by Merriam-Webster’s online dictionary as “To ascertain the identity of someone or something that is unfamiliar or unknown.” Merriam-Webster, <https://www.merriam-webster.com/dictionary/identify> (2026). Individual is defined as “A particular person.” *Id.* Further, the State Legislature in RSA

638:26-a made both audio and visual deepfakes actionable, clearly demonstrating their intention that this apply to recordings where there is no image of the speaker. RSA 638:26-a,I(b). In this case, after viewing the deepfake in question the voice in the recording was identified by other Laconia police officers to be that of the Officer Skehan, making him an “identifiable individual” under the plain meaning of those words. The fact that there is no image of Officer Skehan should be irrelevant to the Court.

2. The State takes no position on the argument regarding parody and satire exception.

WHEREFORE, the State respectfully requests this Honorable Court:

- A. Deny the defendant’s motion to compel a drug court evaluation; and
- B. Grant such other and further relief as may be just.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

Dated: November 4, 2025

/s/ Alexander Smeaton_____

Alexander J. Smeaton, Esq. #271804

Assistant County Attorney

Belknap County Attorney's Office

64 Court Street

Laconia, N.H. 03246

(603) 527-5440

CERTIFICATION

I hereby certify that a copy of this Pleading was sent to Attorney Allison Ambrose, Esq.

/s/ Alexander Smeaton_____

Alexander J. Smeaton, Esq.