

Clerk's Notice of Decision  
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on 08/22/2025

THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

CARROLL, SS.

JUNE 2025

DEFERRED, by agreement, until  
trial. See record of hearings on  
7/21/25 and 8/21/25.

State of New Hampshire

v.

William Kelly



Honorable Mark D. Attori

Docket No: 212-2023-CR-337

August 21, 2025

**STATE'S MOTION IN LIMINE: PRIOR BAD ACTS OF DEFENDANT**

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and hereby submits this Motion in Limine regarding the defendant's prior bad acts. In support of this motion, the State submits the following:

**FACTS<sup>1</sup>**

1. The defendant is charged with two counts of Second Degree Murder for recklessly causing the deaths of Chrstine Falzone, as well as her unborn child, on December 17, 2023. An autopsy conducted after Ms. Falzone's death confirmed her pregnancy.

2. Ms. Falzone's father, Dominic Falzone, was interviewed by investigators after Ms. Falzone's death. Mr. Falzone told investigators that Ms. Falzone had met the defendant approximately three years prior in a program in the Rochester/Somersworth area. Ms. Falzone originally moved in with the defendant in Tuftonboro, then stayed with one of Mr. Falzone's friends, and then entered into a program when a bed became available. At some point after that, Ms. Falzone moved in with the defendant at 332 Water Village Road in Ossipee, where the murder occurred.

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<sup>1</sup> The facts set forth in this motion are based on information contained in Discovery previously provided to the defense.

3. Mr. Falzone detailed several instances where the defendant had assaulted his daughter while they were living at 332 Water Village Road. He stated that he had never seen the inside of the residence and that when he would go to see his daughter, he was only allowed to pull into the driveway up to a certain point and that Ms. Falzone would be waiting for him outside. Mr. Falzone would go to the residence to bring his daughter food and prepaid phone cards. Mr. Falzone would stop by the residence approximately every two weeks and would need to give advance notice before he arrived. The last time Mr. Falzone visited the residence was approximately two weeks before Thanksgiving of 2023.

4. The defendant would watch closely when Mr. Falzone visited. During one occasion when Mr. Falzone stopped by, the defendant came outside pointing a shotgun at him. Mr. Falzone left the residence but did not call the police.

5. Neither Ms. Falzone nor the defendant owned a vehicle, and Ms. Falzone rarely left the residence except for appointments. If she did leave the residence, her landlord would typically have to give her a ride.

6. A review of the defendant's criminal history revealed that he has a prior conviction for Second Degree Assault; Domestic Violence out of this Court on August 19, 2019. The victim in that case was not Ms. Falzone.

7. At trial, the State intends to introduce evidence regarding Ms. Falzone's inability to leave the house, the defendant's vigilance of her, and the restrictions placed on Mr. Falzone's contact with her. This evidence does not fall within the purview of New Hampshire Rule of Evidence 404(b), but instead is governed by Rule 403 and its low threshold of relevancy. The State does not intend to introduce evidence of the defendant's prior bad acts, specifically, the prior assaults described by Mr. Falzone, the threatening incident with a shotgun and the

defendant's other assaultive behavior, unless the door to such evidence is opened by the defendant at trial.

### LAW & ARGUMENT

8. Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determination more or less probable than it would be without the evidence. *N.H. R. Ev.* 401. Evidence which is not relevant is not admissible. *N.H. R. Ev.* 402. Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. *N.H. R. Ev.* 403.

9. Ms. Falzone's inability to leave the residence where she resided with the defendant, combined with evidence regarding the defendant's constant vigilance over her and the conditions her father had to meet in order to see her are relevant to establish why Ms. Falzone's family were unaware of her pregnancy prior to her death, as well as to explain why there was no documentation or confirmation of the pregnancy until the autopsy was conducted.

10. Such evidence is further relevant to establish the defendant's attempts to conceal Ms. Falzone's pregnancy from others. When first responders spoke with the defendant after receiving the 911 call regarding Ms. Falzone, he attempted to tell multiple individuals that Ms. Falzone was not capable of getting pregnant, and that her stomach had just been distended for the last few months. Such self-serving statements are a clear attempt by the defendant to distance himself from the fact that he had just beaten his pregnant girlfriend to death, and his prior attempts to avoid others discovering the pregnancy clearly imply knowledge that the pregnancy existed at the time he killed Ms. Falzone. Such evidence tends to make the fact that the defendant

acted with extreme indifference to the value of human life by beating a pregnant woman more probable than it would be without such evidence. Nor is such relevancy outweighed, let alone substantially so, by “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” N.H. R. Evid. 403.

11. To be clear, the State does not intend to introduce prior bad acts evidence in its case in chief. It simply intends to present evidence that Ms. Falzone did not have a vehicle and rarely left the house, conditions were set on her father’s visitation of her including advanced notice and how far onto the property he was allowed to park, and that on at least one occasion close in time to the murder, the defendant prevented Mr. Falzone from seeing his daughter.

12. The State does not intend to introduce, in the first instance, testimony from Mr. Falzone that the defendant had assaulted his daughter in the past or had threatened him with a shotgun, or other assaultive conduct by the defendant against others.

13. However, “[t]he defendant, by presenting certain evidence, may ‘open the door’ to the introduction of otherwise inadmissible evidence for the limited purpose of impugning the veracity of the witness presented by the defendant.” *State v. Mello*, 137 N.H. 597, 601 (1993). By means of this mechanism, “a misleading advantage may be countered with previously suppressed or otherwise inadmissible evidence.” *State v. Crosman*, 125 N.H. 527, 530 (1984).

14. If, for example, the defendant was to introduce evidence at trial that he is a peaceful or non-violent person, or enter testimony that he would never do something such as beating his pregnant girlfriend, the State would be entitled to counter such an assertion with the prior bad acts evidence outlined above. *See State v. Lesnick*, 141 N.H. 121, 130–31 (1996) (State permitted to introduce three discrete incidents of defendant’s prior violent conduct after defense witness testified that she did not believe the defendant was physically violent).

15. The defendant's prior assaults of Ms. Falzone, his threatening of her father, and his prior violent conviction<sup>2</sup> would be admissible evidence to rebut such a misleading impression, should the defendant open the door to such evidence at trial. This is but one example of the defense possibly opening the door and is not exclusive, and should the State believe the door to have been opened the State would first make appropriate application before the Court.

WHEREFORE, the State respectfully asks this Honorable Court to:

- A. Grant the State's motion; and
- B. Grant such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

JOHN M. FORMELLA  
ATTORNEY GENERAL

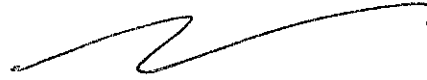
Date: June 25, 2025



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<sup>2</sup> The defendant has a lengthy criminal record, including felony convictions which may be admissible as impeachment evidence pursuant to Rule of Evidence 609. The State will confer with defense counsel prior to trial regarding any convictions the State believes are admissible under this rule, and attempt to reach an agreement regarding their introduction, should the defendant choose to testify. If agreement cannot be made, the State will file a motion on the matter before the final pretrial.

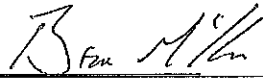


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via electronic filing to Brett Newkirk, Esq., and Katherine Canny, Esq., counsel for the defendant.



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Brian N. Greklek-McKeon