

THE STATE OF NEW HAMPSHIRE

COOS, SS.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

V.

DUSTIN DUREN

214-2024-CR-28

MOTION FOR RESTITUTION HEARING

NOW COMES the defendant, Dustin Duren, by and through counsel, Hanna K. Kinne and respectfully requests this Honorable Court schedule a hearing to determine the appropriate amount of restitution in this matter, pursuant to his state and federal constitutional rights to due process. In support, the following is stated:

1. The defendant has been sentenced by this Court, with an order to pay \$12,007.69 to Victim's Compensation. This amount was proposed by the state in its sentencing recommendation. The defense had requested a hearing in its proposed sentence recommendation.¹

2. The defendant recognizes some amount of restitution is authorized, however, the appropriate amount of restitution must be determined to satisfy due process and statutory rights.

3. The State has not provided proof as required by due process to justify the restitution amount. The state provided a letter to the defendant on December 3, 2025 (dated November 20, 2025) indicating the amounts paid out by the Victim Compensation Fund, including funeral expenses for the decedent, and expenses for the decedent's mother related to mental health counseling and lost wages. When the defenses requested supporting documentation the same day as receipt, the state followed up by providing different documentation that merely identified the amount requested, but in a different format.

4. The defendant's state and federal constitutional rights to due process at a sentencing hearing apply to his restitution hearing. *State v. Eno*, 143 NH 465, 468 (1999). A

¹ The defendant did not address this issue at the sentencing hearing out of respect for C.N.'s family.

sentencing court has broad discretion in choosing the sources and types of evidence on which to rely. *United States v. Curran*, 926 F.2d 59, 61 (1st Cir. 1991); see also *State v. Naughton*, 139 N.H. 73, 78 (1994). "It is well settled, however, that a defendant has a due process right to be sentenced upon information which is not false or materially incorrect." *Curran*, 926 F.2d at 61. Accordingly, our review of the process of determining the amount of restitution concerns the quality and veracity of the information used and "the ability of the defendant to have a meaningful opportunity to point to its deficiencies." *Naughton*, 139 N.H. at 78. The court in its discretion may withhold certain documents from the defendant that the court has determined are privileged. *United States v. Alvarado*, 909 F.2d 1443, 1446 (10th Cir. 1990). The defendant, however, must be provided a meaningful opportunity to rebut the evidence that bears on the sentence. *Curran*, 926 F.2d at 61-62."

5. "Determining the appropriate restitution amount is within the discretion of the trial court. *State v. Eno*, 143 NH 465, 470 (1999); See *State v. Fleming*, 125 N.H. 238, 241 (1984)."

6. "If the factual basis for restitution is disputed, however, the State must prove by a preponderance of the evidence "that the loss or damage is causally connected to the offense and bears a significant relationship to the offense." *State v. Eno*, 143 N.H. at 470; citing *Glaubius v. State*, 688 So. 2d 913, 915 (Fla. 1997); see also *United States v. Forzese*, 756 F.2d 217, 222-23 (1st Cir. 1985)."

7. Here, the state has not provided a sufficient legal basis under RSA 651:62 to support its restitution request.

8. This Court should schedule a hearing on the issue of restitution to determine the appropriate amount that satisfies the defendant's due process rights and statutory authority.

WHEREFORE the defendant respectfully requests this Court schedule a hearing on restitution.

Respectfully submitted,

/s/ Hanna K. Kinne

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CERTIFICATE OF SERVICE:

I hereby certify that a copy of this Motion has been forwarded electronically to Bethany Durand of the Office of the Attorney General this 30th day of December, 2025.

/s/ Hanna K. Kinne

Hanna K. Kinne, Esq.

After reviewing this Motion and the State's Response, and considering all factors presently before the Court given the history of this case, the Court deems it prudent to proceed in the following fashion: the Court will schedule a 15 minute Status Conference by WebEx, to be scheduled as the Court's docket permits, to confirm the scope of what disputed issues exist and the other practical considerations (length of hearing, scheduling, witnesses, stipulations as to admissibility, etc.). Further restitution hearing to be scheduled as the Court's docket permits based upon input from counsel during the Status Conference. So Ordered.



Honorable Jonathan S. Frizzell

January 13, 2026

Clerk's Notice of Decision
Document Sent to Parties
on 01/13/2026