

Clerk's Notice of Decision
Document Sent to Parties

on 03/28/2025

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

COÖS, SS.

MARCH TERM, 2025

Granted



Honorable Jonathan S. Frizzell

March 28, 2025

STATE

V.

DUSTIN MARK DUREN

214-2024-CR-00028

MOTION TO EXTEND DEPOSITION DEADLINE

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and respectfully requests an extension to its deadline to depose witnesses identified by the defendant. In support thereof, the State submits the following:

1. The defendant is charged with alternative counts of first-degree murder, purposeful, second-degree murder, knowing, and second-degree murder, reckless for killing Caitlyn Naffziger on February 29, 2024, in Berlin, New Hampshire. The defendant is further charged with reckless conduct with a deadly weapon and child endangerment related to his actions in the homicide.
2. On October 3, 2024, the Court granted an assented-to structuring proposal which established a trial date in July of 2025. That Order also scheduled deadlines for the case including for the taking of depositions. The Order established a deadline of March 15, 2025, for both sides to complete depositions of expert witnesses.
3. On February 6, 2025, counsel for the defendant provided an expert witness disclosure which consisted of a “forensic psychiatric evaluation” written by Dr. Roger M. Pittman.

4. On February 20, 2025, the State requested discovery from the defendant to include copies of all records that had been provided to and relied upon by this witness.

5. On February 27, 2025, the State filed a *Motion to Preclude Testimony of Defendant's Expert Witness (Pittman)*.¹

6. On February 28, 2025, the Court cancelled the July 2025, trial date. On March 10, 2025, the parties appeared at a structuring conference to discuss rescheduling this matter for trial. On March 11, 2025, the Court ordered that the trial will be rescheduled for a date in October 2025.

7. On March 11, 2025, counsel for the defendant provided multiple pages of records related to the previously disclosed expert witness.² In the disclosure, counsel noted that they had contacted the witness to request his notes or recordings and advised that such materials would be provided when they receive them.

8. Given the recent discovery provided related to the expert witness and the potential for additional discovery related to this witness, the State seeks to extend its deadline for depositions related to Dr. Pittman and potentially as to a second witness identified in the newly provided materials. The State is requesting that the deposition deadline related to these materials be extended to May 23, 2025.

9. The new deadline considers the pending motions hearing and the State's potential need to retain a responsive expert's guidance or report to complete deposition and trial preparation. Further, in light of the continuance of the trial, this extension will not impact the timeline of the yet-to-be scheduled October 2025, trial. Accordingly, the State requests the

¹ A motions hearing is scheduled for April 10, 2025.

² Several pages of the provided documents are illegible, and additional copies will be requested from defense counsel once all unreadable pages are identified.

Court grant the State an extension of the deposition deadline related to the defense expert witness materials until May 23, 2025.

10. On March 11, 2025, the State contacted counsel for the defendant over email to obtain their position on this motion. On March 12, 2025, counsel for the defendant through Attorney Hanna Kinne noted their objection to the State's request.

WHEREFORE, it is requested that this Honorable Court:

- A. Grant the State's motion for an extension of the deposition deadline for witnesses related to the defendant's expert witness disclosure; and
- B. Set a new deadline of May 23, 2025, for such depositions; and/or
- C. Grant such other and further relief as may be just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorney,

JOHN M. FORMELLA
ATTORNEY GENERAL

March 12, 2025

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was provided to counsel for the defendant, Hanna Kinne, Esq. and Margaret Kettles, Esq., through the Court's e-filing system.

March 12, 2025

/s/ Bethany J Durand
Bethany J. Durand, NH Bar #273943
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