

THE STATE OF NEW HAMPSHIRE

COOS, SS.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

V.

DUSTIN DUREN

214-2024-CR-28

OBJECTION TO TRANSCRIPT OR SUBTITLES FOR JURY

NOW COMES the defendant, Dustin Duren, by and through counsel, Hanna K. Kinne, Esq., and respectfully requests this Honorable Court deny the state's request to publish the transcript of the defendant's recorded interview to the jury during its viewing of the evidence. In support, the following is stated:

1. The defendant gave a lengthy interview to the police after his arrest. The interview was audio and visually recorded. The State requested some of the audio be transcribed.

2. The state may seek to play the video recording of the defendant's statements at trial. The state moves this Court allow it to simultaneously provide transcripts of the audio during its presentation, or play subtitles from the transcript on the screen.

3. The state argues the transcript will aid the jury. In its motion it states, "This type of visual aid is of assistance to jurors where audio can be difficult to hear or certain words such as names or locations may not be familiar. There is no concern of misleading a jury or confusing the issues especially when jurors have the recording itself in addition to the visual aid." The state does not intend the transcript to be introduced into evidence for further review during deliberations.

4. The state does not provide any examples from the video of sound quality concerns or specific unfamiliar locations or names. The defense would argue that the audio and video quality are perfectly acceptable. There is no background noise. There are no glitches in the audio. Further, as the court is aware of what the transcript contains, names and locations are seldom mentioned, nor are they relevant evidence.

5. Neither party receives the benefit of providing the jury with cumulative evidence. E.g. transcripts of body camera surveillance while that is displayed, or transcripts of audio

recordings while those are played.

6. The State cites State v. Cook in its motion. As noted, the defendant did not object to the use of the transcript during his trial. Cook 148 N.H. 735, 743 (2002). The Court found it harmless error that the transcript was erroneously submitted into evidence during deliberations. Id. The court reasoned that it could not envision how the presence of the transcript increases the likelihood that the jury would improperly focus upon the content of the tape where the tape itself was also available. Id.

7. Here, the defense objects. The concern is that the jury could improperly focus on the transcript as opposed to the admissible evidence- the video itself. The jury would have the benefit of seeing in writing the words of the transcriptionist, which is not the best evidence. NH R. 1002; 1004.

8. Moreover, as the state acknowledges in its pleading, the interview's law enforcement agent reviewed the transcript after its production and made corrections to the document. See attached report summarizing the process. The concern is this: the original transcript was apparently in need of correction, which was then corrected by the state's witness, who did not identify said corrections in the corrected version. Indeed, the discovery in this case is voluminous and duplicative in many instances and there was no obvious indication in discovery that Bates 1747-1919 was a corrected transcript. (Unlike in another area of discovery where law enforcement corrected the transcript of the CAC interview and provided obvious notice of such corrections).

9. The state may introduce evidence of the defendant's statements at trial, through original recordings and has not identified a compelling need for a transcript to aid the jury, and therefore this Court should deny its motion.

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 Joshua Speicher of the Office of the Attorney General this 16th day of October, 2025.

/s/ Hanna K. Kinne

Hanna K. Kinne, Esq.