

THE STATE OF NEW HAMPSHIRE

COÖS, SS

JANUARY TERM, 2026

STATE OF NEW HAMPSHIRE

v.

DUSTIN MARK DUREN

DOCKET NO: 214-2024-CR-00028

**STATE'S RESPONSE TO THE DEFENDANT'S  
MOTION TO RELEASE/RETURN PROPERTY**

NOW COMES the State of New Hampshire, by and through its attorney, the Office of the Attorney General, and respectfully requests that this Honorable Court deny the defendant's Motion to Release/Return Property in part. The seized items that have evidentiary value should be retained until the conclusion of the case, including any appellate review and potential remand.

In support of its request, the State says as follows:

1. On February 29, 2024, the New Hampshire State Police – Major Crime Unit began an investigation into the homicide of Caitlyn Naffziger. Ms. Naffziger was killed by a single gunshot to the head while inside of the defendant's apartment at 1063 Main Street in Berlin. On March 1, 2024, the defendant was arrested on one count of knowing second-degree murder related to his actions in shooting Ms. Naffziger.

2. The investigation showed that after he shot and killed Ms. Naffziger, the defendant packed his vehicle with clothing for himself and the couple's two minor children, as well as food, water, and his desktop computer. The defendant then took the two children and drove to an unknown location in New York State where they stayed overnight. The next day, he drove back to New Hampshire and was arrested in Keene.

3. During the investigation, applications were made by way of affidavits for various searches, including of the defendant's apartment (1063 Main Street, Apt 1, in Berlin, NH), his vehicle (a white 2017 Subaru Impreza with NH veteran's registration V69023, VIN: 4S3GKAK61H1628901), and the body of the defendant. These applications were granted, and the State Police conducted the searches.

4. On or before March 13, 2024, the State contacted counsel for the defendant to inquire about returning certain items of property that had no evidentiary value and belonged exclusively to the minor children. The items were recovered from the defendant's car and included two car seats, diapers, baby wipes, a stuffed dinosaur toy, an elephant blanket "stuffie", a water bottle, and various children's clothing including: two winter jackets, a checkered sweatshirt, a pink hat, a "Frozen" long sleeve t-shirt, a blue sweater, a red sweater, penguin pajamas, two purple shirts, gray pants, a giraffe shirt, a unicorn shirt, a penguin shirt, and two pairs of black shorts. Of import to this filing, the items identified above were not seized by the New Hampshire State Police as evidence – they were merely identified and photographed during the execution of the search and seizure warrant on the defendant's vehicle; the items were then secured inside of the defendant's vehicle at the State Police Impound Lot. The State specifically identified each of these items to the defendant and provided photographs of the items on March 13, 2024. On March 18, 2024, the defendant agreed to the release of these non-evidentiary items and the State filed a motion seeking their release on March 21, 2024. The State's motion was granted on March 25, 2024.

5. On June 21, 2024, the defendant was indicted on charges of first-degree murder (RSA 630:1-a), second-degree murder (reckless) (RSA 630:1-b), and reckless conduct with a deadly weapon (RSA 631:3). Further, the defendant was charged by criminal complaint with one

count of endangering the welfare of a child (RSA 639:3). On August 16, 2024, the defendant was indicted on a charge of second-degree murder (knowing) (RSA 630:1-b) and a corrected indictment as to the first-degree murder charge. All of the charges related to the defendant's fatal shooting of Caitlyn Naffziger (age: 31), and the danger in which that shooting placed their minor child, E.D (DOB: 12/02/2019). Prior to trial, the State entered a *nolle prosequi* on the charge of first-degree murder.

6. Trial was held between October 20, 2025, and October 28, 2025. During the trial, the State and the defendant presented witness testimony. The defendant testified in his own defense and presented a case in which he claimed that he acted in defense of others when he shot and killed Caitlyn Naffziger. On October 28, 2025, the jury unanimously found the defendant guilty of all charges. On December 11, 2025, this court sentenced the defendant to 45 years to life in state prison. The defendant filed a notice of appeal on January 7, 2026.

7. On December 30, 2025, the defendant filed a Motion to Return Property. As part of that filing, the defendant cited the sentencing form related to charge ID 2237508C, the second-degree murder charge, in which the Court allowed seized property to be destroyed and/or returned to its rightful owner. The State notes that the defendant has filed a request for a review of the sentence in this case which would include a review of any ordered conditions of sentence; that request is currently pending. In light of the pending appeal and application for sentence review, this Court's order with respect to sentencing is at issue and should not form a basis for relief as to the defendant's Motion to Return Property.

8. In his request for the return of property, the defendant has specifically identified four items. The defendant then generically requested a return of "all other property within the state's possession that is not contraband and belongs to the defendant." It is insufficient for the

defendant to not identify the extent of the property that he believes belongs to him that is currently in the custody of the New Hampshire State Police and that he seeks to have returned to him as the rightful owner.

9. In terms of the four specifically identified items, the defendant has requested the return of his vehicle (white Subaru Impreza with NH veteran's registration V69023), a black Amazon Fire HD 10 Tablet (evidence number GSM-1), a wallet (evidence number KLL-6), a watch (evidence number EJH-3), and a computer hard drive (evidence number ALJ-9). It is the State's position that the defendant's vehicle, wallet (and contents) (KLL-6), and his computer hard drive (ALJ-9) constitute items of evidentiary value that should be maintained as evidence until the conclusion of the case, including appeal and through any remand.

10. As to the Amazon Fire HD 10 Tablet (GSM-1) – this item was not recovered by officers pursuant to a search warrant. Members of the Naffziger family provided the device to the New Hampshire State Police and the related property submission form lists Ms. Naffziger as the owner (Discovery, Bates 658). The device would therefore be subject to being returned to the Naffziger family unless the defendant provides proof that he is the rightful owner.<sup>1</sup> As to the defendant's watch (EJH-3) – the State does not object to its return as this item can be considered non-evidentiary.

11. The State would add to the defendant's request in terms of the non-evidentiary items and seek this Court allow the return of non-evidentiary items which are the property of Caitlyn Naffziger. Specifically, the State seeks to have the following non-evidentiary items released to the Naffziger family as rightful owners and/or destroyed at their direction:

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<sup>1</sup> The device was photographed while it was in the defendant's apartment. It was in a child's case and on a pink child's folding table when it was observed. The State understands that the defendant's parents cleaned out his apartment and gave this item to E.D. Given the appearance of the device and the fact that the defendant's parents provided it to E.D. – the State would submit that it should be returned to her and has made such a request *infra*.

- a. Flower necklace and two rings (evidence number MAA-3)
- b. Sock (evidence number MAA-4)
- c. Hair tie and glasses (evidence number MAA-5)
- d. Underwear (evidence number MAA-6)
- e. Red skirt (evidence number MAA-7)
- f. Black leggings (evidence number MAA-8)
- g. Heattech leggings (evidence number MAA-9)
- h. Shirt (evidence number MAA-14)
- i. Tanktop (evidence number MAA-15)
- j. Sweater (evidence number MAA-16)
- k. Scarf (evidence number MAA-17)

Further, the State seeks to have the following non-evidentiary items released to be returned to E.D. and V.D. as rightful owners, in care of the Naffziger family:

- l. Red sweatshirt (evidence number EPN-7)
- m. Socks (evidence number EPN-8)
- n. Boots (evidence number EPN-9 and EPN-10)
- o. Underwear (evidence number EPN-11)
- p. Pink onesie (evidence number EPN-12)
- q. Pink winter coat (evidence number EPN-13)
- r. Amazon Fire HD 10 Tablet (evidence number GSM-1)

Finally, the State seeks to have the following non-evidentiary items released to be returned to their rightful owner once identified<sup>2</sup>:

- s. Blue carseat blanket (evidence number EPN-16)
- t. Blue jean baby shirt (evidence number EPN-17)
- u. Socks (evidence number EPN-18)

12. The defendant asserts in his motion for return of the property that the items he requests do not hold evidentiary value because they were not utilized during the trial that was held in October of 2025. The fact that these items were discussed or presented in photographs but not physically admitted at trial does not reduce their evidentiary value in the event of the need for a re-trial in this case. Use of photographs as suggested by the defendant may not be a suitable substitute for the physical items themselves and does not replace the evidentiary weight and

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<sup>2</sup> These items were removed from E.D. and V.D. during a search warrant. It is unclear whether these items belong to the children or were provided to officers by citizens in Keene who were present at the location of the defendant's arrest and provided items of their personal property to officers to keep E.D. and V.D. warm.

value of the physical items. As an example, in closing arguments on October 28, 2025, counsel for the defendant argued or attempted to argue that items of evidence recovered from the defendant's vehicle were tampered with by investigators. Specifically, counsel stated to the jury that a piece of hair recovered from the slide of the handgun (KPP-2) was evidence of investigator's "tampering" with the weapon. The handgun (KPP-2) was recovered from the interior of the driver's side door of the defendant's vehicle; the defendant admitted to using this handgun to fatally shoot Ms. Naffziger in the head. Given the arguments of counsel, the vehicle maintains evidentiary value. Similarly, albeit for different reasons, the defendant's wallet (and contents) as well as the computer tower maintain evidentiary value.

13. RSA 595-A:6 provides that evidence seized pursuant to a search warrant or other authorized method shall be "seize[d] and safely ke[pt] -- under the direction of the court or justice so long as necessary to permit them to be produced as evidence in **any** trial." (emphasis added).

14. Given the defendant's pending appeal, his request for review of sentence, and the need of the State to produce evidence in any trial, the State requests that this Court deny the defendant's request for return of property in this case as it relates to the white Subaru Impreza, and evidence items KLL-6 (wallet), and ALJ-9 (computer hard drive). Given the status of this case, the State believes that the release of any items of evidentiary value would jeopardize the ability of the State to proceed to trial in the event of a successful appeal by the defendant.

15. Further, the State requests that this Court deny the defendant's generic request for the release/return of all "other property belonging to him" as insufficient. The State requests that this Court deny the defendant's request for the return of GSM-1 given that it was submitted by the Naffziger family to the New Hampshire State Police. The State requests that this Court allow

the return of non-evidentiary item EJH-3 to the defendant and allow the release and return of the non-evidentiary items listed in paragraph 10, line items a through u to their rightful owners.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Deny the defendant's motion for return of property, in part, as described *supra*; and,
- B. Grant the State's request for return of non-evidentiary property, as described in paragraph 11, lines a through u; and/or,
- C. Order such other additional relief as the Court deems just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

John M. Formella  
Attorney General

Date: January 8, 2026

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**CERTIFICATION**

I certify that a copy of this motion has been provided to counsel for the defendant, via the electronic case filing system.

Date: January 8, 2026

/s/ Bethany Durand

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Assistant Attorney General