

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

HILLSBOROUGH COUNTY SUPERIOR COURT - NORTH
STATE OF NEW HAMPSHIRE

V.

ADAM MONTGOMERY

216-2022-CR-20

216-2022-CR-577

SUPPLEMENT TO

MOTION TO SUPPRESS STATEMENTS FROM DECEMBER 31, 2021

NOW COMES the defendant, Adam Montgomery, by and through his Public Defenders, Caroline L. Smith, Esq., and Paige Buckley, Esq. respectfully supplements his request to suppress from use at trial all statements made to law enforcement on the morning of December 31, 2021 by requesting this Honorable Court rule on the substance of the motion notwithstanding the State's waiver of objection.

In support of this request, Mr. Montgomery states as follows:

1. On or about August 1, 2022, Adam Montgomery, through counsel, filed his Motion to Suppress Statements From December 31, 2021 and Motion to Suppress Statements from January 4, 2022.
2. On or about August 25, 2022, the State filed an Objection to Montgomery's Motion to Suppress Statements from January 4, 2022. The State did not file an objection to Montgomery's Motion to Suppress Statements From December 31, 2021. Instead, the State filed a *Response* to that motion.
3. In its response, the State indicated it did not intend to introduce the defendants statements made during the encounter with law enforcement on the morning of December 31, 2021, in its case-in-chief, "*unless such evidence becomes admissible*" as a result of the doctrine of opening the door or in rebuttal, "*should they become so admissible* and relevant."
4. The State chose to not object to the defendant's motion. Indeed, in the Response filed, the State made no factual assertions to counter the defendant's factual assertions in his motion, pointed to no errors in defendant's legal analysis, and did not provide counter legal precedence.

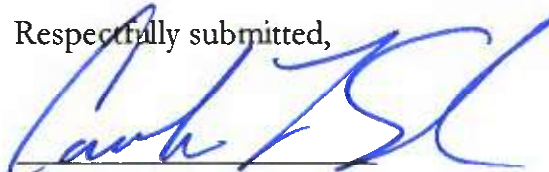
By failing to object to Montgomery's Motion to Suppress Statements from December 31, 2021, the State waives objection and the Court should grant Montgomery's Motion and suppress such statements.

5. Further, the State concedes, without actually stating so, that the statements are inadmissible in the first instance. The State, by its response, seeks to reserve the right to admit the statements "*should they become admissible*". The only reason the statements are inadmissible in the first instance are the reasons set forth in Montgomery's Motion. This concession is an additional reason the Court should grant Montgomery's Motion and suppress the statements from the morning of December 31, 2021.

WHEREFORE, Adam Montgomery requests that this Honorable Court:

- A. Grant the defendant's Motion and suppress the statements that he made to law enforcement on the morning of December 31, 2021; or
- B. Hold a hearing on defendant's Motion to Suppress Statements from December 31, 2022 notwithstanding the State's waiver of objection; and,
- C. Grant such further relief as justice requires.

Respectfully submitted,

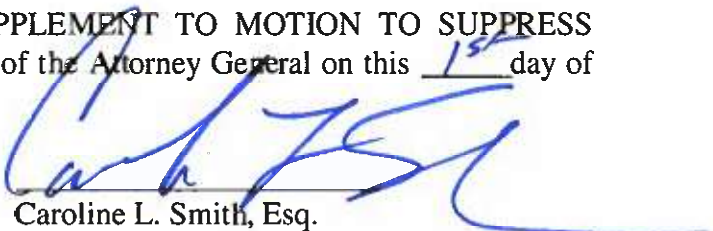


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CERTIFICATE OF SERVICE

I hereby certify that a copy of this SUPPLEMENT TO MOTION TO SUPPRESS STATEMENTS has been forwarded to the Office of the Attorney General on this 15 day of ~~August~~, 2022.

September



Caroline L. Smith, Esq.