

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

HILLSBOROUGH COUNTY SUPERIOR COURT - NORTH  
STATE OF NEW HAMPSHIRE

V.

ADAM MONTGOMERY

216-2022-CR-577

**MOTION FOR AUTHORIZATION TO DISCLOSE AND USE GRAND JURY  
TRANSCRIPTS AT TRIAL**

NOW COMES the defendant, Adam Montgomery, by and through counsel, Caroline L. Smith, Esq., and respectfully moves for permission to disclose and to use grand jury transcripts at trial in this matter. In support of this motion, Mr. Montgomery states as follows:

1. The defendant is charged with two counts of Armed Career Criminals, Armed Career Criminals with lesser included offenses of Felon in Possession, two counts of Receiving Stolen Property with alternate charges of Theft. The defendant is scheduled for a Final Pre-Trial Conference on May 16, 2023.
2. Prior to the indictments on these charges, the State subpoenaed several witnesses to testify before the Grand Jury. Some of those witnesses are on the State's witness list and some on the defendant's list. However, not all of the witnesses called to Grand Jury will necessarily be called at trial in this matter. Stenographic records of the witness's testimony were made and the State has provided copies of their testimony to defense counsel under a protective order.
3. Defense counsel seeks permission to disclose and use the transcripts of those witnesses called to Grand Jury who are expected to be called at trial pursuant to Supreme Court Rules 52(2) and 52(6). Specifically:

Anthony Boderio

Donna Demers

Kimberly Frain

Ismael Rivera

Tabitha Scott

Kayla Montgomery

4. It is expected that each of these witnesses will be called at trial. The Grand Jury testimony includes questions about their knowledge and/or lack thereof regarding the allegations in this case. Thus the Grand Jury testimony should be permitted to be used as any other statement or deposition given by a witnesses.

5. Included in this request for disclosure is that the prior protective order be revoked and Adam Montgomery be permitted unlimited access to the transcripts. Under the protective order Mr. Montgomery was permitted limited access to the transcripts at the House of Corrections. He was not permitted to retain the transcripts as he was able to retain other discovery. Once it appears that a witness may be called at trial, the Grand Jury transcripts should be subject to use as any other transcript of a witness, i.e. in preparing for direct or cross examination, for impeachment, and for refreshing recollection. Mr. Montgomery should be permitted access and retention of the transcripts in order to assist his attorneys in his own defense.

Wherefore, Adam Montgomery respectfully requests that this Honorable Court grant this motion and to revoke the protective order and permit the disclosure and use of the Grand Jury transcripts at trial as with any other transcript of a witness statement.

Respectfully submitted,

/s/ Caroline L. Smith

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Caroline L. Smith, Esq.  
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**CERTIFICATE OF SERVICE:**

I hereby certify that a copy of this MOTION FOR AUTHORIZATION TO DISCLOSE AND USE GRAND JURY TRANSCRIPTS has been forwarded to the Office of the Attorney General on this   1   day of May, 2023.

/s/ Caroline L. Smith