

HILLSBOROUGH, SS.  
Northern District

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

State of New Hampshire

v.

Adam Montgomery

Case No. 216-2022-CR-00577

**STATE’S PARTIAL OBJECTION TO DEFENDANT’S MOTION TO DISCLOSE  
AND USE GRAND JURY TRANSCRIPTS AT TRIAL**

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and hereby partially objects to the defendant’s Motion to Disclose and Use Grand Jury Transcripts at Trial (“Def.’s Mot.”). The defendant seeks disclose and use the transcripts of grand jury testimony of certain witnesses during trial. The defendant also asks this Court to revoke the prior protective order which prohibited the defendant from possessing the grand jury transcripts at the Hillsborough County House of Corrections. (*see* Def.’s Mot. ¶ 3.) The State does not object to the defendant’s first request regarding the use of the transcripts at trial. However, the State does objects to the defendant’s request to revoke the Court’s protective order. In further support of this motion, the State says as follows:

1. The defendant’s efforts to obtain the grand jury transcripts should be denied. “It has long been the policy of the law, in furtherance of justice, that the investigations and deliberations of a grand jury should be conducted in secret, and that for most intents and purposes, all its proceedings should be legally sealed against divulgence. *State v. Williams*, 142 N.H. 662, 665 (1998) (quoting *Opinion of the Justices*, 96 N.H. 530, 531 (1950)). “Our

law presumes that the proceedings before the grand jury are sacrosanct, and they may not be invaded by a defendant to challenge an indictment or a conviction on the grounds that testimony before a grand jury was at odds with testimony later received at trial.” *State v. Silva*, 149 N.H. 269, 272 (1997) (reminding trial courts of “their duty to scrupulously protect the sanctity of the grand jury proceedings. Our constitution does not grant defendants the right to examine grand jury testimony.”).

2. Counsel for the defendant has been in possession of the transcripts since July 22, 2022. Defense counsel undoubtedly has had, and continues to have, an opportunity to review the transcripts with the defendant while still guaranteeing their protection as required by *Silva*. Releasing the transcripts to the defendant while he is housed at the Hillsborough County House of Corrections would risk exposure of the transcripts to others in the House of Corrections. The current protective order, guarantees that the transcripts will remain sealed against divulgence.

WHEREFORE, the State of New Hampshire respectfully requests that this Court:

- A. Grant the defendant’s motion to use the grand jury transcripts at trial;
- B. Deny the defendant’s motion to disclose the grand jury transcripts; and
- C. Grant such further relief as may be deemed just.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

JOHN M. FORMELLA  
ATTORNEY GENERAL

Date: May 19, 2023

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via the State of New Hampshire e-filing system to Carrie Smith, Esq., counsel of record in this matter.

/s/ R. Christopher Knowles  
R. Christopher Knowles