

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

HILLSBOROUGH, SS.
Northern District

FEBRUARY TERM 2024

State of New Hampshire

v.

Adam Montgomery

Case No. 216-2022-CR-00020
216-2022-CR-02372

**STATE'S MOTION FOR MATERIAL WITNESS WARRANT PURSUANT TO
RSA 597:6-d**

NOW COMES the State of New Hampshire by and through its attorneys, the Office of the Attorney General, and moves this Honorable Court to issue a with this Motion For Material Witness Warrant for the arrest of Nicole Giles (DOB 1/31/1978) pursuant to New Hampshire RSA 597:6-d, and in support thereof, the State sets forth the following:

1. Nicole Giles was subpoenaed to appear in the Hillsborough County Superior Court-North at 9:00 on February 6, 2024 to testify in the case of The State of New Hampshire v. Adam Montgomery. Trial began as scheduled, and Ms. Giles was scheduled to appear on February 14, 2024 to provide said testimony. Ms. Giles is a witness to helping the defendant move from the FIT shelter on 177 Lake Avenue to the 644 Union Street apartment, the defendant's statements during that time and afterwards, and several other pieces of information. Upon information and belief, that subpoena was served to Ms. Giles in hand on January 2, 2023, by Detective Jack Dunleavy of the Manchester Police Department (Attached).

2. Attached to the subpoena was a statement from the NH Attorney General's Office asking Ms. Giles to contact the State's victim/witness coordinator to coordinate her appearance at trial. Ms. Giles did so, met with the State on January 23, 2024, to talk about what trial would be like, and this week was told to appear for her testimony the afternoon of February 14, 2024. Ms. Giles requested the State inquire as to the possibility of how she could leave the courthouse safely and her concern about her face being televised due to what she represented to be an ongoing restraining order. The State raised these issues with the Court on the record the afternoon of February 14th, and informed Ms. Giles immediately afterwards via text that she would not be asked where she lived by either party, but that the cameras could not be turned off. Ms. Giles texted in response:

When I came in to talk to you guys there was no mentioned of anything being videoed or anything like that and I'm sorry but I cannot do it I understand if you have to put a warrant out for me but I'm not putting mine and my children's life on the line I can't to be honest right now [REDACTED]
[REDACTED] I have text message to prove

3. On February 14, 2024, Nicole Giles failed to honor the subpoena to appear in this matter.

4. Nicole Giles's testimony in the matter at bar is material to the issue of the defendant transporting the body of Harmony Montgomery from the FIT shelter at 177 Lake Avenue to 644 Union Street, as well as the defendant's employment, the smell of the defendant's Lake Avenue apartment, bruising seen on Kayla Montgomery while the defendant was committing witness tampering upon her, the defendant's statements of his pipes being clogged at 644 Union Street, and

Kayla Montgomery's prior consistent statement concerning abuse during the time period after Harmony Montgomery's death.

5. For example, when she was served with her subpoena for trial, Ms. Giles told officers that she had recalled more information other than her initial two statements that she wanted to share with officers. This included recalling seeing Kayla Montgomery with black eyes while she was living at the 177 Lake Avenue shelter, and Kayla Montgomery telling her it was the defendant who caused them but to please not tell anybody. This also included other verbal abuse Ms. Giles was witness to, the smell she smelled inside their Lake Avenue apartment, the defendant complaining about his tub being clogged at the 644 Union Street apartment, providing the family with car rides.
6. Nicole Giles' truthful testimony is relevant and material to the issues at hand. Because Ms. Giles has failed to appear as ordered, despite assurances from the State and Court on maintaining her personal safety, and given the content of her last text to the State (above), the State submits that it has become impracticable to secure her presence via subpoena.

WHEREFORE, the State requests that the Honorable Court:

- a. Issue a warrant for the arrest of Nicole Giles.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorney,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: February 16, 2024

/s/ Benjamin J. Agati
Benjamin J. Agati, Bar # 16161
Senior Assistant Attorney General

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. and Jamie Brooks, Esq. counsel of record in this matter.

/s/ Benjamin J. Agati
Benjamin J. Agati, Bar # 16161

ATTACHMENT A

THE STATE OF NEW HAMPSHIRE

TRIAL SUBPOENA

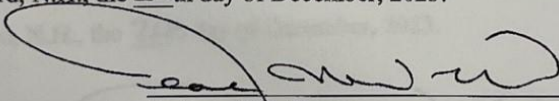
HILLSBOROUGH COUNTY, SS.

To: Nicole Giles
01/13/1978

You are required to appear before the Hillsborough County Superior Court – Northern District sitting at 300 Chestnut Street, Manchester said county, from the 6th day of February 2024, at 9:00 o'clock in the forenoon, and everyday thereafter until your testimony is completed, to testify to what you know relating to a case then and there to be heard and tried between the **State of New Hampshire and Adam Montgomery**, defendant.

Hereof fail not, as you will answer your default under penalties prescribed by law.

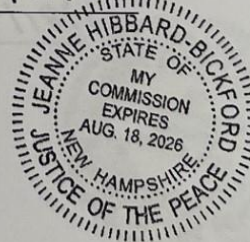
Dated at Concord, N.H., the 20th day of December, 2023.



Justice of the Peace

My Commission Expires: 8/18/26

RETURN OF SERVICE

Served in hand this 2 day of Jan, 2024 at




When you receive this Subpoena, please contact Amy VanAuken of the Attorney General's Office at (603) 931-0489.

**** During regular business hours only ****

ATTACHMENT B





Nicole >

The judge has ensured that no attorney will ask you where you live. We asked the judge to have the media record you and she said that she cannot. We can also bring you out the back door when you are done testifying

We think your testimony will be very brief. We just need you to be here

When I came in to talk with you guys there was no mention of anything being videoed or anything like that and I'm sorry but I cannot do it I understand if you have to put a warrant out for me but I'm not putting mine and my children's life on the line I can't to be honest right now


 I have text message to prove



Text Message

