

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

HILLSBOROUGH, SS.
Northern District

JANUARY TERM 2024

State of New Hampshire

v.

Adam Montgomery

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

**STATE'S OBJECTION TO DEFENDANT'S MOTION TO RECONSIDER THE
COURT'S JANUARY 25, 2024 RULING ON MOTIONS *IN LIMINE***

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, with this objection to the Defendant's Motion to Reconsider the Court's January 25, 2024 Ruling regarding several Motions in Limine, and in support, the State sets forth as follows.

1. The Court issued its ruling on several outstanding pre-trial litigation matters on January 25, 2024. While the defendant's motion and State's objection re: marital privilege is still outstanding, the other substantive rulings regarding the various motions in limine were issued in this January 25th ruling. This included the four matters the defendant discusses in his motion to reconsider: (1) evidence of the defendant's abuse of Kayla Montgomery from the time he murdered Harmony on forward to ensure Kayla's silence; (2) the defendant's drug use during the commission of his crimes; (3) evidence that the defendant blocked communication with Crystal Sorey, and did not allow her to see Harmony; and (4) the Court's denial of the defendant's motion to preclude evidence of the defendant's

assaultive behavior for failure to plead with specificity. This case is scheduled for a February 6, 2024 trial.

2. New Hampshire Rule of Criminal Procedure 43 provides as follows:

“A Motion for Reconsideration or other post-decision relief shall be filed within ten days of the date on the Clerk’s written notice of the Order or Decision, which shall be mailed by the Clerk on the date of the Notice. The Motion shall state with particular clarity, points of law or fact that the Court has overlooked or misapprehended and shall contain such argument in support of the motion as the movant desires to present; but the motion shall not exceed ten (10) pages. A hearing on the motion shall not be permitted except by order of the Court...”

3. The Court has neither overlooked nor misapprehended the points of law and fact regarding the points brought forward by the defendant. Regarding the defendant’s domestic abuse of Kayla Montgomery during the relevant period of time, even the defendant admits that the anticipated testimony of the defendant being violent (defense term “aggressive”) towards Kayla includes his belief that she was telling others what he did to Harmony. The Court has correctly concluded that this is direct evidence of witness tampering: violence and/or threats towards an individual the actor believes will report him for his criminal acts. This is also true for the drug use during this same time period, a fact both parties will likely explore for the defendant and Kayla Montgomery.

4. Regarding the defendant’s attacks on the character of Crystal Sorey, the defendant neglects to recount how this behavior is not timed to April 2019, but continued throughout 2020 and 2021, through the anticipated testimony from multiple witnesses that the defendant sought to avoid Sorey, blocked her on social media, refused to communicate with her, and refused to let Harmony communicate or even see her. The defendant then weaponizes his own refusals to allow Sorey to communicate with her daughter using her

September 2021 DCYF referral; arguing in essence that she shouldn't have believed his lies and contacted DCYF sooner in order to make his avoidance and deceptions admissible. The Court's ruling of January 25, 2024 is sound.

5. Finally, the State has no intent on introducing the defendant's strangulation and beating attack on Corey Watts in the summer of 2019, unless the defendant otherwise opens the door to its admission. The State has not failed to articulate the admissibility for this evidence, because it sees no admissibility at this time. However, the State cannot anticipate what the defendant may argue at trial. If, for some unknown reason, the defendant chooses to pursue a strategy in which he denies drug use during this time period, wishes to argue he is a peaceable person, or some other avenue in which his strangulation, beating, and help to commit an armed robbery of Corey Watts becomes relevant and admissible, then the State would seek its admission. Similarly, for the purposes of this trial, the State is not seeking at this time to introduce the 39 second objected-to portion of the WalMart video in which the defendant interacts with Kelsey Small. If the defendant chooses to pursue a line of questioning or argument that then makes this relevant and admissible, then the State will seek its admission. At such times, it would be the burden of the State to prove its admissibility. At this time, the State has no such burden, because it is not seeking these admissions in its case-in-chief. The Court rightly holds the State to its burden in its January 25, 2024, should the State seek admission of such acts.

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

- (A) Deny the defendant's Motion to Reconsider without a hearing; and
- (B) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorney,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: January 29, 2024

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

/s/ Benjamin J. Agati
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