

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, S.S.
216-2022-CR-03011

SUPERIOR COURT
NORTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

ALEXANDRA ECKERSLEY

2nd SUPPLEMENTAL MOTION TO EXCLUDE DR. MATHILDE PELAPRAT

NOW COMES, the State of New Hampshire by and through the Hillsborough County Attorney's Office, Shawn P. Sweeney, with this second supplemental motion to exclude the testimony of Dr. Mathilde Pelaprat, and in support thereof, states as follows:

1. Defense counsel filed an objection to the State's motion to exclude representing that during an informal conversation in October of 2023, defense counsel mentioned that the defendant would be evaluated, and a report would be provided when received.
2. Defense counsel provided reports written by two different doctors during the month of December 2023 as exhibits attached to the defendant's mediation statement. The doctors referred to other records that were not provided. Where the State was not contesting the use of any of those doctors' opinions for the purpose of discussion during the mediation, there was no reason to inquire further.
3. Defense counsel filed a witness list on the new years holiday that included Dr. Pelaprat. There was no indication from the witness list that Dr. Pelaprat would be offering an expert opinion on any fact at issue. She was simply listed as a witness.
4. The State filed a motion to exclude Dr. Pelaprat from testifying as an expert where none of the requirements for presenting an expert witness at trial had been met and no discovery was provided that would make Dr. Pelaprat's testimony relevant at trial.

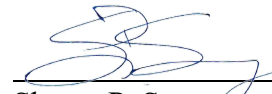
5. The defense objected stating that the purported informal conversation about an evaluation in October should be considered sufficient notice that they intended to present Dr. Mathilde Peleprat at trial to offer an expert opinion regarding some fact at issue.
6. At the Final Pretrial on January 10, 2024, defense counsel first declared their intention to elicit an expert opinion from Dr. Pelaprat at trial. Defense counsel's entire description of the expected testimony that their expert's testimony would be relevant to was: "Goes to her mental state."
7. On February 7, 2024, the State deposed Dr. Pelaprat to further explore the testimony that Dr. Pelaprat might offer regarding the defendant's mental state at the time of the offenses.
8. Following the deposition, the State filed a supplemental motion to exclude Dr. Pelaprat's testimony as no apparent relevant topics arose during the deposition that would go to any fact in dispute during the trial.
9. On March 28, 2024, the Court held a hearing on the State's motions to exclude the testimony of Dr. Pelaprat at trial. Defense counsel was unable to articulate the ultimate opinion that Dr. Pelaprat would offer at trial or the specific fact at issue that such opinion would be offered for.
10. Both in its objection to the State's motion to exclude and at the March 28, 2024, hearing, defense counsel represented that they were not going to elicit an opinion from Dr. Pelaprat on the ultimate issue of whether the defendant was acting recklessly on the evening she was arrested.
11. The Court required defense counsel to identify the actual opinion that Dr. Pelaprat would give at trial and specifically what fact at issue the opinion would be offered for.

12. Defense counsel then filed a supplemental pleading indicating that Dr. Pelaprat would testify to the defendant's mental health history and how that mental health history, drug use, and bipolar disorder impacted her decision making.

13. While the burden of proving the admissibility of an expert's testimony is not especially onerous, the proponent of the witness still bears the burden of proving that the jury is presented with reliable and relevant evidence. *Szewczyk v. Continental Paving*, 2022-0101 (N.H. Aug 16, 2023).

14. Where the defense has still introduced no new information about the actual opinion or fact at issue the opinion would be offered for, the State relies on its prior pleadings and arguments at prior hearings in support of its motion to exclude Dr. Pelaprat's testimony at trial.

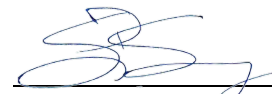
Respectfully Submitted,
State of New Hampshire,



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CERTIFICATION

This motion has been uploaded and filed this date in accordance with eFile & Serve rules.



Shawn P. Sweeney