

STATE OF NEW HAMPSHIRE

HILLSBOROUGH COUNTY
NORTHERN DISTRICT

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

ALEXANDRA ECKERSLEY

216-2022-CR-3011

OBJECTION TO STATE'S REQUEST FOR PRODUCTION OF DOCUMENTS

Alexandra Eckersley, through counsel, Kimberly A. Kossick and Jordan Strand, objects to the State's prayer for relief as articulated in its MOTION FOR PRODUCTION OF DOCUMENTS.

In support, the defense offers the following:

1. This matter is scheduled for jury selection on July 22, 2024.
2. On May 24, 2024, the State filed a motion asking the Court to order the defense to produce the documents reviewed by Dr. Pelaprat or to preclude the defense from using said documents. The State cites NH Rule Crim. Pro. 12 (b) (2).
3. The State received Dr. Pelaprat's report in December 2023. The State deposed Dr. Pelaprat on February 7, 2024. There was no request for documents before the deposition.
4. There was a motion hearing scheduled for March 22, 2024. That hearing was continued to March 28, 2024 because of the court's scheduling issues. ACA Alex Gatzoulis was present to represent the State. On information and belief, there was no request for records either on or off the record.

5. The Court presided over a motion hearing on March 28, 2024. On information and belief, this hearing is the only time the State has referenced requesting the records reviewed by Dr. Pelaprat. The State represented it would hire its own rebuttal expert. The State had not yet hired an expert and therefore could not provide a name. The State represented that it wished to provide Dr. Pelaprat's report to the expert. The State also suggested it would need to supply underlying records to its expert. To the best of undersigned counsel's recollection, undersigned counsel responded that there would need to be a protective order once we knew who the expert was. The order from that hearing includes deadlines for the parties to supplement their pleadings. There were no deadlines for production of other documents.
6. On April 3, 2024, the State filed a supplemental pleading to its motion to exclude Dr. Pelaprat. The basis for that motion was relevancy. There was no request for production of records.
7. On April 4, 2024, the State filed a motion to disclose Dr. Pelaprat's report to an unnamed Mental Health Professional. The State noted the defense objection. Undersigned counsel does not have a recollection of objecting to that motion. In any event, the defense did not file a substantive objection and the Court granted the motion. The motion did not contain a request to provide any other documents to the State or a State's expert.
8. On May 9, 2024, the State filed a new witness list. There is not a rebuttal witness named on the list. The State did add Dr. Pelaprat to its witness list as a State's

witness. Therefore, on information and belief, it appears the State will not call a rebuttal witness but may call Dr. Pelaprat as its own witness.

9. On May 24, 2024, the State filed its MOTION FOR PRODUCTION OF DOCUMENTS. In paragraph 4 of the motion, the State claims that it has made multiple requests for the records reviewed by Dr. Pelaprat and states that trial is in “less than two months.” The defense has no notes or emails from the State ever asking for these records, save the discussion at the bench on March 28, 2024. There have been no meetings, casual or formal, between the defense and the State outside of scheduled hearings since mediation took place in December. The defense asks the Court to order the State to produce emails or contemporaneous notes of these requests.
10. In its motion, the State does not articulate the purpose for which it needs these records except that it wants to have them if the defense attempts to admit them. It appears this is a backhanded attempt to relitigate Dr. Pelaprat’s testimony. This Court denied the State’s motion to exclude Dr. Pelaprat. It is settled law that an expert can rely on hearsay statements when forming an opinion. See N. H. Rule of Evid. 703, State v. Moussa, 164 N.H. 108, 121 (2012).
11. So, if the State’s argument is to the admission of the documents themselves, the defense does not intend to admit them. If the State’s argument is to Dr. Pelaprat’s testimony, that issue has been decided.

WHEREFORE, Alexandra Eckersley, through counsel, asks the Honorable Court to:

- A. Deny the State's motion.
- B. If a hearing on this issue is necessary, order the State to produce emails or contemporaneous notes at that hearing documenting the State's requests.
- C. Grant other relief deemed equitable and just.

Respectfully submitted,

/s/ Kimberly A. Kossick
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CERTIFICATE OF SERVICE

I certify that this pleading was filed in accordance with e-filing requirements.

/s/ Kimberly A. Kossick
Kimberly A. Kossick