

STATE OF NEW HAMPSHIRE

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

SUPERIOR COURT  
NORTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

ALEXANDRA ECKERSLEY

**OBJECTION TO DEFENDANT'S  
MOTION IN FOR JNOV AND NEW TRIAL**

NOW COMES, the State of New Hampshire by and through the Hillsborough County Attorney's Office, Shawn P. Sweeney, with this objection to the defendant's motion for JNOV and a new trial in the above captioned matter:

**Motion for JNOV: Falsifying Physical Evidence**

1. In paragraph 12 of the defendant's motion for JNOV counsel represents the following 4 facts in support of the argument that no rational juror could find beyond a reasonable doubt that the defendant committed the crime of Falsifying Physical Evidence:
  - multiple people told [the defendant] she was not in trouble
  - [police and firefighters] were just looking for the baby.
  - [the defendant] was not worried about getting in trouble with the police.
  - [the defendant] was emotional and "hysterical" and actively experiencing postpartum bleeding.
2. Defense counsel states: "Based on these facts, no rational jury could find beyond a reasonable doubt that 1) Allie believed there was an official investigation going on, and 2) Allie acted purposely. Therefore, the guilty verdict on the falsifying physical evidence indictment must be vacated and that indictment must be dismissed."
3. Where testimony and video evidence of course varied regarding the defendant's emotional state over approximately an hour while the baby laid freezing very near death on the ground, inconsistencies in the evidence is a factor for the jury to consider in assessing the evidence. See *State v. Carr*, 167 N.H. 264, 275 (2015); *State v. Rivera*,

2022-0212 (N.H. Feb 28, 2024). The jury is free to disregard testimony that it does not find credible. *Id.*

4. After several days of trial with evidence offered by both the State and the defendant, a unanimous jury found beyond a reasonable doubt and returned a guilty verdict on the following elements:
  - a. “The defendant believed that an investigation was pending or about to be instituted,
  - b. The defendant...concealed the location of her newborn infant, and
  - c. The defendant's purpose in committing that act was to impair the availability of the [newborn infant] in the investigation”.
  
5. The state’s evidence consisted largely of video and/or audio recordings of the defendant’s interactions with police officers and other rescue personnel. *See exhibits 1, 8 & 24.* Although defense counsel has referred to her notes and those of her co-counsel for the evidence, the exhibits offer a far more accurate and complete representation of the both the events of early morning hours of December 26, 2022 and the evidence provided to the jury. *Id.*
  
6. The defendant’s video recorded testimony includes her admissions that she knew where the baby was from the beginning of the event. That it was extremely cold that morning. That she heard the baby crying before abandoning him. That she was not confused about the location of the baby. That she knew police were searching for the baby. That they were relying on her to direct them to the baby, and that she led police away from the baby despite knowing it was the wrong thing to do.

**Motion for JNOV: Reckless Conduct & Endangering the Welfare of a Child**

7. In paragraphs 13 & 14 of the defendant’s motion for JNOV counsel represents the following fact in support of the argument that no rational juror could find beyond a reasonable doubt that the defendant committed the crime of Reckless Conduct:

8. “The evidence presented [according to defense counsel’s notes] was that Allie thought the baby was dead. Therefore, she could not have consciously disregarded a risk that he could suffer a protracted injury.” The defendant makes the same argument with regard to her conviction for Endangering the Welfare of a Child.
9. However, the evidence was that the defendant **told people** she thought the baby was dead. As the morning of December 26, 2022 progressed and the defendant continued to talk, it became clear to the people at the scene that they were not trying to locate a corpse, but a living, breathing baby whose chances of survival were diminishing in the frigid temperature as rescuers were being frustrated by the defendant’s misdirection. The jury may examine each evidentiary item and draw reasonable inferences from facts proved as well as from facts found as the result of other reasonable inferences. *State v. Nieuwkoop*, 2022-0503 (N.H. Dec 28, 2023).
10. The defendant told several stories on the morning of December 26, 2022 that were proven false. She claimed the baby was near the baseball fields behind the ice arena. She claimed the baby was in the woods next to the rail trail. She claimed that she did not know where the baby was. She claimed she gave birth to the baby after stepping into the woods while walking on the rail trail from Manchester. The list of false claims the defendant made during the course of the investigation is lengthy and the jury was able to witness them on video.
11. “To prevail upon a challenge to the sufficiency of the evidence, the defendant must prove that no rational trier of fact, viewing all the evidence and all reasonable inferences from it in the light most favorable to the State, could have found guilt beyond a reasonable doubt.” *State v. Bell*, 175 N.H. 382, 385 (2022); *State v. Rivera*, 2022-0212 (N.H. Feb 28, 2024). It would be entirely rational and reasonable to discount the defendant’s credibility after the long list of false claims, especially in light of the uncontested fact that the baby was over 8 months along and was crying on the floor of the tent prior to being abandoned.

12. "In considering a motion for JNOV, the trial court may not weigh the evidence or inquire into the credibility of the witnesses, and, if the evidence adduced at trial is conflicting, or if several reasonable inferences may be drawn, the motion should be denied." *State v. Fedor*, 127 A.3d 1249, 168 N.H. 346, No. 2014–0607 (N.H. Nov 10, 2015).

### **Motion for a New Trial**

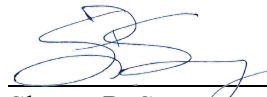
13. The remainder of counsel's motion is for a new trial where counsel concludes that it was not reasonable for the jury to unanimously find beyond a reasonable doubt that the defendant committed all the elements of the offenses for which she was convicted. "To believe that Allie, in the 'circumstances as she knew them to be' acted with a 'conscious object' to commit a crime or was able to 'consciously disregard a risk' is not reasonable." Def. Mot. par. 17.

14. The motion for a new trial is another challenge to the sufficiency of the evidence. The State asks that the Court consider the foregoing references and exhibits to "objectively review the record to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt, considering all the evidence and all reasonable inferences therefrom in the light most favorable to the State." *State v. Saintil-Brown*, 172 N.H. 110, 117 (2019).

**Wherefore**, the State respectfully requests that this Honorable Court:

- A. Deny defendant's motions, and
- B. Such other relief as the Court deems just.

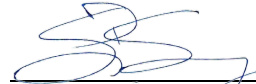
Respectfully Submitted,  
State of New Hampshire,



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**CERTIFICATION**

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



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Shawn P. Sweeney