

STATE OF NEW HAMPSHIRE

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

SUPERIOR COURT
NORTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

ALEXANDRA ECKERSLEY

**SUPPLEMENT TO OBJECTION TO THE DEFENDANT’S MOTION
TO EXCLUDE EVIDENCE OF THE DEFENDANT’S CHARACTER**

NOW COMES, the State of New Hampshire by and through the Hillsborough County Attorney’s Office, Shawn P. Sweeney, with this Supplement to State’s Objection to the Defendant’s Motion to Exclude Evidence of the Defendant’s Character in the above captioned matter:

1. On May 29, 2024, Attorney Kossick represented to the Court that: "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.”
2. On July 7, 2024, Attorney Kossick represented to the Court that “On May 24, 2024, the State filed a motion asking the Court to order the defense to produce the documents reviewed by Dr. Pelaprat. The State represented it had asked multiple times for these documents. This was not true.”
3. “[D]iscovery mandated by paragraphs (b)(1), (b)(2), and (b)(4) of [NH R. Crim. Proc. 12(b)] shall be provided as a matter of course and without the need for making formal request or filing a motion for the same.” However, as a result of defense counsel’s refusal

to provide the documents, the State had to file a motion for production of documents to compel Attorney Kossick to provide discovery.

4. Given the mandatory nature of the discovery rules (b)(1-4) and the reasonably assumed compliance of attorneys regarding discovery in criminal matters, Rule 12(b) has some requirements of an attorney prior to filing a motion to compel discovery.
5. “No motion seeking discovery of any of the materials required to be disclosed by paragraphs (b)(1), (b)(2) or (b)(4) of this rule shall be accepted for filing by the clerk of court unless said motion contains a specific recitation of: (A) the particular discovery materials sought by the motion; (B) the efforts which the movant has made to obtain said materials from the opposing party without the need for filing a motion; and (C) the reasons, if any, given by the opposing party for refusing to provide such materials. Nonetheless, this rule does not preclude any party from filing motions to obtain additional discovery.” NH R. Crim. Proc. 12(b)(6).
6. The State, therefore, could not file a motion for production of documents without notifying the Court of its efforts to obtain the materials from Attorney Kossick without the need for a motion.
7. That representation came in Paragraph 4 of the State’s Motion for Production of Documents. “The State has requested production of the documents that Dr. Pelaprat reviewed both on and off the record and defense counsel has not provided said documents. A trial date now approaches in less than two months.”
8. Despite defense counsel’s representations that they had no notes or emails asking for the records, undersigned counsel had in fact requested production of the subject documents both on the record at a March 28, 2024 hearing and in discussions with defense counsel prior to that hearing. During that recorded hearing, undersigned counsel requested the documents reviewed by Dr. Pelaprat be released for review by a State psychologist. Defense counsel objected during the hearing and referred to a prior conversation in which

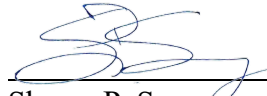
undersigned counsel had requested all the documents that Dr. Pelaprat reviewed. A recording of the pertinent part of the hearing is attached.

9. The State's representations regarding its efforts to obtain discovery were true. Attorney Kossick's representations were not.

Wherefore, the State respectfully requests that this honorable Court,

- A. Such relief as the Court deems just and equitable.

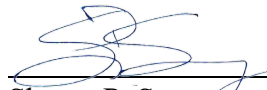
Respectfully Submitted,
State of New Hampshire,



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CERTIFICATION

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



Shawn P. Sweeney