

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

HILLSBOROUGH COUNTY SUPERIOR COURT - NORTH  
STATE OF NEW HAMPSHIRE

V.

ADAM MONTGOMERY

216-2022-CR-577

**DEFENDANT'S MOTION TO ADMIT IMPEACHMENT EVIDENCE PURSUANT TO  
NEW HAMPSHIRE RULE OF EVIDENCE 401, 402, 403 and 404B**  
**re: Michael Sullivan**

NOW COMES the accused, Mr. Adam Montgomery, by and through counsel, Caroline L. Smith and Paige Buckley, Public Defenders, and respectfully requests this Honorable Court to admit impeachment evidence of the Michael Sullivan's prior felony convictions and/or any prior convictions for crimes requiring proof of a dishonest act or false statement, as well as any charges pending at the time they cooperated with police and/or testify at trial, pursuant to New Hampshire Rule of Evidence 401, 402, 403 and 404(b) should he testify at the upcoming trial. In support of this Motion, it is stated:

1. Mr. Adam Montgomery is scheduled for a November 9, 2022 jury selection on multiple charges of Armed Career Criminal, Felon in Possess, Theft and Receiving Stolen Property.
2. Michael Sullivan is a potential witness in this matter.
3. Based upon a preliminary criminal record search the defense believes that Mr. Michael Sullivan has been convicted of the following qualifying offenses which it would seek to admit for impeachment purposes should Mr. Sullivan testify at the upcoming trial:
  - a. 216-2019-CR-01719: Cntrl Drug: Acts Prohibited, Cntrl Drug: Sched 1-4 Possession subseqt, Resist Arrest/ Detention.



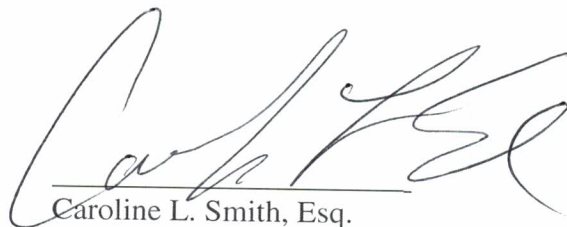
4. Mr. Montgomery reserves the right to supplement this request upon receipt of the criminal records check to be provided by the State pursuant to NH Rules of Criminal Procedure, Rule 12(4)(A)
5. Mr. Sullivan was not convicted of the above referenced charges. However, Mr. Sullivan was arrested on a warrant for the charges on March 31, 2022, although it appears that he turned himself in on the warrant. At the police department, Mr. Sullivan was given *Miranda Warnings* and questioned. It is the content of that interview that it is anticipated Mr. Sullivan will testify.
6. Mr. Montgomery asserts that the charges pending at the time Mr. Sullivan spoke to the police about this case gave motive for him to curry favor with the police for both issues of bail and the ultimate outcome of the charges. The charges were nol prossed August 9, 2022.
7. The jury should hear of Mr. Sullivan's motive to curry favor with the police in order to better assess his credibility. Thus, while not resulting in conviction, the charges pending at the time of Mr. Sullivan's statement to police is admissible pursuant to NHRE 401, 402, 403 and 404(B)

WHEREFORE, Mr. Adam Montgomery, by and through his undersigned defense counsel, respectfully requests that this Honorable Court:

- A. Grant the Defendant's *Motion in Limine* to admit evidence of pending charges at the time Mr. Sullivan spoke to police about this matter;
- B. Schedule a hearing on this matter should the Court find it necessary; and
- C. Grant such further relief as may be deemed just and proper.

Respectfully submitted,

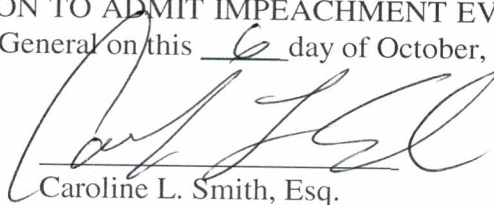




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**CERTIFICATE OF SERVICE:**

I hereby certify that a copy of this MOTION TO ADMIT IMPEACHMENT EVIDENCE has been forwarded to the Office of the Attorney General on this 6 day of October, 2022.



Caroline L. Smith, Esq.

