

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

HILLSBOROUGH COUNTY SUPERIOR COURT – NORTH

STATE OF NEW HAMPSHIRE

V.

ADAM MONTGOMERY

216-2022-CR-577

**MOTION TO STIPULATE TO STATUS AS FELON**

NOW COMES the defendant, Adam Montgomery, by and through counsel, Caroline L. Smith, Esq. and Paige Pihl Buckley, Esq., and respectfully requests that this Honorable Court permit the defendant to stipulate to his status as a felon for purposes of the Armed Career Criminal charges and the Felon in Possession charges, to remove the question from the jury. This request is made in the event that the previously filed Motion to Sever is denied.

In support of this Motion, the following is stated:

1. On June 20, 2022, the defendant was indicted for two counts of Armed Career Criminal (ACC) with two lesser included counts of Felon in Possession (FIP), two counts of Receiving Stolen Property, and two alternative counts of Theft by Unauthorized Taking or Transfer.
2. On or about August 4, 2022, by agreement, the State amended the charges of ACC and FIP to strike the charge of Criminal Threatening from the list of prior felonies as the listed Criminal Threatening conviction was in fact for a misdemeanor.
3. On August 18, 2022, the defendant was again indicted for two counts of ACC and two counts of FIP. These charges were indicted under the same docket number as the original Armed Career Criminal and Felon in Possession charges. The only difference between the new charges and the prior amended charges of the same name is that each of the new charges has additional charges added to the list of prior convictions.
4. The defendant filed a Motion to Sever. The Court has not yet ruled on the motion. The request for Severance was premised on the profound prejudice evidence of numerous prior major felony convictions for crimes of violence would have on the jury.

5. In the event the Motion to Sever is denied, Adam Montgomery proposes a stipulation to the validity to his prior convictions in order to remove the issue of his status as a felon from the consideration of the jury. See State v. Glodgett, 144 N.H. 687, 691,(2000); State v. Cardin, 129 N.H. 137, 139, (1987).

WHEREFORE, counsel for Mr. Montgomery requests this Court:

- A. In the event the Motion to Sever is denied, permit Mr. Montgomery to remove the issue of his status a violent felon from the jury by stipulating to such status; or
- B. Schedule a Hearing on the matter if necessary; and
- C. Grant such further relief as may be deemed just and proper.

Respectfully submitted,

/s/ Caroline Smith  
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/s/ Paige Pihl Buckley  
Paige Pihl Buckley  
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**CERTIFICATE OF SERVICE:**

I hereby certify that a copy of this MOTION has been forwarded to the Office of the Attorney General on this 12<sup>th</sup> day of October 2022.

/s/ Caroline Smith  
Caroline L. Smith, Esq.

/s/ Paige Pihl Buckley  
Paige Pihl Buckley, Esq.