

HILLSBOROUGH, SS.
Northern District

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

State of New Hampshire

v.

Adam Montgomery

Case No. 216-2022-CR-00577

**STATE'S RESPONSE TO DEFENDANT'S MOTION *IN LIMINE*: EVIDENCE OF
OTHER FIREARMS**

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and hereby responds to the defendant's Motion *in Limine*: Evidence of Other Firearms ("Def.'s Mot.").

1. The defendant requests that the Court "preclude evidence of other alleged firearm possession" by the defendant. (Def.'s Mot. ¶ A.) The defendant's motion specifically references an inoperable firearm the defendant allegedly obtained from Mark Reed, and an AK-47 sold to the defendant by "Britney" and obtained by her from Sean Houle. (Id. ¶ 2.) The State notes that it does not intend to introduce evidence of the Reed or Britney firearms in its case-in-chief.

2. The defendant also makes a more nebulous reference to the fact that "[d]iscovery also contained more general allegations of being involved with firearms." (Id.) While not repeated in the prayers for relief, to the extent the defendant seeks to preclude the State from admitting relevant, direct evidence of the defendant's possession of firearms, the State objects.

3. The State anticipates that at least two witnesses will testify to statements the defendant made about past sales of firearms. One witness, Joshua Zimmerman, is expected to testify that in approximately 2021, the defendant bragged about selling firearms. To Zimmerman,

it sounded like the defendant was referencing past sales. While Zimmerman did recall the defendant talking specifically about an AK-47, it is important to note that the defendant bragged about selling firearms in the plural; i.e., more than just the AK-47. While the specific evidence about the AK-47 is not evidence the State intends to introduce in its case-in-chief, the defendant's admission to selling firearms in general is direct evidence of the defendant possessing firearms, which is relevant to all of the charges in the instant case.

4. The second witness, Tarah Hilbert, is expected to testify that on approximately three occasions between February 2020 and summer 2020, the defendant bragged to her about having sold firearms at his house, which Hilbert believed to be 77 Gilford Street in Manchester. 77 Gilford Street is where the defendant was living at the time of the theft in September/October 2019 that gave rise to the instant charges. Hilbert is also expected to testify that one of the firearms the defendant bragged about was an AR-15, which is consistent with the type of rifle charged in the instant case. The defendant's admission to selling firearms—especially an AR-15—is direct evidence of the defendant possessing firearms, which is again highly relevant to all of the charges in the instant case.

5. The anticipated testimony of Zimmerman and Hilbert is not other acts evidence that would be covered by Rule 404(b) of the New Hampshire Rules of Evidence. Instead, the defendant's admissions to Zimmerman and Hilbert are direct evidence that the defendant was in possession of firearms that he was attempting to sell, which is in turn direct evidence of the conduct comprising the charges the defendant is currently facing. Therefore, such evidence should not be precluded.

WHEREFORE, the State of New Hampshire respectfully requests that this Honorable Court:

(A) Grant the defendant's motion with respect to an inoperable firearm the defendant allegedly obtained from Mark Reed, and an AK-47 sold to the defendant by "Britney" and obtained by her from Sean Houle;

(B) Deny the defendant's motion to the extent it seeks to preclude relevant, direct evidence of the instant charges, including the anticipated testimony of Zimmerman and Hilbert; and

(C) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

John M. Formella
Attorney General

Date: October 21, 2022

/s/ Jesse O'Neill

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CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing was sent to counsel for the defendant via the electronic case filing system.

/s/ Jesse O'Neill

Jesse O'Neill