

State of New Hampshire

Merrimack County Superior Court

Merrimack, ss.

State of New Hampshire

July Term, 2025

v.

Eric Sweeney

217-2023-CR-721

MOTION IN LIMINE TO EXCLUDE CONTENT OF SNAPCHAT VIDEOS OF K.S., B.S.,
AND M.S.

NOW COMES Eric Sweeney, by and through counsel, Lauren Prusiner and Morgan Taggart-Hampton, and respectfully requests that this Court exclude the content of Snapchat videos of K.S., B.S., and M.S., as described in discovery as dated August 3, 2022. While Mr. Sweeney would not object to a single frame from a video with a time stamp to establish a time, Mr. Sweeney specifically objects to the State playing the videos, for the reasons stated below. This Motion is grounded in Mr. Sweeney's rights to due process under the Fifth and Fourteenth Amendments to the United States Constitution, part I, article 15 of the New Hampshire Constitution, and Rules 401 and 403 of the New Hampshire Rules of Evidence.

In support of this Motion, the following is stated:

1. Eric Sweeney is charged with three counts of first degree murder and falsifying physical evidence related to the deaths of K.S., B.S., and M.S. The offenses are alleged to have taken place on August 3, 2022.
2. The facts represented in this Motion come from discovery provided to the defense by the State. By including those facts within this Motion, Mr. Sweeney does not waive any

constitutional or statutory protections that he may have, including the presumption of innocence and the State's burden of proving each element of the alleged offenses beyond a reasonable doubt.

3. Mr. Sweeney is currently 18 years old. His birthdate is July 27, 2006.
4. Discovery provided by the State includes a number of Snapchat "story" videos from K.S.'s phone. Those videos show two small children, each looking out a window at an animal. Additional videos depicts the same two small children, one in a partial dinosaur costume facing the screen repeatedly saying "dada" and "I love you dada/daddy." Finally, in a third Snapchat video, the two small children are again shown and the voice of a female from behind the camera can also be heard. These videos are purportedly from August 3, 2022.
5. These Snapchat videos are irrelevant to the matter at hand and should not be considered by the jury. Evidence is relevant only if it tends to make a fact of consequence more or less probable. See N.H. Evid. R. 401. Here, there are no facts at issue that are made more or less likely by the State showing these videos or discussing their content. The videos provided show two people, and the voice of a third. None are purported to be the defendant or any other person aside from the decedents.
6. Irrelevant evidence is inadmissible. N.H. Evid. R. 402.
7. Any probative value of the videos is substantially outweighed by the danger of unfair prejudice to Eric Sweeney. Under Rule of Evidence 403, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. See N.H. Evid. Rule 403; State v. Gordon, 161 N.H. 410, 414 (2011).
8. Evidence is unfairly prejudicial if it is presented to cause or would cause jury sympathy,

horror, or instinct to punish. Id. Factors that the court considers in weighing the probative value and risk of unfair prejudice are whether the evidence would have a great emotional impact on a jury, the potential for appealing to a juror's sense of outrage, and the extent to which the issue it is presented for is established by other evidence. State v. Nightingale, 160 N.H. 569, 574-75 (2010).

9. These videos add little to the jury's ability to evaluate testimony and create great risk of causing the jury to sympathize, and should be excluded under Rule 403. See State v. Cook, 148 N.H. 735, 741 (2002). In Cook, the State introduced photographs that showed the victim at the age she was when she was sexually assaulted by the defendant. See id. at 738. Other evidence established the age of the victim, and the photographs did not have any other evidentiary value. See id. at 741. The Supreme Court held that the photographs should not have been admitted because "the photographs added little to the juror's evaluation of [the victim's] testimony" and "there was a risk that the admission of the photographs would elicit sympathy from the jury." See id.
10. Similarly, the videos the State could seek to introduce do not help to show whether Mr. Sweeney committed the alleged offenses. Therefore, Mr. Sweeney respectfully requests that the court exclude the Snapchat videos themselves, but do not object to a screenshot of a video with a time stamp.

Dated this 22nd day of July, 2025.

Respectfully submitted,

/s/ Morgan Taggart-Hampton

Morgan Taggart-Hampton, NH Bar #269549

Lauren E. Prusiner, NH Bar # 19582

Public Defender

One West Street

Keene, New Hampshire 03431

(603) 357-4891

CERTIFICATE OF SERVICE

I, Morgan Taggart-Hampton, do hereby certify that a copy of the foregoing Motion has been forwarded this 22nd day of July, 2025 to Attorneys Bethany Durand and Peter Hinckley, for the State.

/s/ Morgan Taggart-Hampton
Morgan Taggart-Hampton