

Denied

Clerk's Notice of Decision
Document Sent to Parties
on 06/21/2024Honorable John C. Kissinger, Jr.
June 21, 2024THE STATE OF NEW HAMPSHIRE
Merrimack County Superior Court

Merrimack, ss.

June Term, 2024

State of New Hampshire

v.

Eric Sweeney

Docket No. 217-2023-CR-721

MOTION TO RECONSIDER

NOW COMES Eric Sweeney, by and through counsel, Lauren Prusiner, Shea Sennett, and Morgan Taggart-Hampton and respectfully requests this Court to reconsider its order dated June 11, 2024, denying his Motions to Suppress, in the above-captioned matter.

Eric submits that the Court, in making its ruling, overlooked or misapprehended the following points of fact and law:

1. Eric stands before this Court charged with three counts of first degree murder and falsifying physical evidence. His case is scheduled on the December 2024 trial docket.
2. Eric filed two motions to suppress on February 26, 2024. After a contested hearing, the Court denied those motions on June 11, 2024.
3. In its denial, the Court specifically addressed Eric's argument that RSA 169-B:11 imposes a four-hour limit on detention and custodial interrogations of a youth at a police station, and does not allow for extensions. In citing to RSA 169-B:11 and RSA 169-B:14, the Court decided that "even if a minor is held beyond four hours, law enforcement is only required to notify the court. At that point, the court must determine whether continued detention is necessary. If the court finds continued detention necessary, it may order the juvenile's detention at a juvenile facility." (Kissinger, J. at 5).

4. RSA 169-B:11 provides that, "if the minor is not released within 4 hours of being taken into custody, the court shall be notified, and thereupon, placement, until arraignment, shall be determined by the court." The remaining sections of B:11 (I-III) then list the various locations that a minor held in custody after 4 hours, may be held. For example, B:11 lists that a youth *shall* be released into the custody of a parent, guardian, or custodian pending arraignment, the supervision of a relative or friend, into the custody of the department of health and human services for placement in a foster home, a crisis home, a shelter care facility, a group home, or an alcohol crisis center certified to accept juveniles, or, as cited by the Court in its order, if continued detention is required, based on the criteria set forth in 169-B:14, it may order continued detention at an alternative to secure detention, or any facility certified for the detention of minors by the commissioner of the department of health and human services. RSA 169-B:11, I - III. It does not allow for continued detention at a police station for the purpose of further interrogation and investigation.

5. Continued detention at a police station is not listed as an option under RSA-B:11, nor can it be reasonably construed to fall under any of the categories required by the statute. See In re Russell C., 120 N.H. 260, 264 (1980) ("The use of the word 'shall' is generally regarded as a command although not controlling, it is significant as indicated the intent that the statute is mandatory"). In Russell C., the New Hampshire Supreme Court held that mandatory language requiring compliance with certain time limits is jurisdictional. Id. at 268.

6. In its order, the Court specifically cited 169-B:11, III, which states that "If the court determines that continued detention is required, based upon the criteria specified under 169-B:14, I(e)(2), it may order continued detention at an alternative to secure detention, or any facility

certified for the detention of minors by the commissioner of the department of health and human services." "Alternative to secure detention" is not a general term, but has a specific definition under RSA 169-B, defined as "any local program, approved by the court, police, probation, or the department of health and human services, which offers a less restrictive alternative to secure detention for minors. Such programs include, but are not limited to, youth attender, crisis home placement, group homes which have entered into agreements with the department of health and human services to provide such care, truant and runaway programs, and alcohol and drug detoxification programs." RSA 169-B:2, II. Again notably, police stations are not listed under this specific, defined category. Continued detention at a police station is simply not allowed.

7. Additionally, legislative history indicates that in 1992 the New Hampshire State Legislature changed law enforcement's options with regard to where a youth could be held in "continued detention." Specifically, they removed the language that at the time allowed continued detention at "a police station, jail..." Removal of those words from RSA 169-B:11 indicates that youths were expressly no longer allowed to be held at a police station or jail. RSA 169-B:11, III (amended 1992).

8. As the procedures required under RSA 169-B:11 were not followed, all statements stemming from Eric's interrogation after 3:50pm and all evidence gathered during his continued illegal detention at the Tilton Police Department must be suppressed. See State v. Lantagne, 165 N.H. 774, 779 (2013); see generally State v. Miller, 159 N.H. 125 (2009).

WHEREFORE, Eric Sweeney respectfully requests this Court to reconsider its order dated June 11, 2024 and grant his Motion to Suppress.

Dated this 20th day of June, 2024.

Respectfully submitted,

/s/ Morgan Taggart-Hampton

Morgan Taggart-Hampton, NH Bar #269549

Public Defender

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CERTIFICATE OF SERVICE

I, Morgan Taggart-Hampton, do hereby certify that a copy of the foregoing Motion has been forwarded this 20th day of June 2024 to Attorney Bethany Durand and Attorney Scott Chase, for the New Hampshire Attorney General, through e-filing.

/s/ Morgan Taggart-Hampton

Morgan Taggart-Hampton