

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

OCTOBER TERM, 2023

STATE

V.

ERIC SWEENEY

217-2023-CR-00721

TO BE PLACED UNDER SEAL PURSUANT TO N.H. R. CRIM. PROC. 50

**STATE'S MOTION TO SEAL STATE'S MOTION FOR ORDER OF NO BAIL
PURSUANT TO RSA 597:1-c AND STATEMENT OF FACTS IN SUPPORT
OF REQUEST FOR NO BAIL**

NOW COMES the State of New Hampshire, by and through the Office of the Attorney General, and respectfully moves to seal, pursuant to *New Hampshire Rule of Criminal Procedure* 50, the State's Motion for Order of No Bail Pursuant to RSA 597:1-c and Statement of Facts in Support of Request for No Bail. In support of its request, the State says as follows:

1. On September 14, 2023, Eric Sweeney was indicted by a Grand Jury seated in Merrimack County as to three counts of first-degree murder as well as one count of falsifying physical evidence related to the murders of Cassandra Sweeney and her two minor children, Benjamin Sweeney and Mason Sweeney.

2. Prior to his indictment, on August 11, 2023, Eric Sweeney was charged with these offenses by way of juvenile petition and the State filed a Petition for Certification of the defendant as an Adult. On June 7, 2023, following a hearing, the juvenile court (*J. Mace*) granted the State's Petition for Certification finding that all seven relevant statutory

factors weighed in favor of transfer to the Superior Court. On July 10, 2023, the Merrimack Denied. Except for the fact of certification, the Statement of Facts does not describe proceedings in the juvenile court, and relates evidence in the case that the State contends supports detention. In the event of a bail hearing, the matters discussed in the statement could have been disclosed in open court.

Superior Court (*J. Tucker*) granted the State’s Motion to accept the juvenile certification and transfer of the case. *See* Order of Court (*J. Tucker*), July 10, 2023, case 217-2023-JV-01.

3. In light of the extensive history of this matter in the family court and prior to indictment in the Superior Court, the State is filing, in an abundance of caution, the instant State’s Motion for Order of No Bail Pursuant to RSA 597:1-c and Statement of Facts in Support of Request for No Bail Order under seal. By filing this Motion, the State seeks to ensure the appropriate treatment of this matter under the law.

4. However, Superior Court Administrative Rule 5-2 states that “[a]fter a juvenile has been certified and an indictment has been returned, the whole proceeding shall be treated thereafter the same as if it were a case of an adult.” As such, the confidentiality accorded this matter prior to indictment would appear to no longer apply.

5. The State recognizes that the public “is generally afforded unfettered access” to court records. *In re Union Leader Corp.*, 147 N.H. 603, 604 (2002).¹ Moreover, “a party seeking closure or nondisclosure of court records has the burden to demonstrate, with specificity, a sufficiently compelling interest, outweighing the public’s right of access.” *Id.*

6. The State believes that pursuant to Superior Court Administrative Rule 5-2, this matter is within the purview of the public as is the State’s Motion for Order of No Bail pursuant to RSA 597:1-c and Statement of Facts in Support of Request for No Bail Order.

¹ The present matter does not implicate constitutional rights of the public and press to attend and observe judicial proceedings. The general public and the press have access to attend and observe the hearing. *See, e.g., United States v. Dimora*, 862 F. Supp. 2d 697, 703-04 (N.D. Ohio 2012) (“The requirement of a public trial is satisfied by the opportunity of members of the public and the press to attend the trial and report what they have observed. The constitutional right to a public trial does not, however, extend to the right of the public and the press to inspect and copy exhibits that have been admitted during the public trial.”) (internal quotations and citations omitted).

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

- A. Retain the State's Motion for Order of No Bail Pursuant to RSA 597:1-c and Statement of Facts in Support of Request for No Bail Order, and the instant Motion as confidential until a ruling is made on the motion to seal; and/or,
- B. Grant such further relief as may be just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

JOHN M. FORMELLA
ATTORNEY GENERAL

October 26, 2023

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via traditional and electronic mail to counsel for the defendant.

/s/ Bethany J. Durand
Bethany J. Durand
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