

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

MERRIMACK, SS.

JULY TERM, 2025

STATE OF NEW HAMPSHIRE

v.

ERIC SWEENEY

Docket No.: 217-2023-CR-00721

**STATE'S OBJECTION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE
CONTENT OF SNAPCHAT VIDEOS**

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General (“the State”), and submits this objection to the defendant’s motion seeking to exclude from his trial videos showing the victims alive, together, and in no visible distress while in their home, shortly before their murders. Such evidence is plainly relevant and admissible. In support of this motion, the State submits the following.

1. The defendant is charged with, inter alia, three counts of first-degree murder. Trial on the matter is scheduled to begin with jury selection on September 8, 2025.
2. As is pertinent to the defendant’s motion, the State alleges that the defendant murdered the three victims inside their home on the morning of August 3, 2022. At the time, the defendant was living in that house with the three victims and the defendant’s brother, Sean Sweeney. Sean Sweeney left for work early on the morning of August 3, 2022, and did not return until after the defendant called him at about 11:20 a.m. At that time, the defendant reported in substance that an intruder had broken into the house and had killed the victims.
3. During the course of that morning after Sean Sweeney left for work, victim Cassandra Sweeney was communicating with him, using her cellphone to contact him through his cellphone.

4. That same morning, Kassandra Sweeney made numerous videos using that same cellphone. Three of those videos are the subject of the present motion to preclude. The first video lasts about thirty-one seconds in total, and according to embedded cellphone metadata was created at 10:08 a.m. The second video chronologically lasts about thirty-five seconds in total, and according to embedded metadata was created at 10:50 a.m. The third video chronologically lasts about six seconds in total, and according to embedded metadata was created at 10:53 a.m.¹ In all three videos, the minor victims are seen and heard inside the home, engaging in playful behavior with Kassandra Sweeney. In those videos, the minor victims are wearing clothing in which they were found dead inside the home with their mother by police less than an hour after the last video was taken.

5. As will be established by other evidence at trial, at about 11:00 a.m. on August 3, 2022, the defendant left the house in the same pickup truck recorded by Kassandra Sweeney in the 10:55 a.m. video, footnote 1, supra. From other evidence, it will be established that the defendant had with him Kassandra Sweeney's cellphone, the same one with which she took all three subject videos.

6. According to claims voiced by the defendant to Sean Sweeney and the police, an armed home invader(s) shot and killed the victims. He expressly denied committing the murders.

7. There were no eyewitnesses to the murders. The defendant gave no confession and made no admissions to killing the victims.

¹ Another video was made by victim Kassandra Sweeney using her cellphone at 10:55 a.m., according to embedded metadata. In that video, taken from inside the house, Kassandra Sweeney is heard speaking and looking out into the yard, where a Ford pickup truck is parked; one of the children is heard in the background. The defendant has not objected to the admission of this video.

8. With this pertinent evidentiary context, the challenged videos are plainly admissible at the defendant’s upcoming trial. The applicable legal framework is well-established. In New Hampshire, “[r]elevant evidence is admissible” unless precluded by constitution, statute, or evidentiary rule. N.H. R. Evid. 402. Evidence is relevant when it has “any tendency to make a fact [of consequence in determining the action] more or less probable than it would be without the evidence.” N.H. R. Evid. 401; State v. Watkins, 148 N.H. 760, 767 (2002) (“Relevant evidence need only have a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”). Once proffered evidence has met this low threshold of admissibility, a trial court may preclude it only when “its probative value is substantially outweighed by the danger of . . . unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” N.H. R. Evid. 403.

9. Turning first to relevancy. First, the videos provide the jury with contemporaneous recordings establishing time of life for all three murder victims, and also inferentially—when considered along with other trial evidence—their time of deaths. This evidence, along with other evidence such as the defendant’s departure from the house at a known time with Cassandra Sweeney’s cellphone, provides powerful circumstantial evidence of the defendant’s identity as the killer.

10. Moreover, the videos have accompanying audio. In none of the clips at issue is anyone other than the victims seen or heard.² And, in all three videos the victims are exhibiting no distress or other visible or audible signs that would suggest that an unknown or unwelcome third-party was present in the house with them. For these separate and independent reasons, the

² Other trial evidence will establish that the defendant invariably was home.

challenged evidence again provides circumstantial evidence of the defendant's identity as the culprit.

11. For any of these reasons, the challenged evidence, contrary to the defendant's complaint otherwise, does "help to show whether [he] committed" the charged murders. Defendant's Objection, at ¶ 9. That is, the proffered evidence makes it "more probable" than it would be without the evidence, see N.H. R. Evid. 402, that the defendant, rather than someone else, was the person who shot and killed the victims inside their house. That is all that is needed under the law to establish relevancy.

12. Although probative value is not part of the initial relevancy calculus for admission under Rule 403, it is noteworthy that the multiple independent bases for relevancy set forth above increase the challenged evidence's probative force. Moreover, relevancy is not established by the defendant's direct claims of third-party culprit to his brother and/or the police. Instead, as set forth in the preceding paragraphs, the challenged evidence is relevant in establishing the defendant's identity irrespective of any affirmative claims otherwise made by him. But to the extent that the State seeks to admit any such claims made by the defendant to his brother and/or to the police, that evidence certainly enhances the probative value of the subject videos.³

³ Similarly, although relevancy would not be established by a trial defense that explicitly or implicitly challenges the defendant's identity as the culprit—the State regardless of any proffered defense must prove beyond a reasonable doubt that the defendant, rather than someone else, committed the charged crimes—to the extent that such a defense of identity is advanced that would certainly increase the challenged evidence's probative value. Compare, e.g., State v. Addison, 165 N.H. 381, 465 (2013) (in context of Rule 404(b) analysis, noting that when issue is in serious dispute "the trial court is justified in assigning a high probative value to other bad acts evidence that tends to prove" disputed issue).

At this point the State does not know what defense(s) will be advanced at trial other than insanity. This Objection by no means curtails the State's ability to argue additional relevancy and/or enhanced probative value given what the defense may pursue at trial.

13. Thus, the challenged evidence is relevant. Indeed, the defendant acknowledges relevancy, in his motion, noting that he is “not object[ing] to a single frame from a video with a time stamp to establish a time . . .” Defendant’s Objection, at page 1. Were the challenged evidence truly lacking relevancy, such a concession—an attempt by the defendant to control how the State presents relevant and probative proof at trial—is unwarranted. In point of fact, the concession belies the defendant’s primary grounds for objection, namely, the “videos are irrelevant to the matter at hand.” Defendant’s Objection, at ¶ 5.

14. Nor does the defendant fare any better in his alternative argument for preclusion, to wit, that “[a]ny probative value of the videos is substantially outweighed by the danger of unfair prejudice.” Defendant’s Objection, at ¶ 7. The only claimed prejudice by the defendant is that the evidence “adds little to the jury’s ability to evaluate testimony and create great risk of causing the jury to sympathize.” Defendant’s Objection, at ¶ 9. As to his former complaint, it is nothing more than a rephrased challenge to relevancy, which has already been addressed.

15. As to the defendant’s prejudice claim based upon “sympathy,” it is ambiguous at best. In fact, he does not articulate at all how the videos would create sympathy to such an extent as amounting to unfair prejudice that substantially outweighs probative value. A bare claim of “sympathy” does nothing to meet the presumption of admissibility that the defendant must overcome.

16. Lastly, defendant’s reliance on State v. Cook, 148 N.H. 735 (2002) is misplaced. Defendant’s Objection, at ¶ 9. The evidence at issue in Cook, in which the defendant was charged with sexually assaulting a child, were photographs of the victim at the age she was when she was sexually assaulted, which photos were taken between six and nine years before the trial. See id. at 737-38, 740-41. The trial court found that the photographs were relevant to the

“credibility of [the complainant] and would help the jury to understand . . . in a visual way that at the time these events are alleged that she was a young child.” Id. at 741. The New Hampshire Supreme Court concluded that the evidence had “limited probative value” that was substantially outweighed by prejudice. As the Supreme Court explained:

The jurors were aware that [the complainant] was a child at the time the incidents were alleged to have occurred, and her credibility could have been tested with that knowledge alone. The photographs added little to the jurors' evaluation of her testimony. Moreover, there was a risk that the admission of the photographs would elicit sympathy from the jury when testimony of the alleged conduct was juxtaposed with the images of the young child.

Id.

17. To begin, here relevancy and probative worth are not “limited.” The challenged evidence helps establish the defendant’s identity as the person who committed the charged crimes. And, the videos here, unlike the photos in Cook, are not submitted to evaluate the testimony of the person depicted, but to give the jury an accurate and probative contemporaneous record of a timeline leading up to the victims’ deaths. Lastly, there is no risk of sympathy similar to that in Cook—childhood images of the testifying complainant. In short, the purpose, relevancy, probative force, and use of the challenged evidence here are all very different from the evidence at issue in Cook. The case provides no helpful guidance, let alone precedential support for preclusion.

18. Despite the defendant’s claims otherwise, the challenged evidence is relevant, and its probative value is not substantially outweighed by the claimed prejudice. The Court should admit the evidence.

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

- A. Deny the defendant's motion in limine to exclude content of Snapchat videos; and
- B. Grant such further relief as may be just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

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July 23, 2025

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CERTIFICATION

I certify that a copy of this notice has been sent to counsel for the defendant, via the electronic case filing system.

July 23, 2025

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