

STATE OF NEW HAMPSHIRE
SUPERIOR COURT
MERRIMACK COUNTY, SS

Case No.: 217-2024-CR-1167

STATE OF NEW HAMPSHIRE,
vs.
ANNA BARBARA HANTZ MARCONI,

**MOTION TO RECONSIDER ORDER ON
PETITION FOR ACCESS, AND
REQUEST FOR COSTS AND FEE
AWARD**

NOW COMES Petitioner, Brok-Alan Woodward-Griffith (“Griffith”, “Petitioner”), *pro se*, and hereby respectfully moves this Honorable Court to reconsider the August 28th, 2025 *Order on Petition to Access Sealed Court Records* (the “Order”). In addition, Petitioner humbly and respectfully requests that he be awarded costs and reasonable fees, in being forced to file this instant motion. As this motion does not exceed ten (10) pages, no separate memorandum is included. Petitioner states in support as follows.

BACKGROUND

1. On August 4th, 2025, Petitioner filed to request access to certain sealed court records. See Doc. 125.
2. On August 18th, 2025, this Honorable Court issued an interim order (hereinafter, “*Interim Order*”), requiring that the State and Defendant respond to the Petition. See *Interim Order on Petition to Access Sealed Court Records*, August 18th, 2025. (Also attached as **Exhibit 1**).
3. On August 19th, 2025, the State and Defendant jointly submitted a response to the Court’s *Interim Order*. See Doc. 132. (Also attached as **Exhibit 2**).
4. At no time did the State nor the Defendant object to Plaintiff’s petition.

- 1 5. Within the response to the Court’s *Interim Order* furnished by State and Defendant (Doc.
2 132), the State and Defendant engaged in sanctionable conduct, by misstating the facts and
3 law to this Honorable Court. See New Hampshire Rules of Professional Conduct, Rule
4 3.3(a)(1)(2); Also Rule 8.4(a), (c), (f).
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6 6. As a result of the deceptive joint-filing by the State and Defendant (Doc. 132), the Honorable
7 Court was misled into entering an erroneous order on Petitioner’s request for access, denying
8 same. See *Order on Petition to Access Sealed Court Records*, August 18th, 2025.
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10 7. In sum, the State and Defendant, by and through the deceptive and misleading joint reply
11 (Doc. 132), managed to successfully lead this Honorable Court on a long walk up the garden
12 path – and to an erroneous conclusion, and order.

ARGUMENT

- 14 8. As a threshold argument, the joint-response submitted by the State and Defendant failed to
15 contain an affidavit, and relied on facts outside of the pleadings, to which to the Court could
16 not take judicial notice. Accordingly, to the extent the Court relied on any facts submitted in
17 the motion to prepare the *Order*, this is a reversible error, and grounds for reconsideration.
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19 9. Pursuant to the paragraph above, any suggestion that the parties submitted objections to
20 Petitioner via email is disputed. To the extent Petitioner was required to respond to such
21 objections via email, Petitioner respectfully states that any objections submitted by the State
22 and the Defendant, to Petitioner, via email, may be deemed overruled by the Petitioner.

I. Errors by the Court in the Order

25 Respectfully noting that the *Order* is brief, and lacks any supporting legal authority for the
26 conclusions arrived at by the Court – the *Order* nonetheless makes several substantial, and
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1 reversible, errors of law. Petitioner respectfully argues these errors must be addressed and
2 properly reversed on reconsideration.

3 First, the Court inexplicably states that “the Keene Sentinel newspaper was represented by
4 counsel” and that “the Court’s process specified that meeting with the Court could be attended
5 only by counsel as representatives,” further stating that this is a “problem” with “Griffith’s”
6 argument. See Order, Exh. 1, pg. 2. Given that Petitioner, Griffith, *is counsel*, Petitioner fails to
7 see the reasoning or meaning of this observation by the Court. Moreover, both the New
8 Hampshire and United States Constitution enshrines the right to counsel, and counsel of choice,
9 including the inviolable right to self-representation. See e.g. U.S. Const. 6th Amend.; N.H. Const.
10 Part I., art. 14, 15. Respectfully, the only conclusion that can be gleaned here, is that the Court,
11 in some way, was stating that Petitioner has no right to counsel of his choosing. Secondly, the
12 Court offers no explanation as to why Petitioner, as counsel, would not be able to attend an *in*
13 *camera* proceeding, and further, concludes that Keene Sentinel, supra, somehow forbids this (it
14 does not). This all amounts to reversible error – and crucially – does not forbid an *in camera*
15 proceeding with Petitioner.
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19 Second, the Court states, in error, that N.H. Rules of Criminal Procedure, Rule 50, is the
20 “latest directive” from the New Hampshire Supreme Court, and concludes that this overrules the
21 procedure in Petitioner of Keene Sentinel, 136 N.H. 121 (1992) and its progeny. This also
22 amounts to reversible error. The law in question here is Constitutional in nature, and therefore
23 the controlling law – not Court rules. Court rules are advisory in nature, and subject to certain
24 discretionary waiver by the Court. See N.H. R. Crim. Proc. Rule 1(a), Also “Comment”.
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26 In the alternative, because Keene Sentinel, 136 N.H. at 130-131 prescribed these rules based
27 on the protections afford by Part I, Article 8, and Article 22 (See Id. at 126) of the New
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1 Hampshire Constitution, any interpretation of the new Rules of Criminal Procedure that seeks to
2 overrule the settled case-law is rendered an advisory opinion. See Opinion of the Justices, 167
3 N.H. 539, 541-542 (2015) (an advisory opinion is one issued by the Supreme Court, and is not
4 one rooted in an active controversy, and therefore is not binding precedent.) Because court rules
5 are issued by the Supreme Court as a procedural opinion, and not one rooted in an “active
6 litigated case,” these rules do not have the power or authority to overrule settled case law. *Id.*

8 *Arguendo*, even if this Honorable Court were to consider the court rules overrule precedential
9 common law, the well-settled case law in New Hampshire requires that all court rules are to be
10 interpreted “to avoid conflict with constitutional rights wherever reasonable possible.” Lamarche
11 v. McCarthy, 158 N.H. 197, 201 (2008). By interpreting Criminal Rule 50 to overrule the
12 procedure outlined in Keene Sentinel, *supra*, which was rooted in *de novo* constitutional analysis,
13 this Honorable Court has entered an unreasonable ruling which not only interferes with
14 constitutional rights, but ignores the well-settled precedent.

16 Third, even if the Court were permitted to waive the procedure outlined in Keene Sentinel,
17 *supra*, it still failed to properly follow the proper reasoning, and failed to permit meaningful
18 adversarial testing. In the final paragraph of the *Order*, the Court did not have any arguments
19 from the petitioner as to why the materials should be unsealed. Moreover, in direct violation of
20 Keene Sentinel, 136 N.H. at 129, this Court also simply relied on the original motions to seal,
21 without allowing any counterargument. This amounts to reversible error. (“Our reading of the
22 court's order in this case indicates that it deferred to the original orders to seal and incorrectly
23 placed the burden on the petitioner to show that it had a right of access to these records.
24 Therefore, it appears that insufficient safeguards were used in the decision-making process to
25 protect the guarantees of part I, articles 8 and 22 of the State Constitution.”) *Id.* Furthermore, the
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1 State and Defendant offered no controlling legal authority that required the grand jury materials
2 be kept under seal in the first instance – and likewise, the court erroneously prevented
3 meaningful adversarial testing on same.
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5 Accordingly, Petitioner respectfully states that the *Order* must be reversed, and *in camera*
6 hearing must be held.

7 **II. The State and Defendant Mistate and/or Conceal the Relevant Law**

8 Stated prior, the Court was led to an incorrect conclusion by the deception of the State and
9 the Defendant, in filing the response. The New Hampshire Rules of Professional misconduct
10 forbid an attorney to conceal from, or fail to disclose to, the tribunal “legal authority in the
11 controlling jurisdiction known to the lawyer to be directly adverse to the position of the client,
12 and not disclosed by opposing counsel.” See N.H. R. of Prof. Cond. Rule 3.3(a). The comment
13 under Rule 3.3 continues to explain that a “lawyer must not allow the tribunal to be misled by
14 false statements of law or fact or evidence the lawyer knows to be false,” and further that “legal
15 argument based on a knowingly false representation of the law constitutes dishonesty towards
16 the tribunal.” See *Id.*, “Comment”, [2][4]. Here, the State and the Defendant have relied
17 *exclusively* on arguing that the New Hampshire Rules of Criminal Procedure Rule 50 properly
18 allow the Court to evade the required of Petition of Keene Sentinel, 136 N.H. 121 (1992). This is
19 a false representation of the law by the State and Defendant.
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22 The State and Defendant’s joint response (Doc. 132, **Exhibit 2**) speaks for itself, but
23 highlighted briefly: ¶¶ 4-8 of the joint response directly argue on basis of N.H. R. Crim. Proc. R.
24 50. Nowhere do the parties offer any explanation as to how, or why, Rule 50 somehow overrides
25 the Common Law, the RSA’s, or the New Hampshire Constitution.
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1 In sum, this response, submitted by the State and Defendant, is a deliberate misstatement of
2 the law, and thus initially led this Court down the wrong path. Accordingly, Petitioner should be
3 awarded costs and reasonable counsel fees for being forced to file this instant motion.
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5 III. **Award of Fees**

6 Petitioner respectfully submits there are two bases for awarding fees – frivolous and
7 unreasonable conduct by the litigants, and substantial benefit theory.

8 Under substantial benefit theory, “an award of attorney fees to the prevailing party where the
9 action conferred a substantial benefit on not only the plaintiffs who initiated the action, but on
10 the public as well.” See Jerusum v. WBTSCC Ltd. Pship, 169 N.H. 469, 483 (2016). Here,
11 Petitioner has been required to undertake the protection of the New Hampshire public’s
12 Constitutional rights to seek these confidential materials, and the Attorney General’s office has
13 shirked its constitutional responsibility in “protection of the public interest.” Id. Further, the State
14 has colluded with the Defendant, through the joint response (**Exhibit 2**) to prevent these
15 materials from being released to the public, without colorable argument or legal authority. In
16 addition, the State participated in misleading the court to enter the *Order*. Accordingly, Petitioner
17 should prevail, and should be awarded his counsel and reasonable attorney fees.
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19 In addition, costs and reasonable attorney fees may be awarded “where litigation is instituted
20 or unnecessarily prolonged through a party’s oppressive, vexatious, capricious or bad faith
21 conduct... [or to] those who are forced to litigate against an opponent whose position is patently
22 unreasonable.” See Kukene v. Genuardo, 145 N.H. 1, 3 (2000) (citing Clipper Affiliates v.
23 Chechovich, 138 N.H. 271, 278 (1994)). The State and the Defendant’s behavior, in submitting
24 the frivolous response, which failed to address the issued, and misled the Court as to the
25 appropriate procedure, laws, and rules, results in unreasonable, arbitrary and vexatious behavior.
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1 Moreover, the State has inexplicably, and unreasonably, shirked its mandated responsibility to
2 the State of the New Hampshire.

3 Accordingly, Petitioner respectfully submits that in conjunction with reconsidering the
4 *Order*, the Petitioner be awarded costs and reasonable counsel fees to Petitioner, from the State
5 and Defendant.
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7 **CONCLUSION & PRAYER FOR RELIEF**

8 In sum, Petitioner humbly and respectfully states that this Court's *Order* (**Exhibit 1**) must
9 be reconsidered, and the Petitioner be granted *in camera* hearing, in complying with the express
10 mandate as prescribed in Keene Sentinel, supra. Furthermore, Petitioner humbly and respectfully
11 requests that this court award Petitioner costs and reasonable counsel fees under the substantial
12 benefit theory, and/or on account of the State and Defendant's unreasonable conduct.
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14 **WHEREFORE**, without prejudice and without waiving any rights, Petitioner humbly
15 and respectfully requests that this Honorable Court:

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- 17 a. Reconsider the *Order* (**Exhibit 1**);
 - 18 b. Schedule *In Camera* hearing on the contested documents;
 - 19 c. Award Petitioner's costs and counsel fees;
 - 20 d. Any such other and further relief as this Honorable Court deems just, necessary,
21 equitable, and proper.
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1 Respectfully submitted,

2 Dated this 8th of August, 2025.

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4 /s/Brok-Alan Woodward-Griffith

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Brok-Alan Woodward-Griffith, *pro se*

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8 brokgrf@gmail.com

9 603.325.0749

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that a copy has been provided
12 to all parties via the Court's eFile service.

13 /s/**Brok-Alan Woodward-Griffith**

14 **FACTUAL AVERMENT**

15 I hereby make oath and swear that the facts
16 and allegations contained herein are true and
17 accurate to the best of my knowledge, belief,
18 and ability, without waiving the right to
19 amend same as facts and circumstances so
20 dictate. Further affiant sayeth naught.

21 /s/**Brok-Alan Woodward-Griffith**

EXHIBIT 1

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Merrimack County

Merrimack Superior Court

State v. Anna Barbara Hantz Marconi

217-2024-CR-01167

ORDER ON PETITION TO ACCESS SEALED COURT RECORDS

The Court has reviewed the State's and the Defendant's joint response (Doc. 132) to the Court's interim order (Doc. 131) on Mr. Griffith's "Petition to Access Sealed Court Records" (Doc. 125). The Court has also reviewed (again) the various motions to seal and the pleadings that were filed with the motions to seal. See Docs. 43, 104, 108, 112 (motions to seal), and Docs. 46, 47, 105, 109, 113 (unredacted sealed filings). As explained briefly below, the Court is ordering that the motions to seal should be made available to the public, effective in 10 days as required by N.H. R. Crim. P. 50(e)(5); and keeping the unredacted sealed filings confidential.

Motions to Seal. The State and the Defendant (i.e., the parties in this case) take no position on the unsealing of the motions to seal. The only reason the Court put them under seal was N.H. R. Crim. P. 50(d)(5). The Court agrees with the parties that the motions to seal do not themselves contain confidential information. They "merely describe how the underlying motions refer to confidential grand jury material subject to a protective order." See Doc. 132 ¶ 6. The Court hereby orders that the motions to seal, which are Docs. 43, 104, 108, and 112, be unsealed in the Court's files and made available to the public. As required by N.H. R. Crim. P. 50(e)(5), the effective date of the unsealing of the motions to seal will be 10 days from the Clerk's notice of decision.

Unredacted filings that are currently under seal. The parties object to the request to unseal the underlying filings. Mr. Griffith argues that under Petition of Keene Sentinel,

136 N.H. 121, 130-31 (1992), when there is a disagreement about disclosure, the Court is required to convene a chambers conference that would include him and counsel to the respective parties to examine each document. There are at least two problems with Mr. Griffith's argument. First, the Keene Sentinel newspaper was represented by counsel and the Court's process specified that the meeting with the Court could be attended only by counsel as representatives, not by the clients or other individuals. Second and more fundamental, Keene Sentinel is not the Supreme Court's latest directive to the Superior Courts on this issue. Today, access to confidential filings in criminal cases is governed by N.H. R. Crim. P. 50(e). Under subpart (e)(3) of that rule, "The Court shall examine the document in question together with the motion to unseal and any objections thereto to determine whether there is a basis for nondisclosure and, if necessary, hold a hearing thereon."

Here, the Court finds that the issues are presented clearly and fully and that no hearing is necessary. Per paragraph 7 of their joint response (Doc. 132), the parties assume the Court reviewed the underlying pleadings when they were filed and recognized that they contained references to confidential grand jury information that was redacted from the public versions of those same documents. The parties are correct. That review was the basis for the Court's approval of the motions to seal. Having reviewed the documents again in connection with the instant petition, and having considered the authorities cited by the parties in paragraph 4 of their joint response as well as the Court's prior orders regarding the need to protect grand jury materials, the Court finds that the redacted information is confidential and rules that the unredacted documents (Docs. 46, 47, 105, 109, 113) should remain sealed.

So ordered.

August 28, 2025
Date

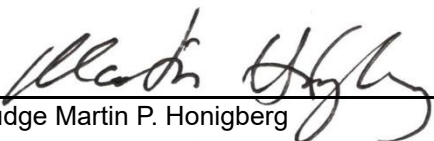

Judge Martin P. Honigberg

EXHIBIT 2

STATE OF NEW HAMPSHIRE

Superior Court

Merrimack, ss.

August Term, 2025

State of New Hampshire

No. 217-2024-CR-1167

v.

Anna Barbara Hantz Marconi

JOINT RESPONSE TO INTERIM ORDER
ON PETITION TO ACCESS SEALED COURT RECORDS

The State of New Hampshire and the accused, Justice Anna Barbara Hantz Marconi, respectfully and jointly respond to this Court's August 18, 2025 Interim Order on purported intervenor Brok-Alan Woodward-Griffith's Petition to Access Sealed Court Records. The parties note that there was no intended request to keep the various motions to seal out of the public record. Therefore, the parties take no position on the request for the Court to allow public access to the motions to seal. However, the parties object to placing the remaining sealed / unredacted pleadings in the public record because they are confidential since they refer to grand jury proceedings which are subject to a protective order.

BACKGROUND AND ARGUMENT

1. On August 4, 2025, serial and purported intervenor Brok-Alan Woodward-Griffith filed a Petition to Access Sealed Court records, specifically, nine documents (docs. # 43, 46, 37, 104, 105, 108, 109, 112, 113). *See Petition to Access Sealed Court Records* (Aug. 4, 2025) (doc. # 125) at ¶ 1; *Interim Order* (Aug. 18, 2025) (doc. # 131).

2. On August 18, 2025, this Court renewed its denial of Mr. Woodward-Griffith's access to grand jury materials for the reasons stated in prior orders. *See Interim Order*. This Court recognized that there are two sets of confidential documents, five confidential pleadings (docs. #

46, 47, 105, 109, 113) and four motions to seal (docs. # 43, 104, 108, 112), the latter of which were “placed under seal without separate motion in order to facilitate specific arguments about why’ the other sealed documents should have been kept confidential.” *Id.* (quoting N.H. R. Crim. P. 50(d)(5)).

3. This Court then asked the parties “to respond to Mr. Griffith’s Petition regarding all the documents he seeks and to include specifically their positions on whether the motions to seal should remain confidential.” *Interim Order* (Aug. 18, 2025).

4. Docs. # 46, 47, 105, 109, 113) “refer[] to grand jury materials which are subject to a protective order.” (citing N.H. Super. Ct. R. 13B; N.H. R. Crim. P. 8(b)(6); N.H. Sup. Ct. R. 52; *State v. Purrington*, 122 N.H. 458, 462 (1982); *State v. Damiano*, 124 N.H. 742, 748 (1984)).

The State and the defense agree that these pleadings must remain confidential. *See id.* *See also* N.H. R. Crim. P. 50(c)(3)(A) (describing how grand jury material is “the type of information that should ordinarily be treated as ‘confidential information’”); *Interim Order* (“To the extent Mr. Griffith is renewing his request for access to grand jury materials, that request is DENIED for the reasons stated in prior orders.”).

5. As to whether the motions to seal, Docs. # 43, 104, 108, and 112, should remain confidential, the defense and the State take no position, bearing in mind that there was no request to seal the separate motions to seal themselves.

6. The parties recognize that N.H. R. Crim. P. 50(d)(5) provides that the “motion to seal shall itself automatically be placed under seal without separate motion in order to facilitate specific arguments about why the party is seeking to maintain the confidentiality of the document or confidential information.” However, the motions to seal do not contain confidential information and merely describe how the underlying motions refer to confidential grand jury material subject to a protective order. The motions to seal specify the authority for the

confidentiality, *see* N.H. R. Crim. P. 50(d)(2), as well as the duration of the confidentiality. *See* N.H. R. Crim. P. 50(d)(3).

7. In granting the original motions to seal, the defense and the State believe this Court recognized that the underlying pleadings contain confidential material referring to grand jury proceedings. Thus, the parties believe this Court has already examined the documents in question “to determine whether there is a basis for nondisclosure” when it granted the motions to seal. Furthermore, this Court’s Interim Order reiterated to Mr. Woodward-Griffith that he has no right to access to grand jury materials. Thus, the parties believe that a hearing is unnecessary. N.H. R. Crim. P. 50(e)(3). They further believe that the above-cited authorities and facts “support the decision of nondisclosure.” N.H. R. Crim. P. 50(e)(4).

8. Finally, the defense and the State note that N.H. R. Crim. P. 50(e)(2) requires that the person filing a motion to unseal shall have the burden to establish that notice of the motion to unseal was provided to all parties. Mr. Woodward-Griffith represented in an August 18, 2025 email to Merrimack County Clerk Uhouse that “no party has objected” to his petition to unseal. That is not accurate.

9. On August 1, 2025, Mr. Woodward-Griffith solicited the State and the defense for their respective positions on his motion to unseal (among other matters). Contrary to Woodward-Griffith’s representation to Clerk Uhouse, Attorney Guerriero told Mr. Woodward-Griffith on August 4, 2025 that

Respectfully, on behalf of our client, we object to your continued efforts to intervene in and disrupt the proceedings in this case. The Court has correctly ordered that you have no right to intervene in or disrupt this proceeding. We also disagree with your description of the status of the matter at the New Hampshire Supreme Court. Finally, you should be aware that we may request attorney fees, costs, and other relief if your efforts to intervene persist. Please note our position verbatim in any documents you file.

10. Likewise, Attorney Jimenez responded on that same day: “The State objects to your continued intervention and any of the below proposed pleadings. The State also reserves the right to request attorney’s fees, costs, and any other relief as it may deem appropriate.”

11. Mr. Woodward-Griffith nowhere acknowledged these objections.

12. Defense counsel communicated with counsel for the State who gave their permission to sign this pleading on their behalf.

WHEREFORE the defense and the State take no position on whether the motions to seal (docs. # 43, 104, 108, 112) should remain confidential, but the defense and the State object to any disclosure of the underlying pleadings (docs. # 46, 47, 105, 109, 113).

Dated this 19th day of August, 2025.

Respectfully submitted,

/s/ Dan A. Jimenez

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CERTIFICATE OF SERVICE

I, Richard Guerriero, do hereby certify that Senior Assistant Attorney General Dan Jimenez and Assistant Attorney General Joseph Fincham are registered e-filers in the Court's electronic filing system and that when filing this motion, I am electing for them to receive a copy of the document through the electronic filing system's system for electronic service. Paper copies and PDF copies are also being conventionally mailed and emailed to Mr. Brok-Alan Woodward-Griffith.

/s/ Richard Guerriero
Richard Guerriero