

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

ANNA BARBARA HANTZ MARCONI

217-2024-CR-01167

STATE'S OBJECTION TO MOTION FOR BILL OF PARTICULARS

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and objects to Defendant's Motion for Bill of Particulars ("the Motion").

In support, the State represents as follows:

1. Defendant previously filed a Motion to Dismiss All Indictments on First Amendment, Right of Redress, and Judicial Immunity Grounds ("the 1A Motion"). In addition to asking for dismissal of all indictments, the 1A Motion requested alternative relief of a bill of particulars "identifying the alleged conduct which is not constitutionally protected and not within the scope of judicial immunity" on the grounds that "[t]he State has not alleged or provided evidence of any conduct that could create criminal liability" and that "[t]he defense has no notice, therefore, of the specific criminal acts alleged and cannot prepare a defense." 1A Motion at ¶¶ 60-63. *See also* Order on 1A Motion at \*15 ("Defendant's counsel later argued that there are no facts within the indictments to put the Defendant on notice that she acted with a criminal purpose or state of mind.").

2. In denying the 1A Motion's request for a bill of particulars, this Court noted that the standard in *State v. Carr*, 167 N.H. 264, 269 (2015) controls "whether the indictments satisfy Part I, Article 15 of the New Hampshire Constitution." Order on 1A Motion at \*15-16.

Applying this standard, “[this] Court determine[d] that the indictments meet this standard. The Indictments recite the elements of the offenses and provide enough facts to notify the defendant of the charges.” *Id.* at \*16. After reciting the facts as alleged in the indictments, this Court found that “[b]ased on these facts, the Defendant has enough information to prepare her defense and avoid double jeopardy.” *Id.* Further, the Court noted that “[t]he State does not need to provide additional facts other than to allege that the Defendant acted with the requisite mental state. The indictments satisfy this requirement,” and “[t]he jury is entitled to infer the requisite intent from the defendant’s conduct in light of all the circumstances in the case.” *Id.* (quoting *State v. Tayag*, 159 N.H. 21, 24 (2009)).

3. Citing the hearing on the 1A Motion, the Defendant now requests a bill of particulars regarding “what witnesses or evidence the State possesses that will show [Defendant’s] purposeful state of mind” because “insofar as the State alleges to have other information or witnesses who can testify to the alleged state of mind of [Defendant] and her purported intent, she is entitled to notice of them via bills of particulars.” *Motion* at ¶ 13, \*6.

4. The State incorporates by reference all arguments raised in its Objection to the 1A Motion and this Court’s Order Denying the 1A Motion with regard to Defendant’s motion for a bill of particulars and further responds as follows.

5. A bill of particulars is a tool for clarifying “**an inadequate indictment or complaint;**” it is not “a general discovery device.” *State v. Chick*, 141 N.H. 503, 506 (1996) (quoting *State v. Allison*, 134 N.H. 550, 554 (1991)). “The purpose of a bill of particulars is to protect a defendant against a second prosecution for an **inadequately described offense** and to enable him to prepare an intelligent defense.” *State v. Kuchman*, 168 N.H. 779, 784-85 (2016) (quotation and citations omitted). Accordingly, it is inappropriate to use a bill of particulars to

require the state to “specify the means by which the crime was accomplished, or other facts that are not essential elements of the crime,” (*Chick*, 141 N.H. at 506 (citations omitted)) including “us[ing] a bill of particulars to simplify [Defendant’s] defense strategy by forcing the State to narrow its theory of liability” (*Kuchman*, 168 N.H. at 786).

6. In this case, the indictments allege that Defendant acted with the requisite criminal intent in committing the crimes charged. Defendant has repeatedly denied that the State can prove that Defendant acted with the requisite criminal intent and has articulated a theory of defense to these elements of the crimes charged. *See, e.g., Motion* at ¶ 10. This Court has found that the indictments adequately describe the offense and enable Defendant to prepare an intelligent defense. *Order on 1A Motion* at \*15-17. “However desirable it might seem to an accused that the State should be compelled to set out in an indictment the details of the evidence on which it relies to sustain the charges made, [Defendant is] not entitled by law to that information.” *State v. Superior Court*, 106 N.H. 228, 231 (1965) (quotation and citations omitted), *overruled in part on other grounds, State v. Laux*, 167 N.H. 698, 704-05 (2015). *See also, United States v. Burgin*, 621 F.2d 1352, 1359 (5th Cir. 1980), *cert. denied*, 449 U.S. 1015 (1980) (citations omitted) (bill of particulars “is not designed to compel the government to detailed exposition of its evidence or to explain the legal theories upon which it intends to rely at trial”). Accordingly, there are no grounds for granting a bill of particulars, and the Motion should be denied.

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

- (A) Deny Defendant’s Motion without a hearing; and
- (B) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

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Date: April 28, 2025

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via email and the Court's e-filing system to counsel of record.

/s/ Joe M. Fincham II  
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