

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

JANUARY TERM, 2026

STATE OF NEW HAMPSHIRE

v.

BRANDON CASTIGLIONE

Docket No. 218-2019-CR-01132

**STATE'S OBJECTION TO DEFENDANT'S MOTION FOR NEW TRIAL AND  
MOTION TO VACATE**

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and Objects to the defendant's September 2025 Motions for New Trial and Motion to Vacate, and in support thereof states as follows:

1. On August 20, 2025, the defendant filed two documents with the Court, one which he entitled as "Motion for New Trial" and the other which he entitled as "Motion to Vacate." The defendant filed these pleadings *pro se*, as he has been representing himself in this matter after firing his counsel just prior to his sentencing hearing on August 25, 2023.

2. The defendant noted in his pleadings that he mailed copies of these pleadings to the Office of the Attorney General. This is untrue as the Office of the Attorney General has no record of ever having received mail from him. Undersigned counsel appreciates the Court's courtesy copy which it forwarded to counsel on September 10, 2025.

3. A copy of the pleadings sent to the State are attached as Exhibit 1 (Defendant's Motion for New Trial) and Exhibit 2 (Defendant's Motion to Vacate Conviction). As the Court is likely aware, both pleadings are, save their title, lack the most basic pleading requirements for a motion with the Superior Court; namely, facts. *See* N.H. R. Crim. Proc. 35; *see also* N.H. R. Crim. Proc. 43 requiring motions to reconsider to state with particular clarity any points of law or fact that were overlooked or misapprehended by the Court).

4. Regarding the defendant's Motion for New Trial, the defendant cites no facts to support his motion, the defendant requests no relief in the motion, and the defendant writes nothing on trying to ascertain the State's position on the motion. The State is aware

from the clerk's office that there was apparently a confidential document attached to the pleading, but as the State does not have access to the document, the State is at a loss to guess what he is representing to the Court. The public record contains zero information about the defendant's claimed basis for his request for a new trial other than the words the defendant chose to add: "for new trial"

<b>MOTION:</b> <u>for new trial</u>
1. I <u>Brandon Castiglione</u> am filing this motion on my own behalf <b>AND/OR</b> I am a person authorized by court rules to appear on behalf of another in this case. I am filing this motion on behalf of _____
2. The facts supporting this motion are: _____ _____ _____
3. With this motion, I am requesting the following relief: _____ _____ _____

*Image 1 – Excerpt from Exhibit 1*

5. Regarding the defendant's Motion to Vacate his conviction, the defendant again cites no facts to support his motion. He does write one paragraph in an addendum to the pleading, claiming that his trial attorneys did not file a motion to reconsider his earlier motions to dismiss the charges claiming a violation of his constitutional rights to a speedy trial. The defendant neither elaborates nor specifies when this motion should have been filed by his counsel, nor does he state the procedural history of this motion being considered by the Court, denied, reconsidered, and subsequently denied again. To the State's knowledge, there is no separate confidential pleading the defendant filed that accompanied this pleading.

6. The defendant's Motion for New Trial fails in every way to comply with the most basic rules for pleadings; that every motion must be grounded in facts. N.H. R. Crim. Proc. 35. The State would not insist or require that a *pro se* litigant present his/her

argument in a concise or professionally methodical manner. However, this defendant here presents nothing, not a single word, as facts or reasons why he should be awarded a new trial.

7. Similarly, the defendant's Motion to Vacate his conviction also fails to comply with Rule 35 or present any actionable facts relative to the issue. This is especially so when the Court's record shows his claimed violation of speedy trial rights - the only issue he tangentially raises in his addendum - was already thoroughly vetted, considered, and reconsidered by the trial court: this Court already denied the defendant's Motion to Dismiss alleging a violation of his right to a speedy trial in October 2022. In then-considering the issue, the Court read the parties' pleadings, concluded that no hearing was necessary, and then thoughtfully issued a detailed 13-page order explaining its reasons for concluding that there was "no basis" to find a violation of the defendant's right to a speedy trial had occurred. The defendant himself filed a *pro se* motion to reconsider this order on November 23, 2022. The Court graciously accepted this motion even though he filed it *pro se* outside the process of through his counsel, reviewed the matter anew over several months, and then issued a new order denying the motion again in January 2023.

8. New Hampshire Rule of Criminal Procedure 35 is clear in that this Court "will not hear" any motion grounded upon facts unless they are supported; either by affidavit, apparent from the record or papers on file in the case, or agreed to by the parties. The defendant fails to state any fact, let alone facts that would support his motions that meet this basic requirement to support the relief he requests. For failure to comply with this most basic rule, the defendant's motions should be denied without a hearing.

9. While leeway with the Rules of Criminal Procedure is customarily and appropriately given to defendants who elect to represent themselves, both the defendant's familiarity with filing detailed pleadings and his representations to the New Hampshire Supreme Court in his direct appeal should collectively call into question whether the defendant's intent behind leaving both pleadings blank was calculated rather than careless. First, this Court has read several of the defendant's *pro se* pleadings which demonstrate he can well articulate his reasoning for requested relief when he chooses to. Second, the current pleadings are inconsistent with what he told the Supreme Court as the reasons to issue its stay and partially remand this matter back to this Court. The defendant filed for a stay and partial remand in his direct appeal in November 2024 (New Hampshire Supreme

Court Docket No. 2023-0547) in which the his appellate counsel wrote: “[t]he ineffective-assistance and prosecutorial-misconduct claims that Castiglione intends to raise in the Superior Court largely concern the same evidence – character testimony given by Castiglione’s pastor – that would be at issue in the direct appeal.” See attached Exhibit 3 – Defendant’s Assented-to Motion for Partial Remand and Stay. The blank motions for new trial and motion to vacate now before this Court allege nothing about Reverend Stanley Choate’s testimony, something simple the defendant could easily have articulated. Instead, the defendant chose to tell the Supreme Court one story (concerns of Reverend Choate’s testimony), hint to this Court a different story (allegations of a speedy trial violation), and file blank motions for a new trial/vacate his conviction. A logical conclusion from his choices is that the defendant’s choice to leave the allegation of facts blank is calculated; intended to ensure the Supreme Court does not see that his current claim(s) are very different from what he told the Supreme Court he wanted the remand to pursue. When a litigant’s acts indicate possible deception of the judicial system, the Court must warily scrutinize the litigant’s representations. This is doubly so when the representation to this court has not been, practically and almost literally speaking, a single word.

#### CONCLUSION

10. The defendant has failed to allege any facts, let alone sufficient facts, to be granted the request relief, and he has failed to state with clarity any points of law or fact that the Court earlier overlooked or misapprehended. The record shows that the defendant is not naive to filing detailed *pro se* pleadings with the Court. The defendant’s omission must then be seen as suspect given his Supreme Court pleading alleging different grounds altogether for leave to file these pleadings. Consequently, the defendant's words (or lack thereof) should be given no merit, and his motions should be denied without a hearing.

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

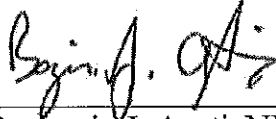
- (A) Deny the defendant's motions for new trial and to vacate his conviction as inappropriately filed;  
or
- (B) Deny the defendant's motions for failing to state relevant facts or with clarity any point of law or fact that the Court has overlooked or misapprehended; or
- (C) Deny the defendant’s motions on their merits; and

(D) Grant such further relief as may be deemed just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE  
By its attorneys,

JOHN M. FORMELLA, ESQ.  
ATTORNEY GENERAL



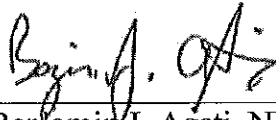
Dated: January 29, 2026

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Benjamin J. Agati, NH Bar #16161  
Senior Assistant Attorney General  
Office of the Attorney General  
Criminal Justice Bureau  
1 Granite Place - South  
Concord, NH 03301  
(603) 271-3671

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was mailed through the U.S. Postal Service to the defendant at the New Hampshire State Prison.



Dated: January 29, 2026

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Benjamin J. Agati, NH Bar #16161  
Senior Assistant Attorney General

Exhibit 1

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
http://www.courts.state.nh.us

RECEIVED AUG 20 2025

Court Name: Rockingham County Superior Court  
Case Name: State v. Brandon M. Castiglione  
Case Number: 218-2019-CR-1132  
(if known)

MOTION: for new trial

1. I Brandon Castiglione am filing this motion on my own behalf

AND/OR

I am a person authorized by court rules to appear on behalf of another in this case. I am filing this motion on behalf of \_\_\_\_\_

2. The facts supporting this motion are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. With this motion, I am requesting the following relief:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.  The other party  does  does not agree with the relief requested in this motion.

OR

I was unable to or did not obtain the other party's opinion on this motion because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Case Name: State v. Brandon M. Castiglione  
Case Number: 218-2019-CR-1132  
MOTION: for new trial

**For non e-filed cases:**  
I state that on this date I am  mailing by U.S. mail, or  Email (only when there is a prior agreement of the parties to use this method), or  hand delivering a copy of this document to:  
Benjamin J. Agati, Esq. for Other party Other party's attorney

OR

**For e-filed cases:**  
 I state that on this date I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand-delivering copies to all other interested parties.

Brandon Castiglione 96480  
Name of Filer  
Law Firm, if applicable Bar ID # of attorney  
138 East Milan Road  
Address  
Berlin, Hampshire 03570  
City State Zip code

Benjamin Agati 8-5-2025  
Signature of Filer Date  
N/A  
Telephone  
N/A  
E-mail

FOR COURT USE ONLY

9/10/25 cc: Attorney General

Exhibit 2

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

http://www.courts.state.nh.us

RECEIVED AUG 20 2025

Court Name: Rockingham County Superior Court

Case Name: State v. Brandon M. Castiglione

Case Number: 218-2019-CR-1132  
(if known)

MOTION: -to vacate conviction

1. I Brandon Castiglione am filing this motion on my own behalf  
AND/OR

I am a person authorized by court rules to appear on behalf of another in this case. I am filing this  
motion on behalf of \_\_\_\_\_

2. The facts supporting this motion are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. With this motion, I am requesting the following relief:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.  The other party  does  does not agree with the relief requested in this motion.

OR

I was unable to or did not obtain the other party's opinion on this motion because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Case Name: State v. Brandon M. Castiglione  
Case Number: 218-2019-CR-1132  
MOTION: to vacate conviction

**For non e-filed cases:**

I state that on this date I am  mailing by U.S. mail, or  Email (only when there is a prior agreement of the parties to use this method), or  hand delivering a copy of this document to:

Benjamin J. Agati, Esq. or \_\_\_\_\_  
Other party Other party's attorney

OR

**For e-filed cases:**

I state that on this date I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand-delivering copies to all other interested parties.

Brandon Castiglione 96480  
Name of Filer

*Brandon Castiglione* July 5, 2025  
Signature of Filer Date

\_\_\_\_\_  
Law Firm, if applicable Bar ID # of attorney

N/A  
Telephone

138 East Milan Road  
Address

N/A  
E-mail

Berlin, New Hampshire 03570  
City State Zip code

FOR COURT USE ONLY

9/10/25 cc: Attorney General

For the following reasons:

I have had specific instances were I was directly prejudiced by the delay of almost four years. I believe that if my attorneys put in a motion to reconsider based on specific instances of prejudice, I would have been able to address my concerns related to and specified in Barker v. Wingo. Therefore I am asking the court to vacate this conviction for said reason.

# Exhibit 3

## THE STATE OF NEW HAMPSHIRE SUPREME COURT

No. 2023-0547

State of New Hampshire

v.

Brandon Castiglione

### ASSENTED-TO MOTION FOR PARTIAL REMAND AND STAY

Counsel for Brandon Castiglione respectfully requests that this Court remand this case, in part, to the Superior Court for the purpose of allowing that court to resolve Castiglione's motion for a new trial. Counsel additionally requests that this Court stay this appeal pending ruling on that motion and the acceptance or declination of any appeal from that ruling. As grounds for this motion, it is stated:

1. In November 2020, the State obtained from a statewide grand jury two alternative indictments charging Brandon Castiglione with second-degree murder. At the conclusion of a five-day jury trial on May 9-15, 2023, a Rockingham County jury found Castiglione guilty on both indictments. On August 25, 2023, the court (Ruoff, J.) sentenced Castiglione to forty-two years to life. On September 18, 2023, the court amended the sentence to forty years to life.

2. After reviewing the record in this case, undersigned counsel met with Castiglione on November 19, 2024. At the conclusion of that meeting, Castiglione indicated that he wished to stay the appeal to file a motion for a new trial based on specific claims of ineffective assistance of counsel and prosecutorial misconduct. Undersigned counsel explained that, if this Court granted this motion, it would likely give Castiglione a deadline of thirty days from the granting of the motion to file his motion for a new trial in the Superior Court.

3. Castiglione respectfully requests that this Court remand this case, in part, for the purpose of allowing the Superior Court to address his motion for a new trial. He additionally requests that this Court stay this appeal pending the Superior Court's ruling on that challenge and the acceptance or declination of any appeal from that ruling.

4. If Castiglione's motion is granted, this appeal becomes moot. If his motion is denied, Castiglione anticipates seeking review in this Court of that ruling. The ineffective-assistance and prosecutorial-misconduct claims that Castiglione intends to raise in the Superior Court largely concern the same evidence – character testimony given by Castiglione's pastor – that would be at issue in the direct appeal. Considerations of administrative efficiency thus justify staying the present appeal pending the resolution of the motion and the acceptance or declination of any appeal from that ruling.

5. Audriana Mekula, Assistant Attorney General, has indicated that the State assents to this motion.

WHEREFORE, counsel prays that this Court grant this Motion, (a) issue a partial remand for the purpose of allowing the Superior Court to rule on Castiglione's motion for a new trial, and (b) stay this appeal pending the Superior Court's ruling on that motion and the acceptance or declination of any appeal from that ruling.

Respectfully submitted,

By /s/ Thomas Barnard  
Thomas Barnard, #16414  
Deputy Chief Appellate Defender  
Appellate Defender Program  
10 Ferry Street, Suite 202  
Concord, NH 03301

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion is being timely provided to Audriana Mekula, Assistant Attorney General, through the electronic filing system's electronic service.

/s/ Thomas Barnard  
Thomas Barnard

DATED: November 25, 2024