

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

ROCKINGHAM, SS.

OCTOBER, 2025

STATE OF NEW HAMPSHIRE

v.

GENO MARCONI

Case No: 218-2024-CR-1426

MOTION TO RECONSIDER:  
DEFENDANT'S MOTION TO DISMISS

NOW COMES the defendant, Geno Marconi, by and through counsel, Richard E. Samdperil and Joseph E. Welsh, and hereby respectfully requests that this Court reconsider its order denying the Defendant's motion to dismiss the pending indictments for Witness Tampering (Charge ID # 2257801C) and Obstructing Government Administration (Charge ID # 2257806C), and two misdemeanor indictments for Driver Privacy Act Violations (Charge ID #'s 2257804 and 2257806C). The Court, without a hearing, denied this and other motions on October 2, 2025.

In support of this motion, the following is stated:

1. The defendant moved to dismiss the indictments for Witness Tampering (Charge ID # 2257801C) and Obstructing Government Administration (Charge ID # 2257806C), and two misdemeanor indictments for Driver Privacy Act Violations (Charge

ID #'s 2257804 and 2257806C) arguing that the alleged records were neither confidential nor protected records under the New Hampshire Driver Privacy Act, RSA 260:14.

2. In a written order, the Court denied the motion. In reaching its decision, this Court rejected the First Circuit's and United States District Court's statutory analysis of the same statute. The First Circuit held that records not held at the Department of Safety were not "motor vehicle records" under the RSA 260:14.

3. This Court should reconsider its ruling because this Court, in its statutory analysis, misapprehended the law, and its own statutory interpretation is inconsistent with the statute as a whole. Indeed, the logical conclusion to this Court's interpretation of the statute is that any motor vehicle registration, even if the document originates with and is consensually provided by the vehicle owner as opposed to the Department of Safety, is a department record. This contradicts some provisions of the statute and is an overbroad application of the protections the statute offers against protected and confidential records in the control of a specific government agency.

4. As a preliminary matter, it is worth noting that this Court chose not to engage with the parties on the legal issue, deciding the matter without a hearing or argument. Although not required, *see* Sup. Ct. R. 58, the importance of oral argument certainly seems heightened when a court is asked to decide a contested issue of statutory interpretation not previously addressed by our Supreme Court, and on which two U.S. District Court judges and three judges of the United States Court of Appeals reached the opposite legal conclusion.

5. Nevertheless, the Court wrote “[a]lthough the courts in Bourgeois and Smith were not unjustified in their consideration of federal interpretations to define “department record” in 260:14, IX(a), the Court finds the conventions of statutory interpretation lead to a different result without need to consider the interpretations of other jurisdictions.” Order at 15.

6. This reading of the statute leads to the absurd result because it makes all motor vehicle records confidential and protected regardless of their source. Indeed, even when a private person voluntarily chooses to share that information, under this Court's reading, the information remains confidential.

7. In this case, the notable and undisputed fact is that N.L. provided the records in question, not the Department of Safety. N.L., like all applicants seeking a mooring or pier use permit, voluntarily provided his information in exchange for the benefit or privilege of securing a vessel or accessing a fishing pier. This differs significantly from the situation where a law enforcement officer requests an individual's motor vehicle record from the Department of Safety without the person's knowledge or consent.

8. In voluntarily disclosing this information, a person is not providing a confidential department record. They are providing a copy of their own record, which is a meaningful distinction. This reading, like the First Circuit's, is consistent with RSA 260:14 overall. For example, Section III provides:

Motor vehicle records may be made available pursuant to a court order or in response to a request from a state, a political subdivision of a state, the federal government, or a law

enforcement agency for use in official business. The request shall be on a case-by-case basis. Any records received pursuant to this paragraph shall not be further transferred or otherwise made available to any other person or listed entity not authorized under this paragraph.

RSA 260:14, III. This paragraph demonstrates that the prohibition on further transferring motor vehicle records applies when the records are received *from the Department of Safety*. When the Department of Safety provides official documents, i.e., without the person's consent or perhaps even knowledge, the receiving agency continues to have a duty to keep the information private and confidential. This paragraph would be unnecessary if records remained confidential regardless of whether they originated from the Department of Safety or were voluntarily provided by the person named in the documents.

9. Thus, even if this information was "provided" to another person, it did not violate the Driver Privacy Act or any other law because the person in the records knew or and consented to the sharing of the information.

10. Because the Court's manner of statutory interpretation does not sufficiently limit the definition of motor vehicle record within the context of the statute overall, and it broadens the definition to include even those documents in the possession of a person and consensually provided to others in deliberate contemplation of some benefit, the Court should reconsider its ruling.

11. In conclusion, when N.L. voluntarily provided registrations that were in his possession to the DPH, he was not providing "department records" under RSA 260:14 IX(a).

1. WHEREFORE, the defendant, Geno Marconi, respectfully requests this Court:

- a. grant this Motion; and
- b. find that “confidential motor vehicle records” and “department records” means records enumerated in RSA 260:14, I(a) that are kept by the Department of Safety at its office; and
- c. dismiss Charge ID #'s 2257801C, 2257804C, 2257805C and 2257806C; and/or
- d. Grant a hearing upon objection by the State.

Respectfully submitted,

/s/ Richard Samdperil

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**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Reconsider has been filed this 14th day of October 2025, via the New Hampshire Judicial Branch electronic case filing system (e-file) with service to registered parties, Attorneys Dan Alan Jimenez and Joe Michael Finchman of the New Hampshire Attorney General's office.

/s/ Joseph E. Welsh  
Joseph E. Welsh