

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

MAURICIO GUERRERO

Docket No. **219-2022-CR-64**

MOTION TO RECONSIDER/STAY DISMISSAL PENDING APPEAL

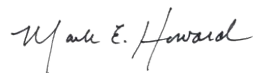
NOW COMES the State of New Hampshire, by and through the office of the Strafford County Attorney, Thomas P. Velardi, with this Motion for Reconsideration:

1. The defendant was convicted after trial of two counts of Burglary, three counts of Criminal Trespass, and one count of Violation of Privacy.
2. On July 19, 2023, the day of sentencing, the Honorable Judge Howard vacated the Violation of Privacy conviction on the basis that under RSA 635:1, IV a person may not be convicted for both the crime of Burglary and the offense which it was his purpose to commit. The dismissal of this charge was made subject to a Motion to Reconsider.
3. While the State does not disagree with this analysis, the defense has filed a notice of appeal the convictions. Should the appeal be granted and the case be reversed and remanded, the State would be barred from re-bringing the Violation of Privacy charge at a subsequent retrial because it was dismissed with prejudice.
4. Since the only reason in vacating the conviction is because the defendant was convicted and sentenced on the Burglary charge, and the defendant is challenging that conviction, it is only just to stay the dismissal of the charge until the convictions are either upheld by the Supreme Court or the case is reversed and remanded for retrial.

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

- A. Reconsider the decision to dismiss the charge and stay the dismissal pending appeal; and
- B. Grant such other relief as the justice may require.

Motion granted as follows: The court's order vacating the jury's finding of guilty is vacated. However, judgment on the conviction is not entered and stayed pending the outcome of the defendant's appeal. No sentence was entered by the court on this charge. So Ordered.


Honorable Mark E. Howard
August 15, 2023

Clerk's Notice of Decision
Document Sent to Parties
on 08/15/2023

Respectfully submitted,

BY THE OFFICE OF THE STRAFFORD COUNTY ATTORNEY

___/s/Emily C. Garod_____

Emily C. Garod

Deputy County Attorney

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

July 21, 2023

I hereby certify that a copy of the foregoing has been forwarded, this date by e-file to Harry Starbranch, Esq. counsel for the defendant.

___/s/Emily C. Garod_____

Emily C. Garod

Deputy County Attorney