

# The State of New Hampshire

Hillsborough ss.

NH Superior Court

Southern District

State of New Hampshire

Case No. 206-2019-CR-0814

v.

Dale E. Holloway Jr.

## Motion for Discovery (Additional); Rule 12(b)(1)

Now comes the Defendant, Dale E. Holloway Jr., pro se, pursuant to NH R. Crim. Proc., Rule 12(b)(1), under both state and federal constitutions that provide and/or guarantee the due process of law, rights of accused, and equal protection of the laws, who respectfully requests that this Honorable Court orders that the state provides or produces [All] (Additional) and New/old Discovery intended to be introduced at trial, which includes:

1. Brady Material: Please provide Mr. Holloway with [All] [information] which may be exculpatory or favorable to an accused. See Kyles v. Whitley, 115 S. Ct. 1555 (1995); United States v. Bagley, 473 U.S. 667 (1985); Brady v. Maryland, 373 U.S. 83 (1963); State v. Lauree, 139 NH 325 (1995).  
Note: (A) This request is not limited to the information

Known to the state personally. In specifically requesting, that the state questions the witnesses, including law enforcement personnel, for this information and include their answers in the state's response. Kyles v. Whitley, supra.;

b.) This request is not limited to information which has been documented in their file. In specifically requesting that they provide ~~all the~~ information known to them or their witnesses, regardless of whether it's been recorded in writing or otherwise. Kyles v. Whitley, id.;

c.) This request should be answered without regard to whether such evidence would be admissible at any trial or hearing. State v. Laurie, supra. Furthermore, this request should be answered without consideration of any trial or hearing, id.; and

d.) This request also includes information contained in a police officers personnel file that is covered by IN Re: State v. Theodosopoulos, 153 NH 318 (2006).

2. Credibility Information: please provide ~~All~~ ~~the~~ ~~state's~~ information which may affect the credibility of any potential state witness, including law enforcement personnel. Specifically, it's requested:

A.) Any information which tends to show a witness's bias, motive, untruthfulness, untrustworthiness, unreliability, incompetence, uncooperative, drug or alcohol use, history of emotional or psychological problems, or bad character.

B.) Any information regarding any criminal record of any witness, [any criminal investigation of any witness] [any plea bargain any witness has,] [or has had with the state] [or any other state] [or federal prosecuting agency] [any other promises made by the state or law enforcement to any witness, any witnesses, any witness's probation status, or any compensation or benefit provided to any witness] AND

C.) Any previous unsubstantiated, inconsistent or known/~~unknown~~ false information given by any witness. Kyles v. Whitley, Supra.; United States v. Bagley, Supra.; Davis v. Alaska, 415 U.S. 308 (1978).; Giglio v. U.S., 405 U.S. 150 (1972).

State v. Laurie, Supra.

3. Witness List: Please provide the state's official Trial Witnesses [and include their addresses.] See State v. Dewey, 139 NH 678 (1995).

4. Lay Witness Information: Regarding any Trial Witness(es) who are not experts, please provide the List Below:

A.) Copies of any written statements signed by the witness that pertain to the witness's Trial Testimony;

Note: Mr. Holloway most recently, as of August 24, 2023, received withdrawn contracted attorney(s) files containing discovery. However, new/old discovery is not provided or available for the review before trial, including but not limited to, CD's/DVD's/Blu-ray discs that "DO NOT play", All phone calls, recordings, body camera footage, phone records, metadata of (9) photos from Gary Castiglione, "unredacted" discovery pages (1-1515), and trial transcripts from the homicide of Luis A. Casella.

b.) Any Report or other Record, reflecting an unsigned statement of a witness which contains the witness's recollection of the events about which he or she will testify;

c.) Copies of Drafts, Reports, Notes, Memoranda, Diagrams, Video(s) or Audio Tape(s), Maps, Social Media posts, Direct Messages, Emails, or any other writing or recording of any information provided by any witness, excluding only "Mental impressions" or theories of a prosecuting attorney. This request includes preliminary and "scratch pad" notes of any conversation with any witness. State v. Chagnon, 139 N.H. 671 (1995); State v. Drewry, supra.; AND

d.) In Requesting, that ~~State~~<sup>State</sup> should take affirmative steps to preserve all of the foregoing evidence and that ~~they~~ instruct ~~their~~ witnesses and law enforcement personnel within ~~their~~ jurisdiction to do the same. Note: that if any Notes, Reports, etc. are destroyed or otherwise not preserved, the Defendant will move the Court for appropriate relief including, but not limited to, Dismissal of the Charge(s) or witness(es) preclusion. Also, a complaint with the Attorney Discipline office. See NH R. Prof'l Conduct, Rules 3.4(a) and 3.8(d)

5. Expert Witness Information: Regarding any expert who will testify at trial, please provide me with any reports containing their theories, their opinions, and the basis for their opinions, and the basis for their theories or opinions including tests, evaluation tools, actuarial instruments, guided questions, articles, books, treatises, or digital versions of these things. State v. Chagnon, Supra; State v. Drewry, Supra.
6. 404(b) Information: Please provide also ~~any~~ notice of ~~their~~ intent to offer at trial any evidence pursuant to Rule of Evidence 404(b). In requesting, they ~~they~~ "state specific purposes for which the evidence is offered" and that they "articulate the precise chain of reasoning by which the offered evidence will tend to prove or disprove an issue actually in dispute, without relying upon forbidden inferences of predisposition, character, or propensity" State v. McGlew, 139 N.H. 506 (1995).
7. Preservation Request: In requesting that they preserve any and all physical evidence for my inspection, review, testing, and possible use in the case. Please also preserve all documentation of such evidence including crime scene reports, photographs, measurements, notes, test reports, or other contemporaneous records of physical evidence.

8. Court Rule Discovery: pursuant to Criminal Rule of procedure Rule 12(A) AND/OR (B), please provide the Below Listed:

- A) A Copy of Records of Statements or Confessions, Signed or Unsigned, by the Defendant, to any Law Enforcement officer or His Agent;
- B) A List of Any Tangible Objects, Papers, Documents, OR Books obtained from or belonging to the Defendant, when such objects were seized from where, AND BY whom;
- C) A statement as to whether or not the foregoing Evidence, or any part thereof, will be offered at the Trial; AND
- D) Any Documents due to me pursuant to the (Northern AND/OR Southern) ~~Wilmington~~ Wilmington County or Federal District of Court STANDING DISCOVERY ORDER(S).

9. Laurie/EES INFORMATION: please provide me with the following information regarding Law Enforcement Witnesses:

- A) Whether they have been included OR placed on the Laurie List at any time during Her/His Tenure as a Police officer in the 2004 Heed Laurie Memorandum;

- b.) whether they have been included on the Exculpatory Evidence Schedule ("EES") as described in the January 3, 2017 Attorney General's Memo Re: Exculpatory Evidence protocol and schedule;
- c.) Which of the two schedules of the EES the officer or officers were listed under;
- d.) Whether the officer(s) has any written documents or notes in his personnel file that would be discoverable under In re: State v. Theodosopoulos, 153 N.H. 318 (2006) or required to be produced pursuant to the January 3, 2017 Memo;
- e.) Has been subject to any complaints by citizens or other parties that would be discoverable under Theodosopoulos;
- f.) Information that should be disclosed, pursuant to the January 3, 2017 Memo;
- g.) Any other information that should be disclosed, pursuant to the January 3, 2017 Memo. Including any information listed in the 2017 protocol for identifying witnesses with potentially exculpatory evidence in their personnel files.

10. GRANTS of IMMUNITY: Should the State offer immunity to the Complaining witness(es) or ANY other party in this case, the Accused seeks ANY/ ALL Documents, Notes, AND other INFORMATION related to the Application AND grant of immunity.

11. LEWANDOWSKI INFORMATION: if they believe there is information which may be exculpatory or favorable to the accused, but not within the possession of the State, please: "Detail that information", including a summary of what it is, where it is, or who is in possession of it, AND contact information for individuals that possess or control that information so that the accused may procure it on his own, pursuant to Petition of the State of New Hampshire State v. Lewandowski, 2016 NA Lexis 187 (2016).

12. Catchall: Any other Discovery that is required to be provided, pursuant to Rule 12 of the New Hampshire Rules of Criminal Procedure.

### Accused Statements AND Requests

IN ADDITION to the ABOVE Discovery Requests, I am making the following statements AND requests:

13. Reciprocal Discovery: At the time this Motion is sent, the Accused has provided all reciprocal discovery due to the state that is in the Accused's possession, if any. Furthermore, the Accused will provide reciprocal discovery on an ongoing basis, pursuant to the Accused's obligations under Superior Court Rule 12 (b)(2); AND/OR AT LEAST BEFORE TRIAL.

14. Request for Lab Analyst: The Accused requests that the state produce a lab in any case for which lab analysis was performed, including, but not limited to, GAN analysts, pursuant to STATE V. CHRISTIENSEN, 135 NH 583 (1992) if such analysis was performed;

15. Request for offer: The Accused requests that the state makes a reasonable offer to resolve the case as soon as possible and no later than as required under Superior Court Rule 12 (b)(3)(A). If the state intends to make no offer in this case, please inform the defendant as soon as possible;

16. Invocation of Rights AND Law Enforcement Contact with the Accused: The Accused hereby invokes all of his rights, pursuant to MIRANDA.

V. ARIZONA, 384 V. 436 (1966) AND Requests that any law enforcement inquiries be directed to the Defendant, as prose. Furthermore, if the accused was working as a confidential informant OR in any other capacity with law enforcement, the accused requests that such work cease until the Defendant consults with a co-counsel and approves in writing of the work continuing, including correspondence letters.

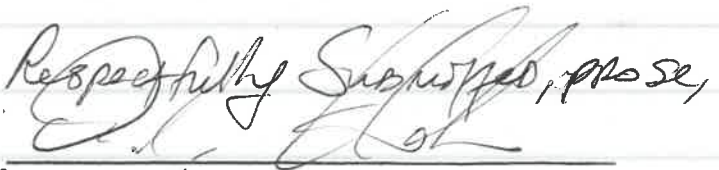
17. Request for Return of Property: If the state is in possession of any property of the accused that is NOT CONTRABAND, the accused requests that the property be returned as soon as possible. If there are issues providing property, please contact them as soon as possible.

18. Request for formal proof of way: If the case involves an offense an element of which involves any public way(s), the accused requests that the state prove formal way at trial.

wherefore, the defendant, prays that this Honorable Court allows the Aforesaid AND:

- A.) Schedules a Hearing for this matter to be fully heard; and/or
- B.) Grants the Motion for Discovery (ADDITIONAL); pursuant to NH R. Crim. P., Rule 12 (b)(1); or
- C.) Compels the State to provide and/or produce such Discovery (ADDITIONAL), pursuant to NH R. Crim. P., Rule 12 (b)(1); BRADY v. MARYLAND; 373 U.S. 83 (1963); STATE v. LAURIE, 139 N.H. 325 (1995).

Any other such relief the Court deems fair and just.

Respectfully Submitted, prose,  


Dale E. Holloway Jr. #117157

NAsp-M

P.O. Box 14

CONCORD, NH 03301

Denied



Honorable Charles S. Temple

October 25, 2023

Date: October 3, 2023

The discovery deadlines under N.H. R. Crim. Pro. 12(b) have passed in this case. The court has issued structuring orders on multiple occasions and entered various orders on discovery related issues during these proceedings in accordance with Rule 12(b) and the applicable law.

**CD's, DVD's and Blu-Ray Discs for Dale Holloway 226-2019-CR-00814/NHSP MC19-16053:**

**CD's:**

1. Audio Interview of Stanley Choate
2. Danielle Patalano Interview 10/12/19
3. Jacqueline Creary Interview 10/12/19
4. E911 Calls
5. Valley Street Jail Call of Dale Holloway
6. Audio Interview of Claire McMullen #1 10/12/19
7. Photos of Claire McMullen's Injuries
8. Text Messages Between Kimberly Woodbury and Dale Holloway
9. Kathleen McMullen Interview
10. Audio Interview of Mark Castiglione
11. Audio interview of Ruth Choate 10/24/19
12. Audio Interview of Ruth Choate 10/28/19
13. Audio recorded Interview with Kimberly Woodbury 11/18/2019
14. Audio Interview of Mark Castiglione
15. Audio Interview of Claire McMullen
16. Dale Holloway Interview 10/12/19
17. Jeffrey Pestana Interview
18. Margaret Castiglione Interview
19. James Stanley Bethea Interview
20. Othniel Archer Interview
21. Anna Murphy Interview
22. Carl Johnson Interview
23. Paul McMullen Interview
24. Audio(only) Interview of Evan Larose
25. Interview Recordings: Gary Castiglione, Andrea Romero, Christine Merchant, Kathleen McMullen, Micha M. (JV), Rogelio Whittington, Paul McMullen, Scott Marchant
26. 10/13-11/5/19
27. Jail Recordings 10/13/19-10/23/19
28. Selected Jail Recordings
29. Joshua Castiglione Interview 10/12/19
30. Selected Jail Recordings 11/19
31. Interview of Frances Pestana 10/12/19
32. FL19-4729 Discovery Materials
33. Photos of Stanley Choate Injuries
34. Interview of Robert and Debora Bys 10/12/19
35. Death of Luis Garcia Discovery Pages 1-338 and 356-441
36. Dale Hollow Discovery Pages 1-1479 (NHSP MC19-16503)

**DVD's:**

1. Audio/Video Recorded YouTube Video 10/12/19
2. One Party Interviews of Dale Holloway
3. Photographs-Vehicle NH4535191 RO: Devan LaRose @ Pelham PD Impound Lot
4. Church Surveillance Footage
5. Church Surveillance Footage
6. Frances Pestana Phone Cellebrite Extraction Report
7. CMS-4 8 GB Dan Disk SD Card
8. CMS-1 32GB San Disk SD Card
9. Audio Recorded One Parties between HCSO and Dale Holloway Between 10/12/19 and 10/13/19
10. Photographs-McMullen and Castiglione's Clothing, Castiglione's Injuries at Southern NH Hospital
11. Interview of Rafael Carpio
12. 911 Call/Daniel Patalono Interview
13. Interview with Kayla Townsend and Stanley Choate
14. Photos/M. Theriault Interview/R. Mercier Interview/Mark Castiglione Interview
15. Francis P. Interview
16. Security Footage of Lab Medical Manufacturing
17. Brendon Castiglione Interview/Scene Photos/Jail Calls 10/26/19 and 12/15/19
18. Audio/video Interview of Devan Larose 10/12/19
19. Interview Recordings: Angelo Castiglione, Paul Patalano, Patricia Merchant, Kayla Merchant, James Merchant

**Blu-Ray Discs:**

1. Granite State Indoor Gun Range Surveillance
2. Perriello Cruiser Camera
3. Keenlside Cruiser Camera
4. Page Cruiser Camera
5. Elphick Evidence Photos

**USB:**

1. One USB containing NHSP MC19-16053 "McAulay Video" and "Photos"

Hillsborough County Attorney's Office

John J. Coughlin, County Attorney

30 Spring St., Nashua, New Hampshire 03060

Telephone (603) 594-3255

Fax (603) 594-3257



November 5, 2021

Dale Holloway  
NH State Prison for Men  
PO Box 14  
Concord, NH 03301

**RE: State v. Dale Holloway**  
Docket No. 226-2019-CR-00814

Dear Mr. Holloway:

Enclosed please find additional discovery consisting of pages 1399-1479 in the above-captioned matter. Please note that pages 1426-1479 consist of a number of Pelham Police reports which were clarified at my request.

Enclosed also find discs numbered 1-60 which contain various statements and other information from NHSP Major Crimes. Upon review of the discs I noted the following:

- Discs # 1, 13, 22 and 24 do not play. I will attempt to obtain viable copies for you.

Enclosed also find 8 discs which contain the discovery materials on the Brandon Castiglione matter. Please be advised that these materials are subject to a protective order which means you cannot disseminate them to anyone other than Attorney Lee in his capacity as stand-by counsel.

Sincerely,

Catherine M. Devine  
Assistant County Attorney

CMD/cmd  
Enc(s).

Hillsborough County Attorney's Office

John J. Coughlin, County Attorney

30 Spring St., Nashua, New Hampshire 03060

Telephone (603) 594-3255

Fax (603) 594-3257



January 4, 2022

Inmate Dale Holloway #104745  
c/o Warden Michelle Edmark  
New Hampshire State Prison for Men  
P.O. Box 14  
Concord, NH 03301

**RE: State v. Dale Holloway**  
Docket No. 226-2019-CR-00814

Dear Attorney :

Enclosed please find additional discovery consisting of an investigative report dated December 6, 2021 which describes the review of a Verbatim USB flash drive and the contents contained on said drive in the above-captioned matter. The USB drive is also included. As noted in paragraph 5, four of the cruiser videos referenced in the report did not play. One of them has already been sent to you but the cruiser videos from Captain Periello, Sgt. Keenlislid and Corporal Page's cruisers had to be converted to discs. These three discs are also included here.

While the State believes that you have already been provided all discovery by prior counsel and the State, these items are the only remaining items the State has to provide which it has done so after considerable effort to assure that you can access these materials.

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine M. Devine".

Catherine M. Devine  
Assistant County Attorney

CMD/cmd  
RETURN RECEIPT REQUESTED  
Enc(s).

Hillsborough County Attorney's Office

John J. Coughlin, County Attorney

30 Spring St., Nashua, New Hampshire 03060

Telephone (603) 594-3255

Fax (603) 594-3257

SCANNED



UNED

February 24, 2022

William Dolan, Esquire  
71 Split Brook Rd Unit 109  
Nashua, NH 03060

**RE: State v. Dale Holloway**  
Docket No. 226-2019-CR-00814

Dear Attorney Dolan:

Pursuant to Superior Court Rule 12(b)(1), enclosed is discovery in the above-captioned matter. Please see the attached list of the entire discovery that is included. Please note the following:

1. This evidence will be offered at trial. Should other evidence come into the possession of the State, same will be forwarded to you in a timely fashion.
2. The State generally provides open-file discovery, however, if there are any specific discovery requests, you should first comply with Superior Court Rule 15(b)(5). If we cannot agree on the relief you seek, you should file a motion with the Court requesting the materials you wish to obtain.
3. Pursuant to N.H. Rule of Evidence 404(b), the State intends to offer at trial any evidence contained therein of uncharged misconduct and other crimes, wrongs or acts committed by the defendant.

It is the State's expectation that you will notify our office of any experts you intend to use, pursuant to Superior Court Rule 12(b)(2)(ii), as well as intention by the defendant to rely upon an alibi or any other defense specified in the Criminal Code as provided in Superior Court Rule 14(b)(2). In addition, please send me the following.

1. Copies of any written statements signed by any lay witness you expect to call at trial that pertain solely to the witness's testimonial content.

2. Copy of any statement taken by the defense or in the possession of the defense not signed by the lay witness but containing the written recollection of the events of which he or she will testify.
3. With respect to expert witnesses, a report of their theories and opinions and the basis for them, along with their current curriculum vitae.
4. A list of actual trial witnesses and their addresses and dates of birth.
5. Any prior testimony or statements of **any** witnesses, whether called by the State or defense, which relate to this matter.

If you object to providing any of the requested information, please let me know as soon as possible, so I can file the necessary discovery motions.

If you have any questions, please don't hesitate to contact me at this office.

Sincerely,

/s/ Catherine M. Devine

Catherine M. Devine  
Assistant County Attorney

CMD/sb

Enc(s).

# The State of New Hampshire

Hillsborough, ss.

NH Superior Court

Southern District

State of New Hampshire

Case No. 226-2019-CR-0814

v.

Dale E. Holloway Jr.

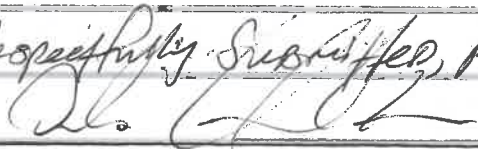
## List of Discovery (ADDITIONAL) Requested

In Support of Motion for Discovery (ADDITIONAL), the Defendant  
Dale E. Holloway Jr. Requests:

1. CD's/DVD's/Blu-ray DISCS that "Do NOT Play"  
1 2 19 22 23 AND 24
2. Cell Phone Records Preserved  
(857) 347-9955 10/01/19 at 0000 hrs. to 10/12/19 1100 hrs.  
(603) 260-1819 10/01/19 at 0000 hrs. to 10/12/19 1100 hrs.
3. (4) Pelham Police Cruiser Cameras' Videos
4. ANY AND ALL Body Cams of Pelham Police Department,  
New Hampshire State Police, Hillsborough County  
Sheriff's Department, Salem Police Department, ~~and~~  
New Hampshire Fish and Game, Windham Police  
Department, AND the Alcohol, Tobacco & Firearms Agency.

5. Unredacted Version of Discovery pages (1-1515)
6. All Global Tel Link/Viopath photos and messages
7. Recorded phone calls with Jamie Potter and Jason Meyers
8. Recorded interview of Casey Cabriglione with HCAO-S, ACA, and Victim Advocates for trial preparation on September 14, 2023
9. Transcription of Stage v. Brandon Cabriglione, Case No. 218-2019-CR-01132 (Rockingham County Superior Court)
10. Recorded phone call from Defendant to ACA John H. Harding III, ACA Seth Steven Dobieski and HCAO-S Investigator Peter J. Theriault on or about September 12, 2023.

pursuant to NH Super. Ct. Rule 12(b)(1), The Stage generally provides open-file discovery. See (attached) Correspondence to Defense Counsel William Dolan, dated February 24, 2020.

Respectfully Submitted, pro se,  


Dale E. Holloway Jr. #117157

NHSP-M

P.O. Box 14

CONCORD, NH, 03301

Date: October 5, 2023