

# The State of New Hampshire

Hillsborough ss.


NH Superior Court  
Southern District  
Case No. 206-2019-CR-0814

State of New Hampshire

Denied

For same reasons as set forth in the court's order on the motion for discovery (Court Index No. 438)

v.

  
Honorable Charles S. Temple  
October 25, 2023

Dale E. Holloway Jr.

Clerk's Notice of Decision  
Document Sent to Parties  
on 10/25/2023

Motion to Compel State to produce or provide  
Discovery and Exculpatory Evidence (Cell phone  
Records); Rule 17(b)

Now Comes the Defendant, Dale E. Holloway Jr., prose, pursuant to NH R. CRIM.P. Rule 17(b), under both State and Federal Constitutions that provide rights of Accused, who respectfully requests that this Honorable Court Grants this Motion to Compel State to produce or provide Discovery and Exculpatory Evidence (Cell phone Records); Rule 17(b) for the following:

1. The State Accuses the Defendant, Dale E. Holloway Jr. of two counts of Attempted Murder and other Related Assault Charges, including Convicted Felon in possession of a firearm, stemming from a shooting incident in Pelham on October 12, 2019.

2. Discovery Pages (484 - 487) consist of the following preservation of records:

1. Celco Partnership, LLP. D/B/A Verizon Wireless  
(603) 260-1819  
10/01/2019 at 0000 hours to 10/12/2019 1100 hours  
Eastern Standard Time

2. ATT Mobility  
(857) 347-9955  
10/01/2019 at 0000 hours to 10/12/2019 1100 hours  
Eastern Standard Time

3. ~~NH~~ State Police AND/OR TFC Kelly Warner  
Phone: (603) 223-8738  
Fax: (603) 271-2520  
Email: Kelly.WARNER@DOS.NH.GOV

Requested preservation of the above-mentioned  
cellphone records to include the following records  
and evidence during the time period of 10/01/2019  
at 0000 hours to 10/12/2019 1100 hours Eastern  
Standard Time:

1. All Call Detail Records, SMS Records, MMS Records, and Data Records, to include all related cell site data.
2. All location information including estimated or known locations, commonly referred to as an R.T.T. (Round Trip Timing), EVDO, ALU LTE, and Location Report.
3. All text messages (content) currently available.
4. All picture messages (content) currently available.
5. Any information on file in reference to the current subscriber(s), to include billing information, activation information, and device information.
6. Any document, files or media currently in the possession of Cellco Partnership, LLP DBA Verizon Wireless or ATT Mobility in reference to the above listed customer(s) number(s).

Stating that the request would be followed by a search warrant for the above listed information. see (attached).

4. NH R. CRIM. PROC. RULE 17(b) provides: "A Subpoena May Command the person whom it is directed to produce the books, papers, documents, or other objects designated therein at the time and place specified therein. Rule 17(b) permits a party to seek production of books, papers, documents, or other objects through the service of a subpoena duces tecum."

5. Furthermore, the [Cellphone's Records] are relevant to the above case, ACCORD. NH R. Evi- Rule 901 AND 902 AND CAN OR WILL BE USED AT TRIAL AS EVIDENCE.

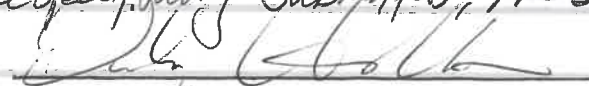
6. Therefore, the Defendant should be provided with a copy of the [Cellphone Records] that were preserved by NH state police or in the state's possession for his inspection and investigation purposes before trial. See BRADY v. MARYLAND, 373 U.S. 83 (1963) ("BRADY MATERIAL"); Kyles v. Whitley, 115 S. Ct. 1555 (1995); UNITED STATES v. BAGLEY, 473 U.S. 667 (1985).

Note: (857) 347-9955 could possibly be one of the Defendant's cell phones, allegedly thrown out of the window by the state's witness Rafael Caepio.

Wherefore, the Defendant respectfully requests that this Honorable Court Grants this Motion to Compel State to produce or provide Discovery and Exculpatory Evidence (Cell phone Records); ~~Rule 17(b)~~; AND/OR

- A.) Schedule A Hearing for the Matter to be fully heard; AND/OR
- B.) Grants the Motion to Compel State to produce or provide Discovery and Exculpatory Evidence (Cell phone Records); pursuant to Rule 17(b); OR
- C.) ORDERS DISMISSAL of the indictments for ANY BRADY VIOLATIONS the court may find, pursuant to BRADY v. MARYLAND, 373 U.S. 83 (1963).

Any other such relief the court deems fair and just.

Respectfully Submitted, Pro se,  
  
Dale E. Holloway Jr. #117157

NAEP-M

P.O. Box 14

CONCORD, NH. 03301

Date: October 5, 2023

# NEW HAMPSHIRE STATE POLICE

TO: CELLCO PARTNERSHIP, LLP DBA VERIZON WIRELESS	FROM: TFC KELLY WARDNER
FAX: 888-667-0028	PHONE: 603-223-8738 FAX: 603-271-2520
PHONE: 800-451-5242	EMAIL: KELLY.WARDNER@DOS.NH. GOV
SUBJECT: <b>PRESERVATION OF RECORDS #6032601819</b>	DATE: 10/12/19

**COMMENTS:**

18 USC 2703(f) Preservation Request in reference to CELLCO PARTNERSHIP, LLP DBA VERIZON WIRELESS cellular number - **(6032601819)**

This fax serves as a formal request for the preservation of records and other evidence pursuant to 18 U.S.C. § 2703(f) pending further legal process.

You are hereby requested to preserve, for a period of **90 days**, the records described below currently in your possession. You also are further requested not to disclose the existence of this request to the subscriber or any other person, other than as necessary to comply with this request. If compliance with this request may result in a permanent or temporary termination of service to the accounts described below, or otherwise alert the subscriber or user of these accounts as to your actions to preserve the referenced files and records, please contact me before taking such actions.

This preservation request applies to the following records and evidence during the time period **10/01/19 at 0000 hours to 10/12/19 1100 hours Eastern Standard Time:**

1. All Call Detail Records, SMS Records, MMS Records, and Data Records, to include all related Cell Site Data
2. All Location Information including estimated or known locations, commonly referred to as an RTT(Round Trip Timing), EVDO, ALULTE, and Levdot report
3. All text messages (content) currently available
4. All picture messages (content) currently available
5. Any information on file in reference to the current subscriber, to include billing information, activation information, and device information.
6. Any document, files, or media currently in the possession of CELLCO PARTNERSHIP, LLP DBA VERIZON WIRELESS in reference to the above listed customer number.

This request will be followed by a Search Warrant for the above listed information.

Thank you,

Trooper First Class Kelly Wardner

**\*\*WARNING\*\***

The information transmitted by this facsimile is considered **CONFIDENTIAL** and is intended only for the use of the individual or entity named. If the reader of this message is not the intended recipient, or the

# NEW HAMPSHIRE STATE POLICE

TO: ATT Mobility	FROM: TFC KELLY WARDNER
FAX: 877-971-6093	PHONE: 603-223-8738 FAX: 603-271-2520
PHONE: (800) 635-6840	EMAIL: KELLY.WARDNER@DOS.NH. GOV
SUBJECT: <b>PRESERVATION OF RECORDS 857-347-9955</b>	DATE: 10/12/19

## COMMENTS:

18 USC 2703(f) Preservation Request in reference to ATT Mobility Cellular number - **(857-347-9955)**

This fax serves as a formal request for the preservation of records and other evidence pursuant to 18 U.S.C. § 2703(f) pending further legal process.

You are hereby requested to preserve, for a period of **90 days**, the records described below currently in your possession. You also are further requested not to disclose the existence of this request to the subscriber or any other person, other than as necessary to comply with this request. If compliance with this request may result in a permanent or temporary termination of service to the accounts described below, or otherwise alert the subscriber or user of these accounts as to your actions to preserve the referenced files and records, please contact me before taking such actions.

This preservation request applies to the following records and evidence during the time period **10/01/19 at 0000 hours to 10/12/19 1100 hours Eastern Standard Time:**

1. All Call Detail Records, SMS Records, MMS Records, and Data Records, to include all related Cell Site Data
2. All Location Information including estimated or known locations, commonly referred to as a NELOS report
3. All text messages (content) currently available
4. All picture messages (content) currently available
5. Any information on file in reference to the current subscriber, to include billing information, activation information, and device information.
6. Any document, files, or media currently in the possession of ATT Mobility in reference to the above listed customer number.

This request will be followed by a Search Warrant for the above listed information.

Thank you,

Trooper First Class Kelly Wardner

**\*\*WARNING\*\***

The information transmitted by this facsimile is considered **CONFIDENTIAL** and is intended only for the use of the individual or entity named. If the reader of this message is not the intended recipient, or the

The State of New Hampshire

Hillsborough, SS.

NH Superior Court  
Hills. - Southern District  
Case No. 226-2019-CF-0814

State of New Hampshire

v.


Dale E. Holloway Jr.

Affidavit to Support

Under Oath, I Dale E. Holloway Jr. Hereby Depose  
AND STATE that the following statements are  
True AND Accurate:

1. I AM the Defendant, Pro Se, in the Above Matters.
2. I AM Indigent AND CANNOT AFFORD PRIVATE COUNSEL  
FOR MY REPRESENTATION.
3. I AM INCARCERATED AT NHSP-M, IN CONCORD, NH,  
SERVING 7 1/2 - 15 YEARS WHILE PENDING TRIAL IN  
THE ABOVE CASE.

Respectfully Submitted, Pro Se,

  
Dale E. Holloway Jr. #117157  
NHSP-M  
P.O. Box 14  
CONCORD, Nh. 03301

Date: October 7, 2023

Certificate of Service

I, Dale E. Holloway Jr. do certify that the enclosed has been sent via USPS, per NADOL "Free Legal Mail" policy, to the Clerk's office of Hillsborough County - Southern District 30 Spring Street, Nashua, NH, 03060, for the State, on this 7th Day of October 2023.



Dale E. Holloway Jr. #117157

NHSP-M

P.O. Box 14

281 N. State Street

Concord, NH, 03301