

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
DOCKET NO. 226-2019-CR-00814

SUPERIOR COURT
SOUTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

DALE HOLLOWAY

STATE'S MOTION IN LIMINE TO ADMIT EVIDENCE OF THE MURDER OF LUIS GARCIA THROUGH JUDICIAL NOTICE

NOW COMES the State of New Hampshire, by and through the Hillsborough County Attorney's Office, and moves in *Limine* to admit evidence of the murder of Luis Garcia through judicial notice, stating in support as follows:

1. The defendant, Dale Holloway, is charged in the above-captioned docket number with Attempted Murder, First Degree Assault, Second Degree Assault, Felon in Possession of a Deadly Weapon, and Simple Assault.

2. Jury Selection in this matter is presently scheduled for October 30, 2023, with a Trial Management Conference scheduled for October 19, 2023.

3. The State now moves in *limine* to admit evidence of the murder of the defendant's stepfather, Luis Garcia, by the son of M.C., pursuant to New Hampshire Rules of Evidence 401, 403, and 201. Specifically, the State requests that his Honorable Court take judicial notice of the following:

- On October 1, 2019, Luis Garcia was murdered;
- Luis Garcia was the defendant's stepfather; and
- On May 15, 2023, Brandon Castiglione, M.C.'s son, was convicted of Second Degree Murder of Luis Garcia in Rockingham County Superior Court in docket number 218-2019-CR-01132.

RELEVANT FACTS¹

4. On October 12, 2019, the wedding of C.M. and M.C. took place at the New England Pentecostal Church (hereinafter “the church”) in Pelham, New Hampshire. Bishop S.C. performed the wedding ceremonies, with a gathering of other individuals present for the wedding. At the conclusion of the wedding vows, an individual, later identified as the defendant, approached the altar area of the church. Upon approaching the altar area, the defendant fired multiple shots, shooting Bishop S.C. and C.M. In an ensuing fracas, the defendant pistol-whipped M.C. after the defendant’s gun apparently malfunctioned. Subsequently, some churchgoers tackled the defendant and held him on the ground.

5. At approximately 10:12 a.m., the Pelham Police Department received a report at that an individual had been shot at the church. Upon responding to the scene, police observed people inside the church crying, yelling, and screaming for help. Police also observed a male, later identified as the defendant, lying face down with multiple people on top of him, close to the raised platform that held the altar. Lieutenant Anne Perriello of Pelham Police Department immediately obtained the defendant’s weapon, a .380 silver and black pistol, and secured it.

6. Upon securing the scene, police located Bishop S.C. lying on his back with a gunshot wound to his neck area. C.M., the bride, had also been shot in the arm and M.C., the groom, had a large cut on his head.

7. Multiple witnesses saw the defendant enter the church. Witnesses recounted that the defendant briefly sat several pews back from the altar, until the end of the ceremony when he stood up and rapidly approached the altar raising his right arm holding something before

¹ The factual recitation in this Motion in *Limine* is not an exhaustive list of facts pertinent to the case, but rather a recitation intended to convey relevant factual considerations pertinent to the arguments in this Motion.

shooting.

8. During their investigation, police observed surveillance footage from the exterior of the church. The footage depicts the defendant arriving at the church at approximately 10:09 a.m. The defendant is depicted standing outside the church smoking a cigarette before entering the church approximately a minute later. Various wedding guests are depicted on the footage as fleeing the church at approximately 10:13 a.m. Surveillance video also captured a BMW SUV vehicle enter the church parking lot from the south and the defendant exit from it. The footage further depicted the SUV backing up and leaving the area upon guests fleeing the church.

9. After the defendant's arrest, Hillsborough County Deputy Sheriff Christopher Follom and Deputy Sheriff Scott Knox traveled with the defendant in an ambulance to St. Joseph's Medical Center. In the ambulance, the defendant asked Deputy Follom if the defendant had killed anyone. At the hospital, Deputy Knox and Deputy Follom provided security of the defendant as he received treatment, leaving when the New Hampshire State Police conducted an interview with the defendant and returning upon the interview's completion.² While in his hospital room, the defendant would periodically wake up and fall asleep, speaking on and off. Deputy Follom managed to hear the defendant say he was upset that the church held a wedding prior to his father's celebration of life ceremony.³

10. In the course of their investigation, police learned that the defendant's stepfather was killed on October 1, 2019 by M.C.'s son, Brandon Castiglione. Rafael Carpio recounted to

² As the State understands from the Court's order dated March 3, 2022 granting the defendant's Motion to Suppress, statements the defendant made during the interview with State Police on October 12, 2019 have been suppressed and are inadmissible for purposes of trial.

³ Per the State's interpretation of the Court's order dated March 3, 2022 granting the defendant's Motion to Suppress, the volunteered statements made by the defendant while Deputies were guarding him in the hospital are admissible and may be elicited at trial, as they were not the product of the New Hampshire State Police interview nor do they appear have been, based on the Court's order, what the defendant sought suppression of.

police that the defendant had told him his father had been killed and that it was an “assassination,” and M.C. and C.M. both indicated to police they believed the shooting incident was related to the murder committed by Brandon Castiglione. Police also learned that the celebration of life for the defendant’s stepfather, Luis Garcia, was scheduled to occur at the church following the wedding.

11. On May 15, 2023, a jury convicted Brandon Castiglione of Second Degree Murder of Luis Garcia in docket number 218-2019-CR-01132 out of Rockingham County Superior Court.

LEGAL ARGUMENT

I. The murder of Luis Garcia committed by the son of M.C. is relevant for purposes of trial in this matter, as it provides evidence of motive for the defendant to commit the charged offenses. Further, the probative value of the murder of Luis Garcia committed by the son of M.C. is not substantially outweighed by the danger of unfair prejudice under Rule 403.

12. Pursuant to New Hampshire Rule of Evidence 401, “Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” N.H. R. Ev. 401. As the New Hampshire Supreme Court has decreed: “[a]dmissibility of evidence initially depends on relevancy alone.” State v. Guyette, 139 N.H. 526, 529 (1995). See Welch v. Bergeron, 115 N.H. 179, 182 (1975) (noting that “[m]ateriality is a necessary aspect of relevancy: evidence offered to prove a fact that is not in issue is immaterial.”).

13. Brandon Castiglione’s murder of Luis Garcia, the defendant’s step-father, presents as evidence of the defendant’s motive to perpetrate the crimes he is accused of at the church on October 12, 2019. It is clear based on the evidence that the defendant knew of Luis

Garcia's murder, and was upset that the church held a wedding prior to the Garcia's celebration of life ceremony. Motive, especially considering that the defendant is charged with attempted murder, is highly relevant in making facts of consequence more or less probable.

14. As forth in New Hampshire Rule of Evidence 403, "The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence." N.H. R. Ev. 403.

15. The probative value of the facts the State is asking the Court to take judicial notice of are extremely probative, as they all relate to the defendant's motive in perpetrating the crimes he is accused of. Any danger of unfair prejudice to the defendant by their admission is substantially outweighed by their probative value. Brandon Castiglione's murder of Luis Garcia, the defendant's stepfather, presents as evidence of the defendant's motive to perpetrate the crimes he is accused of at the church on October 12, 2019. Based on the evidence in discovery, the defendant knew of Luis Garcia's murder and was upset that the church held a wedding prior to Garcia's celebration of life ceremony. Motive, especially considering that the defendant is charged with attempted murder, is extremely probative in this case.

II. Pursuant to Rule of Evidence 201, the court can take judicial notice as to the facts that: (1) Luis Garcia was murdered on October 1, 2019; (2) that Luis Garcia was the stepfather of the defendant; and (3) that M.C.'s son, Brandon Castiglione, was convicted of the murder of Luis Garcia on May 15, 2023 in Rockingham County Superior Court.

16. New Hampshire Rule of Evidence 201(a) provides that "[a] court may take judicial notice of a fact. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2)

capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” N.H. R. Ev. 201(a). The two categories of facts, then, are (1) “those that are generally known” and (2) “those capable of ready and accurate determination.” State v. Gagnon, 155 N.H. 418, 419 (2007).

17. The facts that Luis Garcia was murdered on October 1, 2019, that Luis Garcia was the stepfather of the Defendant, and that Brandon Castiglione, M.C.’s son, was convicted of the murder of Luis Garcia on May 15, 2023 in Rockingham County Superior Court are facts that reasonably fall into the category of those “capable of ready and accurate determination.” As such, the State requests that this Court take judicial notice of those facts at trial.

18. By taking judicial notice of these facts, the trial in the instant case can remain focused as to whether the defendant committed the crimes as charged, and not risk transforming into a trial about the murder of Luis Garcia.⁴

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Grant the State’s Motion in *Limine* to Admit Evidence of Murder of Luis Garcia through Judicial Notice;
- B. Schedule a hearing thereon, if necessary; and
- C. Grant the State any such other relief as may be proper and just.

DATED: September 25, 2023

Respectfully Submitted,

/s/ Seth Dobieski

Seth S. Dobieski #273674

⁴ Based on the history of the case, particularly some of the defendant’s *pro se* pleadings, the State has reasonable concern that the defendant may seek to re-litigate the facts of his stepfather’s murder during trial in this case. Although some of the facts surrounding the defendant’s stepfather’s murder are relevant and probative to the instant matter, taking judicial notice of the facts the State seeks in this Motion in *Limine* will appropriately limit evidence of Luis Garcia’s murder admitted at trial.

Assistant County Attorney
Hillsborough County Attorney's Office

CERTIFICATION

I hereby certify that a copy of the foregoing pleading has this day been sent to the defendant, Dale Holloway, via mail.

/s/ Seth Dobieski

Seth S. Dobieski