

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 TO CLARIFY COURT ORDER

NOW COMES the State of New Hampshire, by and through the Hillsborough County Attorney's Office, and moves to clarify the Court's Order denying the Defendant's Motion to Depose Dr. Bader, stating in support as follows:

1. On October 11, 2023, the Court (Temple, J.) issued an Order (Court Index #433) denying the defendant's motion to depose Dr. Bader, the State's expert witness on the issue of insanity.
2. As a part of its Order, the Court ruled that it "does not find that the defendant has established the need for [a deposition of Dr. Bader]."
3. The applicable statute, RSA 517:13, III, states: "In any felony case either party may take a discovery deposition of any expert witness who may be called by the other party to testify at trial." *See State v. Carter*, 167 NH 161, 169 n.5 (2014) ("RSA 517:13, III, which applies to expert witnesses, does not give the court discretion to deny the deposition of expert witnesses in felony cases, *see State v. Martin*, 142 N.H. 63, 65 (1997)").
4. Nevertheless, the State agrees with the Court's finding that the actual scheduling and taking of the deposition as well as generating a transcript of the deposition does not seem feasible, given the jury selection date of October 30.

WHEREFORE, the State respectfully requests that this Honorable Court:

Granted See record of October 13, 2023 Hearing.


Honorable Charles S. Temple
October 18, 2023

Clerk's Notice of Decision
Document Sent to Parties
on 10/19/2023

- A. Grant the State's Motion to Clarify its Order;
- B. Schedule a hearing thereon, if necessary; and
- C. Grant the State any such other relief as may be proper and just.

DATED: October 12, 2023

Respectfully Submitted,

/s/John Harding

John Harding #4067

Assistant County Attorney

CERTIFICATION

I hereby certify that a copy of the foregoing pleading has been sent to the defendant.

/s/John Harding

John H. Harding, III