

THE STATE OF NEW HAMPSHIRE

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

SUPERIOR COURT
SOUTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

DALE HOLLOWAY

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

STATE'S MOTION TO COMPEL DISCOVERY

NOW COMES the State of New Hampshire, by and through the Hillsborough County Attorney's Office, and brings this Motion to Compel Discovery, stating in support as follows:

1. The defendant, Dale Holloway, is charged in this case with the following offenses: 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 scheduled for October 30, 2023 with the trial beginning on October 31, 2023. The trial management conference is scheduled for October 19, 2023.

3. Dale Holloway recently filed a Motion to Continue Trial Dates Scheduled by Withdrawn Contract Attorneys and/or State (Def. Mot. To Continue, Court Index # 371).

4. In that pleading, Mr. Holloway asserted that his "proposed witness list consists of (at least) [50-75 family members,]" ¶ 4 Def. Mot. To Continue. Later in the pleading, he adds that the trial will have over "150 witnesses" attending. ¶ 5 Def. Mot. To Continue.¹

5. To date, the defendant has not provided the State with his witness list nor any statements from any witnesses whom he intends to testify.



Honorable Charles S. Temple
October 25, 2023

¹ It is unclear whether Mr. Holloway is including the forty witnesses from the State's Witness List (Court Index #369) in this total.

Moot-the defendant filed a witness list on October 19, 2023 (Court Index No. 445). The defendant lists five witnesses, two of which are deceased. He also summarizes the anticipated testimony of the live witnesses and lists video exhibits for the deceased witnesses. Admissibility of the testimony will be determined at trial.

6. As support for its request for a witness list as well as any statements from Mr. Holloway's witnesses, the State relies upon Superior Court Rule 12(b)(4)(B) (Exchange of Information Concerning Trial Witnesses), which provides in relevant part:

Not later than ten calendar days before the final pretrial conference ..., the defendant shall provide the State with a list of the names of the witnesses the defendant anticipates calling at the trial or hearing. Contemporaneously with the furnishing of such witness list, the defendant shall provide the State with all statements of witnesses the defendant anticipates calling at the trial or hearing. Notwithstanding the preceding sentence, this rule does not require the defendant to provide the State with copies of or access to statements of the defendant.

8. “[The New Hampshire Supreme Court] has long recognized that justice is best served by a system that reduces surprise at trial by giving both parties the maximum amount of information.” State v. White, No. 2020-0124, 2021 WL 2555646, at *3 (N.H. May 3, 2021), citing State v. Cromlish, 146 N.H. at 280. See also State v. Chagnon, 139 N.H. 671 (1995) (decided under prior Superior Court Rules).

9. Even though Mr. Holloway is representing himself (and has done so periodically throughout this case), the Court Rules still apply to him. See Court Orders (Order on Standby Counsel and Order on Status of Counsel (Standby Counsel) dated July 14, 2021 and August 17, 2023, respectively, Court Index #s131 and 347. In fact, the Court notified Mr. Holloway of his responsibility to familiarize himself “with the applicable rules of procedure.” Court Orders, Court Index #131 and 347 at *6.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Grant the State's Motion to Compel Discovery, and order the defendant to provide State's counsel with a witness list as well as all statements from any anticipated trial witness;
- 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 this day been sent to the defendant.

/s/John Harding

John Harding