

THE STATE OF NEW HAMPSHIRE  
HILLSBOROUGH COUNTY SUPERIOR COURT  
SOUTHERN DISTRICT

CASE NO. 226-2021-CR-0944

STATE OF NEW HAMPSHIRE

v.

DANIELLE DAUPHINAIS

**ASSENTED TO DEFENDANT'S MOTION FOR PRODUCTION OF RECORDS AND  
IN-CAMERA REVIEW OF CONFIDENTIAL RECORDS**

NOW COMES the Defendant, Danielle, Dauphinais, by and through counsel, Jaye L. Rancourt and Benjamin Falkner and requests this Honorable Court issue an order to compel the production of records of Joseph Stapf for his complete incarceration records to date (A, B) and to issue an order to compel the production for *in camera* review of any records (C, D, E, F) to include:


- A. Disciplinary records of Joseph Stapf while incarcerated; and,
- B. All phone records and recorded phone calls of Joseph Stapf while incarcerated to date;  
and,
- C. Any mental health records provided to Joseph Stapf while incarcerated; and,
- D. Any psychological care records provided to Joseph Stapf while incarcerated; and,
- E. Any medical care records provided to Joseph Stapf while incarcerated.

IN SUPPORT of this Motion, it is stated as follows:

1. Ms. Dauphinais is currently charged with first degree murder among other charges related to the death of her son, E.L.

2. Mr. Stapf was also charged in connection to this matter. Mr. Stapf has since pleaded guilty to falsifying physical evidence (Charge ID:2019441C) 2-5 Years; Manslaughter

**Granted**-defense counsel shall file a proposed order for the production of these records on or before February 1, 2023.

  
Honorable Charles S. Temple  
January 18, 2023

Clerk's Notice of Decision  
Document Sent to Parties  
on 01/23/2023

(2019412C) 20-40 years; Second Degree Assault (Charge ID:2019413C); and Tampering with a Witnesses (Charge ID:2019414C). Mr. Stapf is currently listed as a potential witness for the State in the aforementioned case.

3. To date Mr. Stapf has given approximately five different interviews concerning his involvement in his ow case as well as the proceeding of State v. Dauphinais and the underlying alleged activity. Mr. Stapf has potentially given additional statements as a result of his plea agreement with the State.

4. Within these voluminous proffers with the State, Mr. Stapf has changed his version of the events numerous times. These versions include, but are not limited to, searching for the minor child report of as a result of a runaway or missing child; suggesting the authorities search for the minor child in a random area/house near his last residence, and finally searching for the minor child in a burial site in Massachusetts. Ultimately, Mr. Stapf placed blame for the majority of the injuries to the child on Danielle Dauphinais.

5. Mr. Stapf has also repeatedly answered questions to the effect of “I’m bad with timeframes”, “I have had a bad time remembering the timeframe”, “I just don’t know the timeframe”, “I can’t say, you know how I am with timeframes”, “I have a hard time remembering”, “I can’t remember exactly”, “I can’t really remember”, etc. Other times he is able to provide detailed timelines of the events in question when it suits his own benefit.

6. Mr. Stapf has a long history of substance abuse before his incarceration. While incarcerated Mr. Stapf has been receiving treatment for the substance abuse issues. These records would show what treatments Mr. Stapf is receiving while under the State’s care. This information is both relevant and may lead to additional discoverable material. For example, to the extent Mr.

Stapf is on medically assisted treatment these medications may impair his memory and recall of events. Ms. Dauphinais is requesting access to these medical, and mental health records.

7. Mr. Stapf has made statements during these numerous proffers that he has been involved in altercations while being incarcerated. Ms. Dauphinais is requesting discipline files and recorded phone calls as the evidence within those files and calls may be relevant to the case and information within those files could be used for impeachment purposes and may lead to additional discoverable material. For example, Mr. Stapf temper and anger issues are relevant and admissible as he paints Ms. Dauphinais as the aggressor and as the caregiver. A violent history while incarcerated is therefore relevant.

8. Mr. Stapf has also been active contacting outside individuals while incarcerated. Mr. Stapf's phone records are material to this case as the records may show some additional discoverable material in this case. Mr. Stapf has admitted his involvement in the minor child's death, but what is still disputed is who else, if anyone, was involved with Mr. Stapf. The records are relevant to this case and information gathered from these records could be used for impeachment purposes and lead to additional discoverable material. The State provided copies of the recorded phone calls until May 1, 2022. No further recorded phone calls have been provided since that time. Mr. Stapf has no expectation of privacy in those records.

9. The state and federal constitutions guarantee Ms. Dauphinais the rights of due process, fair trial, confrontation, and effective assistance of counsel. *See New Hampshire Const. pt.1, Art. 15* and the *United States Const. Fifth, Sixth Amendments*. The state constitution also entitles Ms. Dauphinais to produce all favorable evidence. *See New Hampshire Const. pt.1, Art. 15*.

10. While mental health and medical records are generally privileged, it is well recognized that the privileges that protect the confidentiality of a witness's medical records must yield to a defendant's rights to due process and effective confrontation in certain circumstances. See generally State v. Farrow, 116 N.H. 731 (1976); see also State v. Girard, 173 N.H. 619, 627 (2020) (“A criminal defendant's interest in obtaining disclosure of material helpful to his defense is rooted in the constitutional right to due process.”).

11. A defendant is entitled to obtain and use confidential records if the materials are essential and reasonably necessary for his defense, including for the purpose of showing unreliability or bias. Girard, 173 N.H. at 627; See N.H. R. Evid. 601. “When the reliability of a given witness may well be determinative of guilt or innocence, non-disclosure of evidence affecting credibility may violate due process.” State v. Dedrick, 135 N.H. 502, 508 (1992); see also Girard, 173 N.H. at 629 (“records containing general credibility evidence may be material and relevant thereby requiring disclosure”).

12. Before a defendant may obtain and use such materials, however, the trial court is required to conduct an *in-camera* review to determine what records may be disclosed. In order to trigger *in-camera* review of privileged materials, a defendant is not required to demonstrate relevance or guarantee that the information sought will be found in the records. It would, after all, be impossible for him to do so without having first seen the materials. To trigger *in camera* review, the defendant must establish only a “reasonable probability” that the records contain potentially material or relevant information to the defense. State v. Gagne, 136 N.H. 101, 105 (1992).

13. “This threshold showing ‘is not unduly high.’” State v. Eaton, 162 N.H. 190, 193 (2011); citing State v. Graham, 142 N.H. 357, 363 (1997). Ms. Dauphinais need only “meaningfully articulate how the information sought is relevant and material to his defense.” State

v. Sargent, 148 N.H. 571, 572-73 (2002). In order to show how the information may be relevant and material to her defense, she must only “present a plausible theory of relevance and materiality sufficient to justify review of the protected documents, but he is not required to prove that his theory is true.” State v. King, 162 N.H. 629, 632 (2011). The defendant need only “provide the court with a logical factual basis for his request, based on information independently obtained, that the [information sought] may yield relevant evidence.” State v. Ellsworth, 142 N.H. 710, 713 (1998).

14. Mr. Stapf’s discipline file, records of all phone calls, medical health and mental health records may be relevant for several purposes. First, discovery is clear that these records contain statements and/or information related to this case. Such statements and/or information may or may not be consistent with statements made to other interviewers, which could be important for impeachment. Such records could also contain a lack of statements regarding the allegations, which could speak to the credibility of the allegations. The records could reference conversations between Ms. Dauphinais and Mr. Stapf have had with others about the allegations, which could lead to additional discoverable material.

15. Such records may also speak to Mr. Stapf’s competence and credibility as a witness, in particular, to his ability to accurately perceive events as they occurred and his ability to accurately recount past events. His treatment records may speak to his credibility and the weight his testimony should be afforded by the trier of fact.

16. The requested materials may assist Ms. Dauphinais in addressing the State’s allegations, which up to this point, have been vague and without corroborating evidence. Any additional details may assist Ms. Dauphinais in providing a defense by determining what evidence she could obtain that would dispute Mr. Stapf’s details. As such, these materials will assist Ms.

Dauphinais in presenting all proofs favorable pursuant to Part I, Article 15 of the New Hampshire Constitution.

17. For all of the foregoing reasons, in order to protect the rights guaranteed by Part 1, Article 15 of the State Constitution and in the Sixth and Fourteenth Amendments to the United States Constitution, Ms. Dauphinais asks the Court for and order to produce Mr. Stapf's:

- a. Discipline files and
- b. Records of all phone calls and all recorded phone calls to date while at Hillsborough County House of Corrections and the New Hampshire State Prison.

Additionally, Ms. Dauphinais ask the Court to conduct *in camera* review of the:

- c. Any mental health records and
- d. Any psychological care records and
- e. Any medical care records

described in this motion from the identified providers and then to disclose the discoverable records to the defense. If the State intends to call Mr. Stapf as a witness at trial, such disclosure is required.

18. The State has been contacted regarding their position. The State assents to the relief requested.

WHEREFORE, the Defendant requests this Honorable Court:

- A. Order production of Joseph Stapf's discipline records while incarcerated;
- B. Order production of Joseph Stapf's phone call records and recorded phone calls to date while incarcerated;
- C. Order production of Joseph Stapf's mental health records while incarcerated for an in-camera review;

- D. Order production of Joseph Stapf's psychological care records while incarcerated for an in-camera review;
- E. Order production of Joseph Stapf's medical records while incarcerated for an in-camera review;
- F. Or in the alternative, hold a hearing on this Motion; and
- G. Grant such other relief as justice and equity shall require.

Respectfully submitted,  
Danielle Dauphinais, Defendant  
By and through her attorneys,

Dated: January 18, 2023

/s/ Jaye L. Rancourt  
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Dated: January 18, 2023

/s/ Jaye L. Rancourt for  
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I HEREBY CERTIFY that a copy of the foregoing Assented to Defendant's Motion for Production of Records and In-Camera Review of Confidential Records has been forwarded via ECF on this 18<sup>th</sup> day of January, 2023 to Bethany J. Durand, Esquire – Office of Attorney General, 33 Capitol Street, Concord, NH 03301-6397.

/s/ Jaye L. Rancourt  
Jaye L. Rancourt, Esquire