

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
SOUTHERN DISTRICT

APRIL TERM, 2024

STATE OF NEW HAMPSHIRE

V.

DANIELLE DAUPHINAIS

226-2021-CR-00944

STATE'S RESPONSE TO DEFENDANT'S MOTION TO EXTEND DEFENDANT'S TIME TO FILE OBJECTIONS TO STATE'S MOTIONS *IN LIMINE* TO MAY 17, 2024

NOW COMES the State of New Hampshire, by and through its attorney, the Office of the Attorney General, and respectfully responds to the defendant's instant motion for an extension of the defendant's time to file objections to the State's motions *in limine* by three weeks to May 17, 2024. The State responds as follows:

1. On April 18, 2022, the defendant was indicted for first-degree murder and related charges for killing E.L. (Age 5) in or around September of 2021 in Merrimack, New Hampshire. On October 19, 2021, Attorney Jaye Rancourt was appointed to the case. On May 10, 2022, Attorney Benjamin Falkner was appointed as co-counsel. The defendant was arraigned on the murder charges on May 14, 2022.

2. As the Court is aware, this matter was originally scheduled for trial in January 2024, but was continued at the defendant's request because co-counsel for Attorney Falkner needed to be appointed following Attorney Rancourt's withdrawal from the case. On June 27, 2023, Attorney Tracy Scavarelli entered her appearance as counsel.

3. On August 30, 2023, the parties submitted an assented-to structuring proposal, which set forth relevant deadlines for the case, including setting a trial date. The case was scheduled to

begin trial in October of 2024, and, among other deadlines, the parties agreed to a March 15, 2024, deadline for the parties to file pre-trial evidentiary motions including motions *in limine*. This structuring order was granted by the Court on September 1, 2023.

4. On December 15, 2023, the parties submitted an assented-to amended structuring order, which was granted that same day. The amended order maintained the October of 2024 trial date but extended the deadline for all parties to file pre-trial evidentiary motions including motions *in limine* to April 15, 2024. This order also extended the defendant's deadlines for filing expert witness disclosures, the deposition deadline and added a deadline for filing any *Daubert* motions.

5. On April 15, 2024, the State filed eight motions *in limine*, three of which were filed under seal. In general terms, among other topics, the motions filed seek to admit statements of the defendant, other crimes evidence, and consciousness of guilt evidence. Three of the motions are based on the same case law but comprise the defendant's statements from different information sources. Pursuant to New Hampshire Superior Court Rule 12(b), the State had provided the defendant with required notice of potential other crimes evidence by way of a letter on June 30, 2022. Much of the information discussed in the filed motions *in limine* was either contained in that notification or was provided in discovery prior to January 20, 2023. It is the State's position that the information contained in the motions *in limine* and even the motions themselves should not have been unexpected.

6. In the instant filing, counsel for the defendant indicates that the requested extension for time to respond to the State's motions *in limine* is needed because counsel was on vacation from April 15, 2024 (the filing deadline), until April 20, 2024. The State notes that defense counsel has not filed nor requested an extension of their April 15, 2024, deadline to file pre-trial evidentiary motions.

7. At no time since the filing of the assented-to amended structuring order on December 15, 2023, or even the filing of the State's motions on April 15, 2024, has counsel for the defendant contacted the State to advise that they were unable to meet the current deadlines.

8. The State recognizes that, in any case, it may become necessary for either side to need additional time for motion responses or to need to file motions outside of the structuring order when an unexpected issue arises. However, the State is committed to ensuring that the current trial move forward as scheduled and that the parties meet the assented-to deadlines. Any further delay of the trial would impact the rights of the defendant, the rights of the victim's family, and the interests of justice.

9. Because defense counsel asserts that the extension of their response deadline will not impact the trial schedule, the State takes no position on the defendant's instant request.

WHEREFORE, the Attorney General for the State of New Hampshire respectfully requests that this Honorable Court:

- A. Issue an Order on the defendant's Motion; and,
- B. Schedule a hearing on the State's Motions *in Limine*; or,
- C. Grant such further relief as may be just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

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Attorney General

April 25, 2024

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was provided to counsel for the defendant through the Court's e-filing system.

April 25, 2024

/s/ Bethany J Durand
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Assistant Attorney General