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THE SUPREME COURT OF NEW HAMPSHIRE

Grafton
Case No. 2024-0496
Citation: State v. Cormiea, 2025 N.H. 50

THE STATE OF NEW HAMPSHIRE

v.

DENNIS R. CORMIEA

Argued: September 16, 2025
Opinion Issued: December 2, 2025

John M. Formella, attorney general, and Anthony J. Galdieri, solicitor general (Anthony J. Galdieri and Audriana Mekula, assistant attorney general, on the brief, and Anthony J. Galdieri orally), for the State.

Matthew McNicoll, assistant appellate defender, of Concord, on the brief and orally, for the defendant.

MACDONALD, C.J.

[¶1] The State appeals an order of the Superior Court (MacLeod, J.) dismissing criminal charges against the defendant, Dennis R. Cormiea. The State argues that the court erroneously concluded that the parties failed to comply with a mandatory and jurisdictional deadline to complete a competency evaluation of the defendant pursuant to RSA 135:17, I(a) (2021) (amended

2024). Because we agree with the State that RSA 135:17, I(a) does not provide a mandatory deadline, we reverse and remand.

I. Background

[¶2] The record reflects the following facts. The defendant was indicted on criminal charges. He was released on bail during the pendency of the action. The defendant's counsel raised a concern that the defendant was not competent to stand trial and moved for a competency evaluation. See RSA 135:17, I(a). The trial court granted the defendant's motion and ordered a competency evaluation pursuant to RSA 135:17 (2021) (amended 2024). The court appointed the Office of the Forensic Examiner (OFE) to conduct the evaluation. Shortly thereafter, the OFE informed the trial court that it could not complete the defendant's evaluation within the ninety-day period prescribed by statute. See RSA 135:17, I(a) (providing that competency evaluations for non-incarcerated individuals must be conducted within ninety days after the date they are ordered unless either party requests an extension).

[¶3] Thereafter, the State moved to extend the deadline by six months or, alternatively, for the appointment of a different qualified evaluator to conduct the evaluation. The court extended the deadline by an additional ninety days and denied the State's request to appoint an alternative evaluator.

[¶4] The State subsequently filed a second motion to extend the deadline after it became clear that the OFE would not meet the extended deadline. After briefing and argument on the issue, during which time the extended deadline for the competency evaluation passed, the court denied the State's second request for an extension of time and dismissed the charges against the defendant. The court ruled that the statutory timeframes set forth in RSA 135:17, I(a) are mandatory, and that the statute permitted it to grant only one request from each party for an extension of time to complete a competency evaluation. The court concluded that, because the competency evaluation was not completed by the statutory deadline, the court was required to dismiss the case. The State unsuccessfully moved for reconsideration. This appeal followed.

II. Analysis

[¶5] The State argues that RSA 135:17, I(a) does not set a mandatory deadline to complete a competency evaluation because it grants the trial court discretion to extend the deadline. Further, because the statute does not set a mandatory deadline, the State argues that the failure to meet the statutory deadline and any court-ordered extensions does not create an obligation for the trial court to dismiss the case. We agree.

[¶6] If a mandatory and jurisdictional time limit is not met, then the trial court is obligated to dismiss the case before it. See Ruel v. N.H. Real Estate Appraiser Bd., 163 N.H. 34, 42 & n.2 (2011). Thus, as a threshold matter, we must first determine whether the statute sets a mandatory deadline. See id.

[¶7] This question requires that we engage in statutory interpretation. We review the trial court’s statutory interpretation de novo. Adams v. Moose Hill Orchards, LLC, 177 N.H. 55, 57 (2024), 2024 N.H. 58, ¶6. We first look to the language of the statute itself, and, if possible, construe that language according to its plain and ordinary meaning. Id. We give effect to every word of a statute whenever possible and will not consider what the legislature might have said or add language that the legislature did not see fit to include. Id. We also construe all parts of a statute together to effectuate its overall purpose. Id. However, we do not construe statutes in isolation; instead, we attempt to construe them in harmony with the overall statutory scheme. Id.

[¶8] The version of RSA 135:17, I(a) in effect when the trial court issued its order provided in relevant part:

When a person is charged or indicted for any offense, . . . the circuit or superior court before which he or she is to be tried, if . . . said court is notified by either party that there is a question as to the competency or sanity of the person, may make such order for a pre-trial examination of such person by a qualified psychiatrist or psychologist on the staff of any public institution or by a private qualified psychiatrist or psychologist as the circumstances of the case may require Such pre-trial examination shall be completed within 45 days in the case of a person being held at a county correctional facility, otherwise 90 days after the date of the order for such examination, unless either party requests an extension of this period.

[¶9] In this case, the trial court ordered a pre-trial competency evaluation pursuant to RSA 135:17. The defendant was not being held at a correctional facility. The statute therefore provided that the competency evaluation “shall” be completed within “90 days after the date of the order for such examination, unless either party requests an extension of this period.” Id. The State requested an extension of this deadline, and the court ordered a ninety-day extension. After the State requested a second extension, the court interpreted the statute as setting a mandatory deadline to complete the competency evaluation, and construed the phrase “unless either party requests an extension of this period” as permitting the court to grant the State only one extension. Id. (emphasis added). Accordingly, the court concluded that it was not permitted to grant additional extensions to the State and that it was required to dismiss the case. This conclusion was error.

[¶10] The defendant asserts that the use of the word “shall” in the statute signifies that the statutory deadline is mandatory. However, as the State correctly argues, while “shall” generally denotes a mandatory command, here “shall” is modified to change its mandatory character. Cf. City of Rochester v. Corpening, 153 N.H. 571, 574-75 (2006) (explaining that modifying phrases can render mandatory language, such as the word “shall,” to instead “grant[] the trial court the authority” to act). The statute provides in relevant part: “Such pre-trial examination shall be completed within . . . 90 days after the date of the order for such examination, unless either party requests an extension of this period.” RSA 135:17, I(a) (emphases added). The addition of the phrase “unless either party requests an extension of this period” modifies the otherwise mandatory command. Id.

[¶11] Therefore, our analysis turns to the meaning of the phrase “unless either party requests an extension of this period.” Id. The defendant argues that the statute permits the court to grant “an extension” of the deadline, as in only one extension. Id. (emphasis added). The defendant’s argument is contrary to the plain meaning of the statute and in conflict with the overall statutory scheme.

[¶12] As to its plain meaning, the defendant essentially argues that the phrase “an extension” imports the number one into the statute and thereby permits only one extension of time per party. However, RSA 21:3 (2020) specifically provides that “[w]ords importing the singular number may extend and be applied to several persons or things.” Accordingly, the statute’s language granting either party the ability to request “an extension,” standing alone, does not limit either party to a single request. RSA 135:17, I(a); see also RSA 21:3.

[¶13] This construction is not inconsistent with “the manifest intent of the legislature or repugnant to the context of the same statute.” RSA 21:1 (2020). RSA 135:17 contemplates that an examination cannot always be obtained within the statute’s default timeframes, and it provides a remedy to defendants when those deadlines are not met. RSA 135:17, I(c) (2021) (amended 2024) provides that, in cases where the person is incarcerated and a pre-trial examination has not been performed within forty-five days of the court’s order, “the court shall, upon request of the person, order an evaluation by a qualified psychiatrist or psychologist.” The legislature amended the statute after the trial court issued its order to provide the same right to non-incarcerated defendants if their evaluation is not performed within ninety days. See RSA 135:17, I(c) (Supp. 2024). Accordingly, if the deadlines prescribed by RSA 135:17, I(a) are not met, then RSA 135:17, I(c) provides defendants with the right to request that the trial court appoint an alternative evaluator.

[¶14] In addition, RSA 135:17, I(d) (2021) (amended 2024) provides further protections to defendants by creating an ongoing obligation for the trial

court to review a defendant’s bail conditions on a monthly basis if he or she is incarcerated and his or her evaluation has not been completed. Similarly to subparagraph I(c), subparagraph I(d) was amended to provide, if the defendant “is not incarcerated, and the evaluation has not been completed within 90 days, the court shall schedule a status conference, and every 30 days thereafter.” RSA 135:17, I(d) (Supp. 2024).

[¶15] In sum, RSA 135:17, I(a) does not set a mandatory deadline, and does not prohibit the trial court from granting a party more than one extension of time. Accordingly, we conclude that the trial court was not required, as a matter of law, to deny the State’s second request for an extension of time or to dismiss the charges against the defendant because the extended deadline was not met. See Ruel, 163 N.H. at 42. We therefore reverse the trial court’s order and remand for further proceedings consistent with this opinion. Because this issue is dispositive, we need not address the parties’ remaining arguments. See Antosz v. Allain, 163 N.H. 298, 302 (2012) (declining to address parties’ other arguments when holding on one issue was dispositive).

Reversed and remanded.

DONOVAN, COUNTWAY, and GOULD, JJ., concurred.