

THE STATE OF NEW HAMPSHIRE

Hillsborough, SS.

Hillsborough Superior Court
Southern District
Docket No. 226-2019-CR-0814

STATE of New Hampshire

v.

Dale Holloway

Motion for an Evidentiary Hearing
AND COURT ORDER for the Equal
protection of the Law; USCA XIV

NOW COMES, the Defendant, Dale Holloway of 549
Lake Avenue in Manchester, pro se, pursuant
to NH R. CRIM. PROC. RULE 15 (b) (1), USCA V, VI,
VIII, XIII AND XIV; NH CONST. PT. I, ARTICLES 2,
4, 8, 10, 14, 15, 18, 19, 23, 29, 32, 33, 35 AND
38 who hereby requests that this HONORABLE
Court schedules an Evidentiary Hearing and
ORDERS the Equal protection of the law for
the following:

1. The Defendant, Dale Eugene Holloway Jr., D.O.B.
08/06/1982, Social Security Number 017-64-
6130 lives at 549 Lake Avenue in Manch-
ester, New Hampshire with his now "widowed"

Mother, Patricia A. Garcia, and now "Deceased" Step-father, Minister Luis A. Garcia, formerly of the New England Pentecostal Ministries, who was Recently "Murdered" in Londonderry, on October 1, 2019.

2. The Defendant, Mr. Holloway was Arrested on October 12, 2019 while attending the funeral services for his step-father at NEPM's church, in Pelham, for an "Alleged" shooting incident inside of the church.
3. During an interview with police, and/or investigators for the "Homicide" investigation of the defendant's step-father, the defendant reported (additional) suspects for the Criminal Complaint(s) to be filed against them and to be Justified for any Criminal Complaint(s) filed against him for the "Alleged" incident at the church that day. (See Page 421 Attached)

SS: (Stephen Sloper) Yup and and Dale Alright you look at me for a second, can you look at me. This is very important I want you to know this before we even talk any further, OK. That case

for your father is the reason why I'm here
Cause I'm the lead investigator for that case
OK. Alright, so I get it.

DH: (Date Holloway) yeah.

SS: I was I was there. OK.

DH: I DIDN'T want to hurt anybody.

SS: You DIDN'T want to hurt anybody? I can tell
you OBVIOUSLY love your father. I DIDN'T
KNOW HIM But I Heard He WAS A Really
Good MAN.

DH: But My Mothers in DANGER.

SS: your Mothers in DANGER.

4. Additionally, (See page 422 attached)

DH: She never listens to me. He's the only one
that would listen to me and understand
what I'm talking about. I figured it out.

SS: What's that ~~that~~ you figured out?

DH: (inaudible) Who Killed My father.

SS: Who? who's they? Someone needs to be Held Accountable ON YOUR DAD, OK. Who's They?

DH: I Don't Know. I Don't Know But They Keep Coming to My house, I'M SCARED. My Mother's (inaudible crying). I'M SCARED. I Don't Know what to do (inaudible).

SS: who are they? is it a group of people?

DH: yes. if's (inaudible) they all think they're friends, they're not friends.

SS: OK.

DH: I DON'T KNOW THEM.

SS: Are they people Associated with the church?
They ARE. OK.

5. ADDITIONALLY, (See page 425 Attached)

SS: OK. you want to talk to us?

DH: To Destroy this situation from this (Inevitable)
I Don't want to Buried Behind this. You know
I didn't mean to do this.

SS: OK. I need a yes or no from from you
if you want to talk.

DH: I need Help too.

SS: OK, yup.

JK: (John Kelly) AND we and we can Help facilitate
that.

SS: We'll Help, We'll Help

DH: But I Need to Be -

SS: I'll Help you in ANY way.

6. The Defendant, while Being interviewed by Police Investigators, Requested the presence of an investigator in the "homicide" investigation for

The MURDER of his step-father, who he previously met with. Possibly, a person who works with the "VICTIM ADVOCATE" office at the Attorney General's office, by the name of LINDA. (See page 4356 attached.)

DH: where's LINDA?

SS: LINDA, LINDA (invariably) from the AG's office?

I spoke with her, she has her own family thing so ~~but~~ uh people that work under her we have two other LINDAs that are here today. They're um that that um that (invariably) hoping to see your mom out in Manchester, OK.

7. Mr. Holloway is a "witness" in the "homicide" investigation who has been excluded from testifying and/or testifying before the Rockingham County Superior Court in that case, as provided in RSA 649:6. (witness privileges)

8. Mr. Holloway was "cooperative" with the law authorities in this case, AND (still) put out of the protection of the laws, as provided in RSA 626:3, I (A) AND (E); RSA 627:3, I; RSA 627:4, I AND II-A; RSA 627:7; RSA 628:2, I, II AND III (B). Whereas, the defendant's indictments were

procured by the state with "hateful" Disregards to the New Hampshire State (and Federal) laws of General rules for Justification of citizens in the "Self-Defense" chapters of the CRIMINAL CODES. See State v. Fee, 126 N.H. 78, 489 A.2d 606, 1985 N.H. LEXIS 276 (N.H. 1985) ("AN INDIVIDUAL IS PROTECTED FROM PROSECUTION FOR A CRIMINAL ACT UNDER THIS SECTION IF HE COMMITS A CRIMINAL ACT THAT WAS URGENTLY NECESSARY TO AVOID A CLEAR AND IMMINENT DANGER."); Citing State v. Perry, 166 N.H. 716, 103 A.3d 784, 2014 N.H. LEXIS 106 (N.H. 2014) ("Since an attempted crime is by definition a crime NOT COMPLETED, the state cannot plead, factually identify, and prove the elements of the intended offense as if it had been carried out. Thus, even if the absence of voluntary release is an element of a class A felony level kidnapping —; the intended crime —; it is not an element of attempted kidnapping and need not, for that reason, be alleged in an indictment for the latter offense."); QUOTING State v. Millott, 273 A.2d 504 (1971) ("MAINE ITSELF REQUIRES THE PROSECUTION TO PROVE THE ABSENCE OF SELF-DEFENSE BEYOND A REASONABLE DOUBT"); State v. Laurent, 138 N.H. 492, 494, 642 A.2d 335 (1991) ("At the time of offense, he was so upset that he did not act "knowingly". Under these circumstances, there was no need for the court to have instructed the jury on the INSANITY

Defense. A Defendant may offer Evidence as to whether he possessed the requisite MENS REA for the crimes charged without claiming to be INSANE."); STATE V. HALL, 148 N.H. 394 (2002); STATE V. COGELIS, 138 N.H. 249, 638 A.2d 783 at 785 (1994) ("A person who is INSANE at the time that he commits an unlawful act is NOT "CRIMINALLY RESPONSIBLE if the disease caused his actions. A defendant who asserts the defense of insanity claims that at the time he acted, he was suffering from a mental disease or defect which caused his actions and made him not responsible for those acts."); Also, See MULLANEY V. WILBUR, 421 U.S. 684 (1975) ("The Due process clause requires the prosecution to prove beyond a reasonable doubt the absence of the heat of passion on SUDDEN PROVOCATION"); STATE V. EFRENNE, 163 NH 57 (2011)

9. The Defendant "objects" to the ineffective assistance of "Court-appointed" counsel(s), as provided in USCA VI; AND NH CONST. PART I, ARTICLES 2, 14, 15, 32, 33 AND 38.
See STATE V. BARRETO, 2017 N.H. Sup. ("Counsel's representation was constitutionally deficient") ("Counsel's deficient performance actually prejudiced the outcome of the case."); BYRD V. HOLLINGSWORTH (counsel failed to raise a certain affirmative defense); STRICKLAND V. WASHINGTON; RSA 604 (Inadequate representation for indigent defendants).

10.

MR. HOLLOWAY REQUESTS AN EVIDENTIARY HEARING TO ESTABLISH THE EVIDENCE THE STATE PRESENTED TO THE GRAND JURY TO PROCURE THE INDICTMENTS, THE EVIDENCE THE STATE INTENDS TO PRESENT AT TRIAL, MR. HOLLOWAY'S CRIMINAL LIABILITY FOR THE STATE'S ALLEGATIONS AND THE EXONERATORY EVIDENCE BEING WITHHELD BY THE STATE'S PROSECUTION TEAM THAT MAY OR MAY NOT BE MORE FAVORABLE TO THE DEFENSES RAISED IN THE MATTER. Citing MOONEY V. HOLohan, 294 U.S. 103, 112 ("IT IS A REQUIREMENT THAT CANNOT BE DEEMED TO BE SATISFIED BY MERE NOTICE AND HEARING IF A STATE HAS CONTRIVED A CONVICTION THROUGH THE PREFENSE OF A TRIAL WHICH IN TRUTH IS BUT USED AS A MEANS OF DEPRIVING A DEFENDANT OF LIBERTY THROUGH A DELIBERATE DECEPTION OF COURT AND JURY BY THE PRESENTATION OF TESTIMONY KNOWN TO BE PERJURED. SUCH A CONTRIVANCE BY A STATE TO PROCURE THE CONVICTION AND IMPRISONMENT OF A DEFENDANT IS AS INCONSISTENT WITH THE RUDIMENTARY DEMANDS OF JUSTICE AS IS THE OBTAINING OF A LIKE RESULT BY INTIMIDATION."); PYLE V. KANSAS, 317 U.S. 213, 215-216 ("PETITIONER'S PAPERS ARE INEXPERTLY DRAWN, BUT THEY DO SET FORTH ALLEGATIONS THAT HIS IMPRISONMENT RESULTED FROM PER-

Jureo Testimony, Knowingly Used by the State Authorities to Obtain His Conviction, and From the Deliberate Suppression by Those Same Authorities of Evidence Favorable to Him. These Allegations Sufficiently Charge a Deprivation of Rights Guaranteed by the Federal Constitution, and, if Proven, would Entitle Petitioners to Release from Present Custody.") Mooney v. Holohan; *Supra*; Quoting Napue v. Illinois, 360 U.S. 264, 269 ("The SAME RESULT OBTAINS when the STATE, Although NOT SOLICITING FALSE EVIDENCE, Allows it to go UNCORRECTED when it APPEARS."); See Brady v. Maryland, 373 U.S. 83 S.Ct. 1194 (1963) ("The Court Held that "the SUPPRESSION by the PROSECUTION of EVIDENCE FAVORABLE to AN ACCUSED upon REQUEST violates Due [**1197] PROCESS where the EVIDENCE is MATERIAL either to Guilt or to PUNISHMENT, IRRESPECTIVE of the GOOD FAITH or BAD FAITH of the PROSECUTION.") However, "The principle of Mooney v. Holohan is NOT punishment of SOCIETY for MISDEEDS of a PROSECUTOR but AWIDANCE of AN UNFAIR TRIAL to the ACCUSED. SOCIETY WINS NOT ONLY when the GUILTY ARE CONVICTED but when CRIMINAL TRIALS ARE FAIR; OUR SYSTEM of the ADMINISTRATION of JUSTICE SUFFERS when ANY ACCUSED is TREATED unfairly."

Wherefore, the defendant prays that this Honorable Court Schedules an Evidentiary Hearing to Establish the Evidence Against him and his Criminal Liability for the state's Allegations, in order for the Court to issue its own orders of Equal protection of the Laws, pursuant to USCA XIV; Nat Const. Pt. I, Art. 2.

Any other such relief the Court Deems fair and just.

Respectfully Submitted, pro se,
Dale Holloway
By Dale E. Holloway Jr. #117157
NHS - M
P.O. Box 14
CONCORD, NH. 03301

Date: September 2, 2021

The State of New Hampshire

Hillsborough, ss.

NH Superior Court

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State of New Hampshire

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Date E. Holloway Jr.

AFFIDAVIT to Support

Under OATH, the Defendant Dale E. Holloway Jr., pro se,
hereby deposes and states that the following
statements are true and accurate:

1. I am the defendant in the above-said case.
2. I am indigent, incarcerated and cannot afford private counsel for my representation without any income.
3. I am filing Motions to Suppress Evidence, as required, and in accordance with the court's case structuring orders.

Respectfully,


By Dale E. Holloway Jr. #17151

NASP-M
P.O. Box 14
CONCORD, NH. 03301

Date: September 3, 2021

Certificate of Service

I, Dale E. Holloway Jr. Do hereby certify under
the penalties of perjury that the enclosed
Motions to suppress Evidence and offers have
been sent via usps to the Clerk's office for
the state at 30 spring street in Nashua, NH, on
this 3rd Day of September, 2021.

Dale Holloway
By Dale E. Holloway Jr.