

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
DOCKET NO. 216-2022-CR-00039

SUPERIOR COURT
NORTHERN DISTRICT

State of New Hampshire

v.

Kayla Montgomery

**STATE'S OBJECTION TO DEFENDANT'S MOTION TO RECONSIDER/REOPEN
BAIL ISSUE**

NOW COMES the State of New Hampshire, by and through its attorney, the Office of the Attorney General, and objects to the Defendant's motion to reconsider and/or reopen the issue of the defendant's bail, stating in support as follows:

1. The defendant is currently charged with one class A felony count of welfare fraud pursuant to RSA 167:17-b, which alleges in essence that she intentionally failed to disclose to the NH DHHS Division of Family Assistance that H.M. (DOB 06/07/2014) was no longer in the defendant's household or under her care. On January 6, 2022, the Court held a bail hearing and bail was set in the amount of \$5,000 with additional conditions.

2. At approximately 3:40 p.m. on Friday, January 7, 2022, the State was notified by a representative of DHHS that DHHS had additional documentation that potentially raised concern for the offense level of the welfare fraud charge. Due to the hour of this notification, the State was unable to conduct a complete review of the DHHS information; however, a preliminary review made it appear as if the class A felony welfare fraud charge would have to be downgraded to a class B felony. Out of an abundance of caution, that same evening the State

notified defense counsel of this discovery and informed defense counsel that more information would be available on Monday.

3. On Monday, January 10, 2022, DHHS provided to the State the defendant's file from January 1, 2019, to the present. After a review of the file and a consultation with DHHS employees, the State anticipates filing charges for a class A felony theft by deception, and an additional eight misdemeanor charges pursuant to RSA 167:17-b, I(a); it expects to file these charges on January 11, 2022. Once bail has been set on these new charges, the State expects it will file a *nolle prosequi* on the class A felony welfare fraud charge.

4. Prior to filing this objection, the State contacted defense counsel to inform him of the anticipated change in the defendant's charges; however, it was prior to that conversation that defense counsel filed the motion to reconsider/reopen bail, apparently in reliance on the State's representations communicated on Friday.

5. In his motion, defense counsel argues that the issue of bail should be reopened based on the State's information that the defendant would no longer be charged with a class A felony. However, because the defendant will remain charged with a class A felony (albeit under a different statute), as well as an additional eight new criminal charges, the defendant's motion should be denied and bail should remain as set.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Deny the Defendant's Motion to Reconsider/Reopen Bail Issue;
- B. Schedule a hearing thereon, if necessary; and
- C. Grant the State any such other relief as may be proper and just.

Respectfully submitted,
THE STATE OF NEW HAMPSHIRE

By its attorneys,

JOHN FORMELLA
ATTORNEY GENERAL

Date: January 10, 2022

/s/ Jesse O'Neill
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CERTIFICATION

I hereby certify that a copy of the foregoing pleading has this day been sent to Paul Garrity, Esq., counsel for the defendant, via the e-filing system.

/s/ Jesse O'Neill
Jesse O'Neill