

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

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NEW HAMPSHIRE  
SUPREME COURT

2018 MAR 26 P 12:56

No. 2017-0280

State of New Hampshire

v.

Robert Norman

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Appeal Pursuant to Rule 7 from Judgment  
of the Hillsborough County Superior Court, Northern Division

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REPLY BRIEF FOR THE DEFENDANT

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(15 minutes oral argument)

TABLE OF CONTENTS

	<u>Page</u>
Statement of the Facts .....	1
Conclusion.....	4

## STATEMENT OF THE FACTS

Robert Norman files this reply brief to address five factual assertions in the State's brief.

First, the State asserts that when the police first looked on Norman's laptop, they "found multiple images on the laptop of a sexual nature, including several of children, estimated to be between the ages of 6 and 15." SB 3\*. In his affidavit, Officer Smith did not state that, when the police first looked on Norman's laptop, they saw images of children that were "of a sexual nature." See generally, DB A43–45.

Second, after noting that the police found photographs of "young children in dresses and teenagers in cheerleading outfits," the State asserts, "When asked about those images, the defendant said . . . that he liked photos of younger females if they were wearing pantyhose." SB 3–4. In his affidavit, Smith wrote that "Norman admitted that he was inclined to have images of younger females if they were wearing pantyhose or tights," but Smith did not state that Norman made this statement in response to questioning about images of children. DB A44.

Third, the State asserts that Norman "admitted to using those images to 'stimulate' himself." SB 4. Although it is unclear what, exactly, this use of the phrase "those images" refers to, the State later makes a similar assertion in a less ambiguous manner. After noting that Norman "consented to a search of

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\* Citations to the record are as follows:  
"DB A" refers to the appendix to the defendant's opening brief;  
"SB" refers to the State's brief.

his computer where images of young girls were discovered,” the State asserts that “he admitted to using those images for sexual gratification.” SB 5. When the police first observed Norman, his laptop displayed an image of an adult. DB A43. Smith wrote that, after his arrest, “Norman admitted that his laptop was open with one of his images to ‘stimulate’ himself.” DB A44. Smith did not state that Norman said that he used images of children — as opposed to adults — to “stimulate” himself or for “sexual gratification.” See generally, DB A44.

Fourth, the State asserts that Norman had a “self-proclaimed predilection . . . for ‘cheesecake’ photos, or photos of girls in tights or pantyhose.” SB 31. In his affidavit, Smith wrote that Norman said that he “was inclined to have images of younger females” — not “girls” — “if they were wearing pantyhose or tights.” DB A44.

Fifth, after noting that Norman “admitted that his laptop contained approximately 500 pornographic images,” the State asserts that Norman also “admitted . . . that he used public access Wi-Fi to download such images so that they would not be traced back to him.” SB 4. In relevant part, Smith stated the following in his affidavit:

29. Norman stated that he has used the public access wifi service at the Nashua Library to access the Torrent website to download movies and television shows.

30. Norman stated that he uses the public access so that the downloads would not be traced back to him.

31. Norman stated that when he searches for pornography, he uses Google and Yahoo!; he claims that he did not use the Torrent network for pornography.

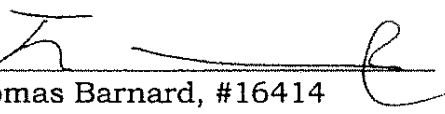
DB A44.

CONCLUSION

WHEREFORE, Robert Norman respectfully requests that this Court reverse.

Undersigned counsel requests 15 minutes oral argument.

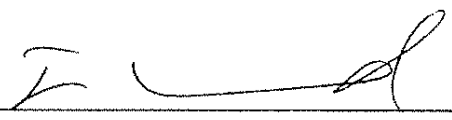
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Reply Brief have been mailed, postage prepaid, to:

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Thomas Barnard

DATED: March 28, 2018