THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2020-0165

State of New Hampshire

v.

Daswan Jette

APPEAL PURSUANT TO RULE 7 FROM A JUDGMENT OF THE MERRIMACK COUNTY SUPERIOR COURT

BRIEF FOR THE STATE OF NEW HAMPSHIRE

THE STATE OF NEW HAMPSHIRE

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(Fifteen-minute oral argument)

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ISSUES PRESENTED

I. Whether the court erred in excluding evidence of a prior drug deal involving the victim.

II. Whether the trial court erred in disclosing certain materials after an *in camera* review.

STATEMENT OF THE CASE

The Merrimack County grand jury indicted the defendant on one count of first-degree murder which alleged that he knowingly caused the victim's death by stabbing her before, after, or while engaged in the commission of, or while attempting to commit robbery. *See* DA A3[1]; RSA 630:1-a, I(b)(2); RSA 636:1. The defendant was also indicted on one count of second-degree murder which alleged he recklessly caused the victim's death under circumstances manifesting an extreme indifference to the value of human life. *S*ee DA 4; RSA 630:1-b, I(b).

On January 7, 2020, the defendant proceeded to jury trial. T 1. After three weeks of testimony and several days of deliberation, the jury found the defendant not guilty of the aforementioned charges, but guilty of the lesser-included offense of manslaughter. T 2679-80. The trial court later imposed a stand-committed sentence of fifteen and one-half to thirty years. SH 52.

This appeal followed.

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[1] Citations to the record are as follows:
"DB__" refers to the defendant's brief and page number.
"DA__" refers to the defendant's appendix "Documents Other Than Appealed Decisions."
"DD __" refers to the defendant's appendix "Appealed Decisions."
"SD__" refers to the addendum attached to the State's brief/
"MH__" refers to the transcript of the motions hearing held on November 22, 2019.
"T__" refers to the consecutively paginated transcript of the trial held January 7-29, 2020.
"SH __" refers to transcript of the sentencing hearing held on February 19, 2020.

STATEMENT OF FACTS

A. The State's Case

On May 30, 2017, the defendant stabbed and killed the victim at his apartment complex, Penacook Place, in Concord, New Hampshire. T 170, 303, 317, 384, 1040-1041, 1058, 1119, 1202, 1225, 1226, 1249, 2167, 1838-39. The defendant did not know the victim and had never met her before. T 1249. The victim was at Penacook Place only at the request of her friend, Samuel Chase. T 269, 437, 451, 469, 972-73, 1095, 1102, 1108, 1110, 1117, 1132, 1140-41, 1147, 1183. Chase had been in communication with the defendant and had arranged to sell the defendant a quantity of marijuana. T 267-68, 437-38, 972, 975, 1084, 1109-10, 1124-26, 1129-35, 1142, 1169.

The victim and Chase were long-time friends. T 261, 962-63. They, along with other friends, were searching for an apartment to rent and live in. T 265, 331-32, 374, 965-66, 971, 1075-76, 1106-07, 1147. At the time of this incident, Chase and his girlfriend, Madison Campbell, were homeless and living in a tent. T 262, 265, 331-32, 374, 964-65, 1101, 1120. Chase, Campbell, and the victim often socialized and used illegal drugs. T 262, 972-73, 1103-07. Also around this time, Chase was selling marijuana to save money for the apartment. T 265, 965-966, 971, 1025, 1106-07, 1121, 1146-47, 1205, 1251. The victim planned to use money from her tax return for the deposit on the apartment. T 965-66.

On May 26, 2017, the defendant wanted to buy marijuana and learned that Chase could sell some to him. T 970, 1108, 2015, 2116-17. Over the course of several days, Chase used Campbell's phone to exchange

a number of text messages with the defendant. T 267, 437-38, 970-72, 1113-14, 1124-27, 1129-35, 1168-70, 2015, 2017-20, 2062; *see also* SD 45-48. Chase hoped to develop the defendant as a future client. T 1142, 1251.

On May 30, 2017, Chase, having agreed to sell marijuana to the defendant, contacted the victim. T 205-06, 972-73, 1095, 1102, 1110, 1116-17, 2013-14, 2020-21, 2062. He did so because his original source for the marijuana fell through and he wanted to buy some from the victim. T 972, 1117. When Chase asked to buy marijuana from the victim, he did not tell her that he intended to resell it. T1147.

Chase agreed to buy twelve grams of marijuana from the victim. T 979, 1146, 1183, 2013-14, 2020-21. Chase had agreed to sell half an ounce (fourteen grams) of marijuana to the defendant and intended to supplement the twelve grams from the victim with marijuana from his personal supply. T 203, 205, 373, 430, 437, 968-69, 979, 1145. At the time of the sale to the defendant, Chase knew that the amount was likely to be less than the amount that he had agreed to sell. T 203, 205, 1004-05, 1190.

Around 7:49 P.M., Annika Tidd, a friend of the victim's since high school, picked the victim up to drive to Penacook Place. T 156, 160-61, 162. Tidd drove a black Chevrolet Cruze with temporary plates. T 161-62. Tidd had already picked up Chase and Campbell. T 157, 159, 161, 210, 268, 979, 1185. Tidd drove the group to Penacook Place to meet the defendant. T 162-63, 183, 188, 210, 267, 340. Once they arrived at the apartment complex, Tidd parked near where the defendant was waiting, T 165, and the defendant got into the backseat of the Cruze, where Chase and the victim were seated. T 165-66, 277, 341, 991-92, 1003, 1151-53, 1156.

As Chase was weighing the marijuana on the defendant's blue scale, at the defendant's request, the defendant grabbed the marijuana and ran from the car. T 168, 184, 278-80, 341-43, 457, 463-65, 467, 1004-08, 1011, 1151, 1181-82. Chase and the victim ran after him. T 168, 280, 463, 1012, 1177-79, 1190-91, 1199. According to Tidd, Chase and the victim were "yelling that he took it." T 168. After a few minutes, Campbell became worried and left to find Chase and the victim. T 168-69. Tidd remained with the Cruze because she was "scared" and "felt like soon [they] would have to leave." T 169. She added: "I just had this bad feeling." T 169.

The defendant ran to the vestibule of his apartment building. T 1016, 2147, 2149, but Chase and the victim quickly caught up with him, T 1020, 2149-50. Chase entered the vestibule first and pushed the defendant in an attempt to prevent him from getting away. T 1016-17, 1199-1200. The defendant dropped his keys and was unable to get into the building. T 1017, 1200. Chase and the victim told the defendant to give the marijuana back to them as they had not received any payment for it. T 286, 558, 560, 1018, 1025-26, 1041. The defendant refused and instead pulled out a knife and threatened to stab them. T 288-89, 452, 506, 539, 1019.

Around this time, Campbell also entered the vestibule. T 285, 287-88, 451-52, 478, 1025. The defendant placed the blade of his knife against the victim's arm while threatening to stab her. T 288, 338, 452, 506-07, 539, 1200-1201, 1206. Campbell yelled at the defendant, "calling him a piece of shit" and saying "how could he hurt a girl." T 289, *see also* 338 ("I told him that he was a piece of shit and he shouldn't hurt women.").

The victim grabbed the defendant's right arm and pulled the knife away from him. T 273, 290, 395-96, 498, 540, 1032. Campbell grabbed the

defendant's left arm. T 395, 504, 540. Chase placed the defendant in a loose chokehold. T 298-99, 333-34, 337, 396, 454, 540, 1026-28, 1208-09, 1214, 1217. Eventually, the victim was able to get the marijuana back. T 287, 289-90, 507. Campbell, Chase, and the victim then left the defendant in the vestibule with his own belongings: his knife, his keys, and a single folded $20 bill. T 1410, 1525.

After Campbell left, within a minute or two, Tidd saw the three of them running back to her Cruze with the defendant chasing them. T 169-70. As the defendant chased them, Tidd saw a silver reflective object in his hand that looked like a knife. T 171-72, 219-20. Tidd, Chase, and Campbell described how the defendant chased the victim back to the Chevy Cruze. T 169-70, 1058.

Chase and Campbell watched as the defendant, again armed with a knife, leaned into the backseat of the car and moved his arm in a repeated punching motion, which resulted in a six-inch deep stab wound to the victim's chest. T 303-04, 317, 354-58, 360-62, 380, 384, 527, 1038-39, 1041, 1061, 1181, 1202, 1225-26, 1807-10. Tidd heard the victim say, "Fuck he stabbed me." T 170-71, 231. Tidd yelled at the defendant to get out of her car. T 170-71. Chase tried to pull the victim further into the Cruze while trying to push the defendant out of it. T 170-72, 232-33, 252-53, 257, 1039-41.

After the victim was stabbed, Tidd drove toward the hospital and called 911. T 173-76, 180, 233, 247-48, 250, 305, 433, 538, 1066. Tidd followed the operator's instructions and pulled over at Swenson Granite Works. T 175, 248, 306, 1046. Before the police arrived at Swenson Granite Works, the friends decided to lie about the real reason they had

been at Penacook Place. T 325-26, 374-75, 378-79, 536-37, 549-50. During the 911 call, Tidd said that the victim had been stabbed in the parking lot of an apartment complex, T 175, 180, but Chase claimed that they did not know the person that had stabbed the victim. T 188.

Once stopped at Swenson Granite Works, after the gravity of the situation began to sink in, Tidd and Chase told police the real reason for their visit to Penacook Place: to sell drugs to the defendant. T 188, 190, 237, 1049-50, 1084. Campbell admitted this as well, less than three hours later, at the police station. T 324-25, 406, 448. After admitting they had lied, the friends provided consistent accounts of how the victim was stabbed and killed by the defendant, as well as the events leading up to it. T 177-78, 323, 1058.

Chief Medical Examiner Dr. Jennie Duval determined the victim's cause of death was a "stab wound to the chest that penetrated her heart." T 1839. The victim suffered a six-inch perforation to her heart. T 1808. This meant that the defendant's knife had to first traverse skin and subcutaneous tissue, go through her heart, and then scrape her rib. T 1807-10.

Dr. Duval testified that a considerable amount of force was needed to perforate the skin, a layer of fat, a layer of muscle tissue, the full thickness of the heart, and graze the part of one rib bone. T 1807-08, 1814. Dr. Duval also testified that a person could not "loosely, carelessly . . . hold[ing] a knife and cause these injuries." T 1850. According to Dr. Duval, the defendant's folding knife would have required "considerably more force to compress the chest wall and reach the back side of the heart." T 1884.

When interviewed by police, the defendant claimed that he had never even been outside of his apartment or involved in any kind of altercation on the night in question. T 1970-71, 1990-92, 1995-97, 1999-2001.

B. The Defendant's Case

The defendant called Ngoc Tran, Scott Gilbert, Jonathan Kulik, Madison Campbell, Samuel Chase, Daniel White, Michael Adam, Anna Weaver, and Krystal Zielonko as witnesses. The defendant also testified. T 2109.

The defendant testified that, in May 2017, he lived in Boston, but travelled back and forth to New Hampshire. T 2110. While in New Hampshire, he lived with his girlfriend and her daughter at Penacook Place. T 2110. He had a temporary roofing job at S&W on Hall Street in Concord. T 2111. He smoked marijuana, which he usually got from his girlfriend's friends, his brother's friends, or from people in Boston. T 2114-15.

In May 2017, he contacted a person through Facebook to arrange to purchase some marijuana. T 2116. The person responded in a day or two that she could help him and later sent him a telephone number to call. T 2116-17. The defendant sent a text message to the number, T 2118, *see also* SD 43, and Chase responded. T 2119. On May 30, 2017, the defendant agreed to purchase fourteen grams of marijuana from Chase. T 2129, *see also* SD 45. The defendant agreed to pay $150. T 2130. He testified that he actually had $150 that day. T 2130. The defendant sent his girlfriend's address to Chase. T 2131.

At 8:22 p.m., when Chase and his friends arrived at the apartment complex, the defendant received a text message from him. T 2132. The defendant took his money, his scale, his phone, and his keys. T 2134. He was also carrying a lighter and a knife. T 2136. He left the apartment and went to meet Chase. T 2139. Someone called to him and the defendant walked toward the car. T 2139-40. The defendant was "kind of shocked that there was a car full of people." T 2141. The defendant got into the back seat. T 2143-44.

The defendant asked to weigh the marijuana and, as he pulled out the scale, he dropped his money and his phone. T 2144-45. The defendant claimed that when Chase put the marijuana on the scale, he also grabbed the defendant's money and phone. T 2146. The defendant claimed that, at that point, he fled with the marijuana in his hand. T 2146-47.

The defendant claimed that he ran toward the vestibule and he heard Chase coming behind him. T 2149. He reached for his keys, but he did not have time to open the second door in the vestibule. T 2150. Either Chase or the victim pushed him into the mailbox so that his back was against the fire panel. T 2151. As he tried to pull out his knife, a third person entered the vestibule. T 2152. He told the three people to back up, but they would not. T 2153. According to the defendant, Chase grabbed him from behind and held him in a chokehold. T 2153-54. The victim grabbed the defendant's arm. T 2155. Campbell grabbed his other arm. T 2156. Chase pushed him to the ground and then the three ran away. T 2158.

The defendant then took his keys, opened the inner door, and ran up the stairs to his girlfriend's apartment. T 2163. As he went up the stairs, he closed his knife and put it in his sweatshirt pocket. T 2164. The defendant

claimed that he did not have the marijuana and surmised that the three had stolen it from him. T 2166.

That night, the police came to his apartment complex, but they did not come to his apartment. T 2171. The following morning, the police returned and knocked on the apartment door. T 2173. After dressing, the defendant answered the door. T 2174. The defendant said that he thought that the police were there "for the weed," but the police detective asked his name and then asked if he was hurt. T 2174. The police then told him that they had search warrants for his person and the apartment. T 2175-76. The police handcuffed him and took him to a cruiser. T 2177. The police transported the defendant to the station and, once there, took him to an interview room. T 2178.

The police read the defendant his *Miranda*[2] rights and asked questions. T 2178. At trial, the defendant admitted that he lied to the police because he "didn't want to say too much," and he was trying to "get information out of them." T 2179. The police told him that someone had been stabbed. T 2180. They then executed the body warrant to look for injuries. T 2180.

On cross-examination, the defendant acknowledged that he lied to the police. He admitted that he lied about the knife. T 2186. He admitted that he had lied about having a telephone. T 2195-96. He admitted that he lied when he told the police that his phone was "long gone." T 2199. He admitted that he lied to the police when he said that he had not used a "text app" on the night of the stabbing. T 2203. He admitted that he lied when he

[2] *Miranda v. Arizona*, 384 U.S. 436 (1966).

told the police that no one knew him as "Dee" in Concord. T 2207-08. He contended, however, that his trial testimony had been truthful. T 2186-88.

Ngoc Tran, a former Concord Police Officer, also testified. T 2320. He responded to the 911 call on the night that the victim was fatally stabbed, but only arrived as the ambulance was leaving. T 2321. He interviewed Chase after the ambulance had left and testified that Chase had provided "a different story." T 2322-23. Chase told him that the stabbing had "just happened." T 2326. Later, Chase admitted that they were there to sell drugs to the defendant. T 2327. He told the officer that they were going to sell about $70 of marijuana, but that the defendant did not have the money and that "led to the stabbing." T 2328. He told former officer Tran that the defendant "threatened to stab the victim, and the victim still refused [to give him the marijuana], and so he stabbed her." T 2329.

Scott Gilbert, an investigator with the Office of the Attorney General, was also called by the defense. T 2336. Inv. Gilbert sat in on "two prep sessions" as the prosecutors interviewed Chase. T 2337. Inv. Gilbert recalled that Chase said that after the victim and Campbell ran to the car, he "punched the Defendant while still having him in a headlock. He said he believed that made the Defendant angrier. He then threw him to the wall to buy himself more of a head start to get to the car." T 2338. Concord Police Officer Jonathan Kulik responded to Swenson Granite Works on the night of the stabbing. T 2359. When he arrived, Samuel Chase was standing outside the Chevy Cruze and he told Officer Kulik that someone had been stabbed. T 2361. Officer Kulik looked into the back seat and saw the victim. T 2361. The officer noticed "a lot of blood" when he opened the car door. T 2362. Officer Benjamin Mitchell arrived and checked the victim for

a pulse, but could find none. T 2362. The two officers lifted the victim from the car and Officer Mitchell began compressions, but to no avail. The ambulance arrived about ten minutes later. T 2364.

Madison Campbell was recalled. T 2373. Defense counsel asked her if she had "sob[bed]" about the death of her friend as she was also lying to the police. T 2374. She was also asked if she recalled telling the police that the defendant made an "upward motion" in stabbing the victim, but made a "downward motion" when she testified at trial. T 2376-77. She was also questioned about who picked up the defendant's keys. T 2384. And she was also questioned about the position of the victim. T 2390-91.

The defense recalled Samuel Chase. T 2399. He was cross-examined over his statements to the police that were inconsistent with his testimony at trial about his actions when the victim and he were trying to leave the scene before the victim was stabbed. T 2402-03. He also testified about the location where he tried to stop her bleeding. T 2413-14.

Office Daniel White of the Concord Police Department testified that he responded to Swenson Granite Works on the night that the victim was stabbed. T 2418. He interviewed witnesses at that location. T 2420.

Michael Adam, who at the time of trial ran a boat dealership, worked for the Concord Police Department at the time of the victim's death. T 2447-48. Adam was assigned to take photographs of the Chevy Cruz and the area around Swenson Granite Works. T 2448. The defense also recalled Anna Weaver, a criminalist with the New Hampshire State Police Forensic Laboratory. T 2469.

Finally, the defendant called Krystal Zielonko, a hairdresser, who worked in Manchester and Sunapee, but who lived in Concord. T 2480. She

lived at Penacook Place and, on the night of the fatal stabbing, Zielonko was at home and heard "yelling in the parking lot," then "screaming." T 2481, 2484. Her dog was "getting really upset" and she looked out of the window and saw "people running into the car, close the door, and drive away." T 2484.

C. The Motion to Exclude Evidence, the Hearing, and the Court's Order.

Prior to trial, the State sought to exclude evidence of the victim's criminal record, prior drug activity, and information from her cell phone that predated the day of her death. DA A7. The State pointed out that the victim had no criminal convictions and contended that "any evidence of prior drug activity involving [the victim] should be excluded," because it was not relevant under New Hampshire Rule of Evidence 401. DA A9.[3]

The defendant objected. DA A16. The defense contended that, on one occasion, the victim was involved in a "drug transaction gone bad where the buyer used counterfeit money to buy" drugs from the victim. DA A17. The defense contended that Chase had arranged the deal, but the victim actually met the buyer. DA A17-18. The defense argued that "the outcome of this prior drug deal angered [the victim], and anger focused on Mr. Chase, and may have influenced her behavior on the May 30th deal, *i.e.* being distrusting of an unknown new buyer." DA A18.

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[3] The defendant asserts that "[a]bsent one of the dangers identified in Rule 403, it is for the jury, not the judge, to determine the probative value of relevant evidence." DB 35. While this may be true, the trial court cannot allow evidence that is not relevant to be admitted. The trial court in this case found that the evidence was not relevant. DD 9. Having reached this conclusion, the court properly excluded it.

The defense also contended that Chase "had this prior bad drug deal in mind when he communicated with [the defendant] as he mentioned concern about counterfeit money." DA A18. The defense asserted: "It is the defense' theory that the April drug deal rip off caused a change in the way Mr. Chase and [the victim] did business, which led to heightened tensions, which led to the aggressive physical assault of [the defendant] from which he had to defend himself." DA A18.

On November 22, 2019, the trial court held a hearing. MH 1. The State contended that the "fact that Mr. Chase and [the victim] bought and used drugs together previously -- none of that is relevant to the May 30th transaction." MH 5. The State pointed out that, in the earlier transaction, Chase had referred the buyer to the victim. MH 5-6. The State contended that there was nothing "in any of the text messages" that suggested that the victim "was ever previously involved in any kind of physical confrontation in the course of a drug deal." MH 6. The State contended that Chase and the victim "were simply friends." MH 7. There was no "business partnership" and nothing suggested that Chase had ever "before arranged a deal that he attended with" the victim. MH 7.

The defense contended that the prior drug activity explained why the victim accompanied Chase to the drug deal." MH 19-20. The defense contended that some of the previous sales "resulted in [the victim] being ripped off." MH 20. After the defense read a series of text messages from the victim informing Chase and Campbell that she had been paid with counterfeit money, the court interjected: "[T]his shows, obviously, unhappiness" about "feeling that she was cheated from a prior drug interaction." MH 23.

The defense responded:

> [W]e think it shows a little more than that, too. It shows that [the victim] no longer felt that Ms. (sic) Chase was a reliable person to do business with in the drug world, essentially, that she couldn't trust him to even arrange a transaction for him since this person ripped her off. So then when she goes on the day in question, May 30th, when Sam contacts her asking for some marijuana, that explains why she goes there.

MH 23-24. Later on, the defense told the court: "And this evidence would also show that [the victim] didn't trust Mr. Chase, which is why she was accompanying him to a drug deal where she really wasn't involved in the preceding four to five days that [the defendant] and Mr. Chase were texting to each other." MH 24.

The court then asked:

> So your theory is that Mr. Chase is more physically aggressive or acts in a way because he's trying to impress his business partner, [the victim], and show that he's trustworthy, so he reacts in a more physically aggressive or violent manner. And the fact that he was involved - that there was this past bad experience that happened with this other drug deal makes that more likely?

MH 25.

The defense responded, "In part, Your Honor. So not necessarily to impress her as much as to keep her as a potential source of drugs and show that he is reliable and to not get a reputation as somebody who just sets her up with people that are going to rob her." MH 25. The defense concluded that, because the victim had been cheated in a prior transaction – and that Chase had put her in touch with the buyer – the victim "could not trust Mr. Chase." MH 25.

The State countered that "[t]here was no lack of trust between [the victim] and Mr. Chase." MH 26-27. The State pointed out that Chase and the victim were even discussing getting an apartment together. MH 27. The two "hung out" and were friends. MH 27. The State pointed out that the April drug deal was not relevant. MH 27.

On December 10, 2019, the trial court issued an order excluding the prior drug activity. DD 9. The court noted that the defense sought to admit the evidence to show how the prior experiences selling drugs "explain[ed] Mr. Chase's and [the victim's] behavior on the night of [the victim's] death, including how it allegedly led to an aggressive assault on [the defendant] from which he had to defend himself." DD 9. The court found that the prior drug activity was not relevant and that the prejudicial effect outweighed its probative value. DD 9.

The court also found that the prior drug activity was "wholly unrelated" to the sale to the defendant. DD 9. The court found that it would be "highly speculative" to conclude that "because of prior issues remote in time from the current events," Chase and the victim "had reason to be aggressive toward" the defendant. DD 9. The court concluded that the evidence had the potential to mislead the jury. DD 9.

SUMMARY OF THE ARGUMENT

I. The defendant's theory of admissibility – that the victim and Chase – were "merchants," operating in concert to sell the defendant drugs, is not the same theory of admissibility presented to the trial court. Rather, the defendant in his motion and in his hearing characterized the victim as distrusting Chase and attending the drug deal so that she would not be cheated. Because the theory presented in the brief is different from that presented at trial, the argument presented to this Court is not preserved and this Court should decline to entertain it.

If this Court finds that the argument is preserved, the trial court properly excluded the evidence as it was not relevant. Moreover, the trial court properly determined that its prejudicial effect outweighed its probative value. Finally, if the trial court erred in excluding the evidence of prior drug transactions, excluding the evidence was harmless error.

II. This Court may conduct an *in camera* review of the records.

ARGUMENT

I. THE TRIAL COURT PROPERLY EXCLUDED TESTIMONY REGARDING THE EARLIER, UNRELATED DRUG SALE.

The defendant argues on appeal that the trial court erred when it excluded evidence of a prior drug transaction involving the victim because the transaction would have provided a motive for the victim and Chase to attack the defendant when they believed he was stealing from them. DB 31. He advances four theories in support of this contention: (1) that the trial court misinterpreted Rule 403, DB; 28, 34; (2) that the evidence was admissible to show the victim's motive in attacking him, DB: 31; and (3) that the trial court focused incorrectly on the defendant's motive when it excluded the evidence. DB 33. He also contends that, even if this Court applies a deferential standard, the trial court committed reversible error. DB 36.

The State responds: (1) that the defendant's theory of admissibility raised in his brief has changed and, therefore, the claim is not preserved; (2) that the trial court correctly interpreted the rule; (3) that the victim's intent was clear from the evidence admitted at trial; and (4) that the trial court correctly assessed the defendant's intent. If there was error, however, any error was harmless.

A. The argument raised in the brief is not preserved.

First, with respect to waiver, the defendant raised a different theory of admissibility at trial.

"The general rule in this jurisdiction is that a contemporaneous and specific objection is required to preserve an issue for appellate review."

State v. Edic, 169 N.H. 580, 583 (2017) (citation omitted). "This rule, which is based on common sense and judicial economy, recognizes that trial forums should have an opportunity to rule on issues and to correct errors before they are presented to the appellate court." *Id.* (citation omitted). Under the New Hampshire Rules of Evidence, the party seeking to admit evidence must inform the court of the "basis for [its] admissibility by offer of proof, unless these matters were apparent from the context." *N.H. R. Ev.* 103(a)(2). "The burden is on the appealing party to demonstrate that the issues on appeal were raised before the trial court." *Milliken v. Dartmouth-Hitchcock Clinic,* 154 N.H. 662, 665 (2006).

The defendant has argued that evidence of a prior drug transaction between the victim and an unidentified person was relevant to establish a motive for the aggressive response by the victim and Chase to the theft of marijuana.

However, in the trial court, the defendant argued that the earlier, unrelated transaction was admissible to show that the victim "didn't trust" Chase, who was trying to keep her as a source of drugs. MH 24, 25. The defendant asserted that the two were in conflict, an assertion countered by the State, which pointed out that they were planning to rent an apartment together and that the two were friends. MH 26-27.

For the first time on appeal, the defendant argues that Chase and the victim were "merchants" who had recently suffered a loss and likely feared developing reputations as easy targets in future deals. DB 31. In short, he contends that the victim not only trusted Chase, but that she acted in concert with him.

Part of the argument that he raises now was, at least implicitly, rejected by the defense at the hearing. In the hearing, defense counsel told the court: "[W]hile those text messages mentioned physical violence, that's not what we're seeking to admit." MH 25. The defense sought to admit the text messages to show "the past history between Mr. Chase and [the victim]" in that the victim "felt wronged." MH 25. In short, the defendant did not ask the court to admit the evidence of proof of a propensity toward violence. The defendant asked the court to admit the exchanges to show that the victim did not trust Chase.

In short, the arguments raised in his brief are significantly different from those presented at trial. And, since he has not argued plain error, this Court should reject the contention contained in his brief and rely, instead, on the argument that he made to the trial court. *See State v. Robinson*, 170 N.H. 52, 59 (2017) ("[T]o find plain error: (1) there must be error; (2) the error must be plain; and (3) the error must affect substantial rights. If all three of these criteria are met, [this Court] may then exercise [its] discretion to correct a forfeited error only if the error meets a fourth criterion: the error must seriously affect the fairness, integrity or public reputation of judicial proceedings.") (citations omitted)). In light of this test, it is unlikely that he could satisfy this criteria, even if he had raised it.

B. The trial court correctly applied the Rules of Evidence.

Nonetheless, if this Court concludes that the defendant's argument is preserved, or waives the preservation requirement, it is without merit.

This Court gives the trial court considerable deference when "determining the admissibility of evidence." *State v. Munroe*, 173 N.H.

469, 479 (2020). This Court "will not disturb its decision absent an unsustainable exercise of discretion." *Id.* "To demonstrate an unsustainable exercise of discretion, the defendant must show that the trial court's ruling was clearly untenable or unreasonable to the prejudice of his case." *Id.*

In his brief, the defendant suggests that the purported reason for admitting the prior transaction was to show that the victim and Chase would resort to violence rather than allow the defendant to run off with their marijuana. DB 40 (arguing that the evidence should have been admitted "to establish the extent of their motive to act aggressively toward" the defendant). He contends that the proffered evidence was motive evidence to explain why the victim had a "motive for behaving aggressively toward" the defendant. DB 30. This assertion raises two different issues.

The victim's motive was not in dispute and the jury did not need an additional explanation for her reaction when the defendant fled with the marijuana and without paying for it. The jury knew that Chase and Campbell were homeless and living in a tent. The jury learned that the victim hoped to use her tax refund as a security deposit. It was clear that Chase, Campbell, and the victim could ill-afford to lose the marijuana and the money for its sale. It was, therefore, likely that they would pursue the defendant and try to get either the money for the marijuana or get the marijuana back from him.

In that regard, the defendant's reliance on *State v. Thoma*s, 955 A.2d 1222, 1229 (Conn. Ct. App. 2008), is misplaced. The *Thomas* case involved a love triangle, not a situation in which the victim and the defendant had never met. For the same reason, his reliance on *State v. Vassar*, 154 N.H.

370, 374-76 (2006), DB 33, is unpersuasive. In *Vassar*, this Court found that there was "some evidence" that the defendant "reasonably believed that his brother was about to use deadly force against him and/or their mother." *Id*. at 374. Again, the people involved knew each other. This is not true in this case.

The defendant contends that the trial court "misconstrued" Rule 403. DB 34. He contends that the "probative value" prong is distinct from the "danger" prong. DB 34. He contends that the court did not sufficiently identify the "danger" that would result from the admission of the evidence. He contends that, as a result, the court misconstrued Rule 403, and, "in doing so, violated [the defendant's] right to trial by jury." DB 35. Once again, this claim was never raised before the trial court. After the court issued its order, the defendant did not file a motion to reconsider and did not ask the trial court to identify the danger.[4]

Moreover, the trial court did not misapply Rule 403. Rule 403 "is an exclusionary rule that cuts across the rules of evidence." *State v. Miller*, 155 N.H. 246, 251 (2007) (internal quotation marks and citation omitted). It provides: "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." *N.H. R. Ev.* 403. The trial court rejected the defendant's contention that the prior drug transaction was proof that the victim did not

[4] The defendant had time to do so. The order was issued on December 10, 2019. DD 9. The trial court did not begin taking testimony until January 7, 2020. T 1-2.

trust Chase as "highly speculative" and concluded that the evidence would only serve to confuse the jury. DD 9. This analysis was a perfectly proper application of the rule and, therefore, the decision is owed deference by this Court.

In addition, the trial court's order relied, in part, on relevance. *See N.H. R. Ev.* 402 ("Relevant evidence is admissible unless any of the following provides otherwise: the United States or New Hampshire Constitution; a statute; these rules; or other rules prescribed by the Supreme Court. Irrelevant evidence is not admissible."). The court found that the drug transaction was "wholly unrelated" to the transaction with the defendant. DD 9.

If the text messages and earlier drug deal had been admitted, they would have shown that the victim was angry with the previous buyer for being conned. They would not have shed light on the claim for which defense counsel advanced their admissibility: that the victim did not trust Chase.

The court also rejected the defendant's contention, that the sale should be admissible, as "pure speculation." DD 9. And it was and still is. The trial court's concern about misleading the jury, therefore, was well placed. Indeed, the trial court specifically instructed the jury that it should not speculate during its deliberations. *See* T 2644 ("You may not guess or speculate about evidence.").

For example, the defendant speculates that the victim responded with "extra-judicial measures" because she and Chase could not report thefts in drug deals to the police. DB 32. But to the extent that the defense wanted to use the earlier drug deal to explain that the victim and Chase

would not go to the police, the jury also knew that was the case. Indeed, the three survivors agreed to lie to the police so that they would not expose their illegal activities.

The evidence showed that both the victim and Chase sold drugs, but the evidence did not show that they were partners or worked as foot soldiers in a drug enterprise. To suggest otherwise is, again, speculation. *State v. Steed*, 140 N.H. 153, 158 (1995) (court rejected evidence that was not supported by the record).

The defendant attempts to paint Chase and the victim as running a "suffering business," DB 31, when it is clear that they were two addicts trying to save money for an apartment. MH 27. This was made clear by Chase's testimony. Chase testified that he was hoping to develop the defendant, who he thought was new to the area, as an ongoing customer. He did not testify that he planned to steal from the defendant, as stealing would have almost certainly undermined his hopes for gaining the defendant as a customer.

Similarly, the defendant's suggestion the victim and Chase feared that they were establishing a reputation as being an "easy target for future thefts," DB 31, is pure speculation. *See Steed*, 140 N.H. at158; *see also* DB 40 ("A one-time theft from a group of drug dealers wouldn't threaten their reputation and livelihood"). This assertion misconstrues the facts surrounding the April theft.

First, although the victim had been defrauded, Chase was not involved in the transaction. Chase had only referred the thief to the victim. There is nothing to suggest that Chase was otherwise involved or suffered any loss, financial or otherwise. In short, the defendant's argument "is

grounded in sheer speculation." *State v. Pitts*, 138 N.H. 147, 152 (1993). Since it relied on speculation, the trial court properly excluded the evidence. *Id.*

Moreover, the victim's frustration at being defrauded was simply venting. There was no evidence that she ever acted on her anger. In that regard, the trial court's conclusion that the prejudice outweighed the probative value is well founded. The text messages suggested that the victim was an aggressive person who would slash someone's tires. This simply without any corroborating evidence, but if the court had admitted the evidence, the jury could have misunderstood that the victim was a violent person. *Cf. In re C.S.*, 365 P.3d 535, 538 (Ore. Ct. App. 2015) ("Obviously empty threats to inflict serious injury are not so harmful as to deserve criminal sanction.").

The defendant contends that the evidence would not have had a great emotional impact on the jury or encouraged the jury's resentment or outrage. DB 36. But that is not the only problem with the evidence. It would have suggested that Chase and the victim "had reason to fear that they were developing a reputation" "as easy targets," DB 36, when there was no evidence that they were or that they feared developing that reputation. Rather, the evidence was that they were both small-time drug dealers with addiction problems. In short, it would have invited the jury to speculate, in violation of the trial court's instructions.

The defendant contends that the "only potential danger" was that the jury would learn that the victim and Chase had previously dealt drugs. DB 37. This is simply incorrect. As the defendant has made clear in his brief, he wanted to admit the prior drug transaction to prove that Chase and the

victim "behaved so aggressively" to the defendant. DB 30. The danger, therefore, was that the jury might use the evidence as propensity evidence, even though there was no evidence that the victim every acted on her idle threats.

If the court had admitted the victim's idle threats against a person who the defendant did not know, it could have opened the door to even more extraneous evidence. For example, if the victim's apparently unrealized threat to slash the cheating customer's tires had been presented to the jury, this evidence could have opened the door to evidence of the victim's peaceful nature. *See N.H. R. Ev.* 404(a)(2); *see also* SH 25 ("[I]t was not in her DNA to even consider taking another person's life or harming another person").

The bad sale, followed by the threat of retaliation, could have led the jury to conclude that the victim was a violent person by nature. This could have resulted in testimony that the victim was not aggressive. *See* N.H. R. Ev. 404(a)(2) (permitting evidence of "a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor "). If the evidence of this earlier drug sale had been admitted, the State might then have sought to introduce conflicting evidence, resulting in a trial on a collateral issue. *State v. Wamala*, 158 N.H. 583 (2009) (discussing the doctrines of opening the door and specific contradiction). Although the trial court did not specifically cite this possibility in its order, the trial could was clearly concerned about allowing the trial testimony to stray from the actual issue at hand.

The trial court properly found that the evidence would have the potential to mislead the jury. DD 9; *State v. Mitchell,* 166 N.H. 288, 296

(2014) (A defendant has no right to introduce evidence that will have "little effect other than to confuse the issues or confound the jury."). The jury knew, from the text messages, that Chase was concerned that the defendant might not have sufficient money or he might use counterfeit money to buy the marijuana. T 1167-68. That fact having been established, there was no reason to add another, unrelated, drug deal to the picture.

Nor was the evidence admissible under any other theory. It did not take place close in time to the deal with the defendant, so it was not intrinsic evidence that would help explain the facts to the jury. *See, e.g., State v. Papillo*n, 173 N.H. 13, 25 (2020) ("'Intrinsic' or 'inextricably intertwined' evidence will have a causal, temporal, or spatial connection with the charged crime."). The April drug deal had occurred weeks before, involved a different, unidentified buyer, and there was no evidence that the defendant knew that the victim had been cheated or that he thought that she was an easy mark.

In that regard, the defendant's reliance on *State v. Smalley*, 151 N.H. 193 (2004), DB 38, is misplaced. In *Smalley*, the court admitted the defendant's prior drug deals under Rule 404(b), a rule not here raised in the trial court. *Id.* at 196. The defendant's brief suggests to this Court that it should apply a Rule 404(b) analysis, DB 38-39, that was not requested in the trial court. DA A19 (asking the court to apply a Rule 403 analysis.) The suggestion again attempts to avoid the consequences of the existing record.

But even so, in *Smalley,* the defendant was involved in a significant drug-dealing partnership, not the kind of friendship between Chase and the victim. *See id.* at 197 ("[T]he evidence of Smalley's drug-dealing activities explains his business relationship, *beyond friendship*, with Clough and the

people at the Firebird Motel." (emphasis added)). This Court also found that the defendant's "state of mind when he shot [the victim] was the central disputed issue in this case." *Id.* at 199. In contrast, in this case, the central issue was whether the defendant acted in self-defense; the victim's ire at being defrauded was not contested.

The defendant argues that "[i]t is common knowledge that, if a merchant suffers a loss through theft, that merchant is likely to take steps to deter any future thefts." DB 31. Two things bear considering in response.

First, if it is common knowledge, it is not clear why the jury would have needed this concept explained to them or to hear evidence of an unrelated drug deal to understand it. *See, e.g. Dube v. Sevigne*, 81 N.H. 221 (1924) (discussing that it is "common knowledge" that snow accumulates on a windshield).

Second, as noted above, the evidence showed that Chase had already questioned the validity of the defendant's money and the defendant had told Chase that he was bringing a scale to the transaction. It was clear that they did not know each other and both were suspicious. The jury would have understood that people who traffic in contraband are unlikely to be very trusting. Indeed, the defense pointed out the lack of trust in its closing argument. T 2547 (describing the defendant as "already somewhat concerned" when Tidd's Cruze had four people in it); T 2561 (describing Chase as "automatically suspicious").

In short, the trial court acted within its discretion in excluding the April drug deal. The defendant's conviction should be affirm on this claim.

C. The victim's state of mind was not at issue and the court correctly considered the defendant's state of mind.

With respect to this evidence, the defendant finally contends that the trial court erred when it concluded that, since the defendant did not know about the earlier drug deal, the evidence was inadmissible to show his state of mind. DB 33. He argues that the evidence was admissible to show why Chase and the victim were aggressive. DB 33-34.

First, if the defendant knew about the prior drug sale, the trial court's analysis might have changed. The court would have to consider whether the defendant thought that Chase and the victim were easy marks and that, as a result of this knowledge, he planned to take the marijuana without paying for it. But the evidence was clear that the defendant did not know that the victim had been previously conned. It was also clear that he did not know the victim and that he did not expect Chase to arrive to the deal with friends. The trial court properly considered the impact of the evidence on proof of the defendant's motive and equally properly excluded it on that basis.

As far as the victim's motivation goes, as noted above, the victim and Chase had motives to be sure that they did not lose both money and the marijuana in the transaction. The jury would learn that they were angry and determined not to lose both money and drugs to the defendant. This anger was reflected in their statements to the defendant in the vestibule. *See, e.g.*, T 286, 1018, 1024-26.

But they were not reacting because the victim had been defrauded over a month earlier. Chase and the victim ran after the defendant because he had just stolen from them and they wanted either their money or their

marijuana. This motive was made clear to the jury from the start of the trial. *See, e.g.*, T 27 (State's opening: "This was a couple of friends trying to sell some weed when the Defendant ripped them off and then whipped out a knife to keep what he stole. They were scared, while he was armed and angry."); *see also* T 33-34 (Defense opening admitting the drug deal, but claiming that Chase tried to steal from the defendant and that the fatal stabbing occurred in the vestibule, not the car.).

In short, the trial court committed no error in excluding this evidence. The defendant's conviction should be affirmed.

D. Any error was harmless, beyond a reasonable doubt.

Finally, if there was error, any error was harmless. The evidence against the defendant, which included the defendant's admissions and testimony of three eye-witnesses that watched the defendant stab the victim, was overwhelming.

"The harmless-error doctrine recognizes the principle that the central purpose of a criminal trial is to decide the factual question of the defendant's guilt or innocence, and promotes public respect for the criminal process by focusing on the underlying fairness of the trial rather than on the virtually inevitable presence of immaterial error." *State v. O'Leary*, 153 N.H. 710, 714 (2006), (quoting *Rose v. Clark*, 478 U.S. 570, 577 (1986)). Generally, "if the defendant had counsel and was tried by an impartial adjudicator, there is a strong presumption that any other errors that may have occurred are subject to harmless-error analysis." *Id.* (internal quotation marks and citation omitted). "To establish that an error was harmless, the

State must prove beyond a reasonable doubt that the error did not affect the verdict." *Id.*

The evidence is clear that the defendant came to the drug deal armed and that he fatally stabbed the victim. First, testimony from both the State and the defense agreed that the defendant and Chase had set up a drug deal. All of the witnesses agreed that the victim and her three friends arrived in Tidd's Cruze. The defendant agreed that he fled from the Cruze, although he claimed that he ran because Chase had tried to steal his money and the marijuana. All of the witnesses agreed that Chase and the victim pursued him. All of them agreed that he did not get the inner door of the vestibule open in time to escape his pursuer. No one argued that the defendant did not have a knife and that he did not brandish it. Tidd, Campbell, and Chase all agreed that the defendant chased after the victim, Campbell, and Chase as they fled the vestibule.

The defendant only contended that he did not realize that he had fatally stabbed the victim and that he did not pursue the three people as they ran to the safety of Tidd's car. This assertion is in contrast with the testimony given by Chase, Campbell, and Tidd.

It is also in sharp contrast with the testimony from the Office of the Medical Examiner. Dr. Duval testified that one could not be "carelessly, loosely" holding a knife in order to inflict the injuries the victim suffered. In addition to the defendant's admissions and the eyewitness testimony, the police found the knife used to kill the victim in the defendant's bloody clothing. T 680-82, 685-91, 693-95, 700, 707-08, 711-13, 735, 762, 767-68, 771, 2231. The defendant's knife had the victim's DNA on the blade. T 1689-93, 1695.

The police found the defendant's blue scale on the floor of Tidd's Cruze. T 888, 891, 916, 1006, 1416-18, 1531, 2146, 2219. They found Campbell's cellphone on the ground near the place where Tidd had parked. T 1394, 1396. The police found only a small amount of blood in the vestibule. T 99-100, 804, 807-08. In contrast, the evidence showed there was a large amount of pooling blood inside and next to Tidd's car. T 304, 363, 515, 1042, 1063. This evidence is overwhelming proof that the defendant stabbed the victim in the car and that, having pursued the victim and her friends back to the car, he did not act in self-defense.

The prior drug deal would not have changed any of this evidence. The jury knew that both the victim and Chase were involved in drugs. Indeed, the reason that Chase contacted the victim was so that he could take her marijuana to sell to the defendant so that the amount sold would approximate what the defendant wanted. The prior drug sale would not have provided a "motive" for the victim and Chase to act aggressively; the fact that the defendant attempted to steal from them provided that motive.

On this record, any error in excluding evidence of a prior drug transaction between the victim and a third, unidentified, person was harmless beyond a reasonable doubt.

II. THIS COURT MAY REVIEW THE DOCUMENTS REVIEWED BY THE TRIAL COURT.

Prior to trial, the defendant asked the trial court to conduct an *in camera* review of documents previously withheld or redacted by the State. DA 41. The trial court granted the motion, conducted the review, and ordered disclosure of some of the materials. DD 12. The defendant has asked this Court to conduct a second *in camera* review to determine whether the trial court improperly withheld any documents. DB 45.

"[This Court] review[s] a trial court's decisions on the management of discovery and the admissibility of evidence under an unsustainable exercise of discretion standard." *State v. Guay*, 162 N.H. 375, 385 (2011). "To meet this standard, a defendant must demonstrate that the trial court's rulings were clearly untenable or unreasonable to the prejudice of his case." *Id*. This Court has held that "the trial court must permit defendants to use privileged material if such material is essential and reasonably necessary to permit counsel to adequately [prepare his defense]." *State v. Gagne*, 136 N.H. 101, 104 (1992).

The trial court did not err in its decision, but the State acknowledges that this Court has the authority to conduct an *in camera* review of those materials. However, this Court should reverse only if (1) the materials contain information that should have been disclosed to the defendant, and (2) the failure to disclose was unreasonable or untenable to the prejudice of the defendant's case. *See State v. Girard*, 173 N.H. 619 (Oct. 16, 2020). The trial court sustainably exercises its discretion when it declines to release information that would address facts that are not in dispute or that

contain information the defendant can gather from sources to which the defendant has access, for example. *See, e.g.*, *Gagne*, 136 N.H. at 104-05.

The materials that were initially withheld were: (1) handwritten notes by Emily Rice; (2) emails of administrative nature; and (3) typed notes regarding a conversation between Ms. Rice and an attorney for the State. After reviewing the materials, the trial court ordered the disclosure of the handwritten notes, which it provided to the defendant with its order. DD 12, 13-15. Although the defendant seems to request these documents, DB 46-47, this Court does not need to consider them in its review.

The typed notes regarding a conversation between Ms. Rice and an attorney for the State contain the mental impressions and trial strategy of counsel and therefore are not subject to disclosure. *See N.H. R. Crim. P.* 12(b)(5). The remaining documents were administrative in nature and did not contain information pertinent to the testimony of any witness. *N.H. R. Crim. P.* 12(b)(5).

If this Court determines that the trial court erred in failing to disclose records, it should then address whether the error was "harmless beyond a reasonable doubt." *Girard*, 173 N.H. at 630. The State, however, contends that this Court should conclude that the trial court acted within its discretion.

CONCLUSION

For the foregoing reasons, the State respectfully requests that this Honorable Court affirm the judgment below.

The State requests a fifteen-minute oral argument.

Respectfully Submitted,

THE STATE OF NEW HAMPSHIRE

By Its Attorneys,

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August 2, 2021

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CERTIFICATE OF COMPLIANCE

I, Nicole M. Clay, hereby certify that pursuant to Rule 16(11) of the New Hampshire Supreme Court Rules, this brief contains approximately 9,390 words, which is fewer than the words permitted by this Court's rules. Counsel relied upon the word count of the computer program used to prepare this brief.

August 2, 2021

Nicole M. Clay

CERTIFICATE OF SERVICE

I, Nicole M. Clay, hereby certify that a copy of the State's brief shall be served on Thomas Barnard, Senior Assistant Appellate Defender, counsel for the defendant, through the New Hampshire Supreme Court's electronic filing system.

August 2, 2021

Nicole M. Clay

ADDENDUM TABLE OF CONTENTS

Sending Party:	Message:	Time Stamp:
603-239-2042	Hey	5/26/17, 1:01:05 PM
603-239-2042	Mary peoples	5/26/17, 1:03:02 PM
Samuel:	*Hmu in a few THIS phones a bit fucked rn*	*5/26/17, 1:25:22 PM*
Samuel	*Im not in concord rn*	*5/26/17, 1:25:30 PM*
Samuel	*Who is this?*	*5/26/17. 1:30:06 PM*
603-239-2042	Dee	5/26/17, 1:30:22 PM
603-239-2042	Mary peoples	5/26/17, 1:30:37 PM
Samuel:	*Word up who wanted 5?*	*5/26/17, 1:31:39 PM*
603-239-2042	Yup	5/26/17, 1:31:56 PM
603-239-2042	65 right	5/26/17, 1:32:33 PM
Samuel	*Word well ill be heading to concord in like an hour and a half if that's cool and yeah 65*	*5/26/17, 1:32:51 PM*
603-239-2042	It all yours	5/26/17, 1:36:57 PM
Samuel	*Lol those fake bills?*	*5/26/17, 1:38:04 PM*
603-239-2042	Dont look fake im not that type	5/26/17, 1:40:03 PM
Samuel:	*Lmao word*	*5/26/17, 1:40:18 PM*
Samuel	*There's a lotta em circling round rn in concord*	*5/26/17, 1:40:39 PM*
603-239-2042	Bro i get	5/26/17, 1:42:49 PM
603-239-2042	Bro i get (money emoji)	5/26/17, 1:42:49 PM
603-239-2042	Plus bro if u dont come your know where i live i will never do tht i got kids in the house so if u thank my money. Not good then nvm	5/26/17, 1:45:21 PM
Samuel:	*Nah bro I got u*	*5/26/17, 1:47:55 PM*
603-239-2042	Okok	5/26/17, 1:49:55 PM

Samuel	*Wya*	*5/26/17, 4:44:20 PM*
Samuel.	*Also peep this shit I jus re upped on*	*5/26/17, 4:44:54 PM*
Samuel.	*Shit looks like Wikipedia shit*	*5/26/17, 5:01:34 PM*
Samuel	*U sill need that*	*5/26/17, 5:01:39 PM*
603-239-2042	Do u atill go me	5/26/17, 6:19:16 PM
603-239-2042	Do u still got me bro	5/26/17, 6:19:19 PM
603-239-2042	I need tht now if your still in nh	5/26/17, 6:21:14 PM
603-239-2042	How much for 7	5/26/17, 6:26:03 PM
Samuel	*I'm already in ri bro u gotta hmu quicker. What chu doing tomorrow? I'll be back round concord*	*5/26/17, 6:30:32 PM*
603-239-2042	Damn q	5/26/17, 6:34:05 PM
	Saturday, May 27, 2017	
603-239-2042	Yo	5/27/17, 10:10:38 AM
603-239-2042	U around	5/27/17, 10:10:39 AM
	Sunday, May 28, 2017	
603-239-2042	Yo bro u around	5/28/17, 12:30:44 PM
603-239-2042	I need 7	5/28/17, 12:30:44 PM
603-239-2042	lg u have if	5/28/17, 12:30:45 PM
603-239-2042	It	5/28/17, 12:30:46 PM
603-239-2042	Hey	5/28/17, 12:30:47 PM
603-239-2042	Yo	5/28117, 12:34:34PM
603-239-2042	I need 7	5/28/17, 12:38:36 PM
Samuel.	*1'11 hyu in a .few just charged my phone gotta see*	

	what's up wit my chick	*5/28/17, 2:41:29 PM*
Samuel:	*My phones on 3 I'll try to charge it man but shits kinda fucked rn*	*5/28/17, 12:44:55 PM*
603-239-2042	Man ik how it is i got 85 for u. Lmk its dry out here nbs	5/28/17, 12:57:06 PM
603-239-2042	I got too work at 3	5/28/17, 1:07:11 PM
603-239-2042	Hey	5/28/17, 6:31:42 PM
603-239-2042	Hey bro	5/28/17, 7:39:14 PM
603-239-2042	Ru around	5/28/17, 7:39:17 PM
603-239-2042	Hey	5/28/17, 9:40:31 PM
	Monday, May 29, 2017	
603-239-2042	Hey bro i been workin a d shit its been crazy but i need bud r u around	5/29/17, 3:32:12 PM
Samuel:	*I don't know if I can get a ride homie*	*5/29/17, 3:33:24 PM*
Samuel:	*And my girls phones been dead for days*	*5/29/17, 3:33:51 PM*
Samuel:	*But I might be able to come thru tonight how much you need?*	*5/29/17, 3:34:18 PM*
603-239-2042	14	5/29/17, 3:41:55 PM
	Tuesday, May 30, 2017	
603-239-2042	U still dry	5/30/17, 6:37:20 PM
Samuel:	*H how much do you need*	*5/30/17, 6:43:01 PM*
603-239-2042	Still tht14	5/30/17, 6:43:32 PM
Samuel	*How much cash do you have*	*5/30/17, 6:44:05 PM*
603-239-2042	140	5/30/17, 6:44:56 PM
603-239-2042	How much is it bro	5/30/17, 6:45:22 PM

Samuel	*I'll hit you up when I can get it m*	*5/30/17, 6:45:30 PM*
Samuel:	*The girl I'm with going to it for less than 150*	*5/30/17, 6:45:49 PM*
Samuel	*I get it less but she won't do it for less right now she 's not my doing*	*5/30/17, 6:46:05 PM*
Samuel:	*Dealer*	*5/30/17, 6:46:10 PM*
603-239-2042	145	5/30/17, 6:46:34 PM
Samuel	*Bro I could do it for you for 140 I just don't have it she's a cunt straight up*	*5/30/17, 6:47:19 PM*
Samuel:	*My ex*	*5/30/17, 6:47:22 PM*
603-239-2042	lg ill pay for it if its good	5/30/17, 6:47:27 PM
Samuel:	*Idk if it is bro*	*5/30/17, 6:47:39 PM*
Samuel:	*Sometimes it's fire sometimes it's shit*	*5/30/17, 6:47:48 PM*
Samuel	*Don't know it's worth it man unless you legit haven't smoked in a bit*	*5/30/17. 6:48:12 PM*
603-239-2042	Ill pay 150	5/30/17, 6:48:15 PM
Samuel	*Alright man*	*5/30/17, 6:48:34 PM*
603-239-2042	I need to flip so yeah i need it	5/30/17, 6:49: 14 PM
Samuel	*Word dude*	*5/30/17, 6:49:32 PM*
603-239-2042	Dou need me address	5/30/17, 6:49:39 PM
Samuel:	*Yeah*	*5/30/17, 6:49:43 PM*
603-239-2042	36 Pinehurst st 03303 nh	5/30/17, 6:50:24 PM
Samuel	*And also my shit won't be a rip off like this bitch*	*5/30/17, 6:50:44 PM*
603-239-2042	Ok bro how long	5/30/17, 6:51:56 PM
Samuel	*A grip n*	*5/30/17, 6:51:59 PM*
Samuel:	*Maybe 30 minutes I'm in on STAN*	*5/30/17. 6:52:15 PM*

Samuel:	*Allinstown*	*5/30/17. 6:52:40 PM*
603-239-2042	Ok lmk i wait can	5/30/17, 6:53:04 PM
603-239-2042	Bro	5/30/17, 6:55:48 PM
603-239-2042	Its going to be on point	5/30/17, 6:56:20 PM
603-239-2042	I got a skcill	5/30/17, 6:56:33 PM
603-239-2042	Bro	5/30/17, 6:59:45 PM
603-239-2042	…	5/30/17, 6:59:47 PM
Samuel	*Yeah Itt wwwiill*	*5/30/17, 7:09:10 PM*
Samuel:	*M phones fucked up so sorry*	*5/30/17, 7:09:19 PM*
603-239-2042	Hey bro r u going to be by 8:15	5/30/17, 7:09:56 PM
Samuel;	*Hopefully dude I don't know I'm getting held up I'm trying to find it for someone else*	*5/30/17, 7:10:18 PM*
Samuel:	*From*	*5/30/17, 7:10:23 PM*
Samuel	*Bro I got you and I'll be there in like 40 probably less maybe more like 20*	*5/30/17, 7:12:11 PM*
603-239-2042	Okok Please. Just let me know	5/30/17, 7:14:40 PM
603-239-2042	Bro	5/30/17, 7:46:16 PM
603-239-2042	What's. Up	5/30/17, 7:46:29 PM
603-239-2042	U still comin	5/30/17, 7:46:59 PM
Samuel	*Ya*	*5/30/17, 7:47:24 PM*
Samuel	*Grabbing that now*	*5/30/17, 7:47:38 PM*
603-239-2042	How long	5/30/17, 7:48:01 PM
603-239-2042	Bro	5/30/17, 7:53:21 PM
603-239-2042	…	5/30/17, 7:53:26 PM

603-239-2042	How much longer bro	5/30/17, 7:54:32 PM
603-239-2042	…	5/30/17, 8:03:51 PM
Samuel:	*On our way*	*5/30/17, 8:15:51 PM*
Samuel:	*Close*	*5/30/17, 8:15:57 PM*
603-239-2042	Just. Let me know when ur outside	5/30/17, 8:20:50 PM
Samuel:	*Outside black car yeah*	*5/30/17, 8:22:06 PM*
Samuel:	*Yo*	*5/30/17, 8:23:26 PM*
603-239-2042	Okol	5/30/17, 8:25:05 PM
Samuel:	*I just saw u*	*5/30/17, 8:25:35 PM*