



New Hampshire Association of Criminal Defense Lawyers

December 8, 2023

Supreme Court Advisory Committee on Rules
c/o Timothy Gudas
Clerk of Court
New Hampshire Supreme Court
One Charles Doe Drive
Concord, NH 03301

Dear Committee Members,

I write on behalf of the New Hampshire Association of Criminal Defense Attorneys (NHACDL). NHACDL urges the advisory committee to reject the proposed amendment to Rule of Criminal Procedure 15(b)(3). The proposed amendment would require litigants in criminal cases to file motions in limine fifteen days prior to the final pretrial conference. The current rule sets a deadline of five days prior to the final pretrial conference.

We understand the proposed amendment seeks to provide the court with additional time to fairly consider litigants motions in limine and draft orders before jury selection. NHACDL believes, however, that amending this rule will result in litigants filing fewer motions in limine. Instead, parties will simply litigate evidentiary matters at trial. Criminal practitioners often exchange discovery and engage in plea discussions up to the final pretrial conference. Given the dynamic nature of criminal practice, where discovery rarely closes prior to trial, NHACDL believes that a rule setting an earlier deadline will result in practitioners forgoing motions in limine except where they relate to the most central issues in their cases.

NHACDL believes the court's rules should encourage the parties to litigate as many evidentiary issues as possible pretrial. Pretrial rulings allow the courts more time to consider arguments, issue accurate rulings and conserve precious jury time. In short, NHACDL believes the current rule strikes the appropriate balance between encouraging pretrial litigation of evidentiary issues while affording the court the necessary time to issue rulings. Accordingly, we urge you to reject any amendment to Rule 15(b)(3).

Sincerely,

/s/Jeffrey D. Odland

Jeffrey D. Odland, Esq.
President, NHACDL

PO Box 8, Epping, NH 03042

Phone (603) 556-8294

www.NHACDL.org katherine@NHACDL.org