

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

218-2009-CR-00319 (09-S-319)

State of New Hampshire

v.

Jesse Brooks

**DEFENDANT'S LIMITED MOTION FOR RECONSIDERATION OF COURT'S
ORDER DENYING THE DEFENDANT'S MOTION TO VACATE THE COURT'S
ORDER DATED DECEMBER 29, 2014**

NOW COMES Defendant, Jesse Brooks, by and through counsel, Shaheen & Gordon, P.A., and respectfully submits the within Limited Motion for Reconsideration of Court's Order Denying the Defendant's Motion to Vacate the Court's Order Dated December 29, 2014, and in support thereof states as follows:

1. On December 9, 2014, the State filed a Motion to Return or Destroy Property.
2. On December 29, 2014, the Court granted the State's Motion to Return or Destroy Property, as an Objection was not timely filed.
3. On January 6, 2015, the defendant timely filed a Motion to Vacate the Court's Order for Destruction or Return of Property, which Motion the Court denied on January 9, 2015.
4. Undersigned counsel received the Court's Order denying the Motion to Vacate on January 12, 2015.
5. Defendant now seeks limited reconsideration of the Court's Order.
6. Defendant vigorously maintains his innocence and believes that there exists favorable evidence within the State's possession that will lead to his eventual release from

confinement. Under RSA 595-A:6, materials in the State's possession shall be kept "so long as necessary to permit them to be produced or used as evidence in any trial."

7. Defendant does not object to the State returning to the Reid family personal items, with the understanding that these items will be photographed.

8. Defendant does object to destruction of items seized that may lead to the discovery of exculpatory evidence and is concerned that if certain evidence is destroyed then the opportunity to forensically test that evidence will forever be lost. For example, the defendant would seek to subject certain internal portions of the Reid truck for blood stains to challenge the trial testimony of two cooperating witnesses, Joseph Vrooman and Michael Benton.

9. Rather than having the evidence destroyed, the defendant's family offers to take possession of those items that the State seeks to destroy at its own costs and expense. Accordingly, the State would not be prejudiced by the granting of this Motion as the State will not incur any additional expense for storing and maintaining such items.

10. The Supreme Court has recognized that advances in forensic evidence can be considered when challenging convictions, yet the ability to take advantage of such advances will be forever lost if the items are destroyed. See State of New Hampshire v. Robert Breest, No. 2013-081 (N.H. Dec. 19, 2014).

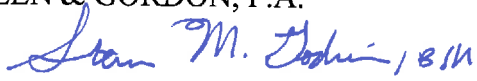
11. It is expected that the State will Object to this Motion.

WHEREFORE, Defendant, Jesse Brooks, prays for the following relief:

- A. Grant the within Motion; and
- B. Grant such other relief as may be just and proper.

Respectfully submitted,
Jesse Brooks
By His Attorneys
SHAHEEN & GORDON, P.A.

Dated: January 22, 2015

By: 

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CERTIFICATE OF SERVICE

I hereby certify that I have on this 22nd day of January 2015, forwarded a copy of the within Motion, to Janice K. Rundles, Esquire, Attorney for the State of NH at the following address:

Janice K. Rundles, Esquire
Office of the Attorney General
33 Capitol Street
Concord, NH 03301-6397



Steven M. Gordon, NH Bar #964