

THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

GRAFTON, SS.  
215-2017-CR-00408

NOVEMBER TERM, 2018

The State of New Hampshire

v.

Leaves Brink

**STIPULATION OF THE PARTIES**

NOW COME the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and the defendant, by and through defense counsel, Catherine L. Smith, Esquire, and upon the following stipulation or anticipation of the defendant's plea of not guilty by reason of insanity to the two pending charges of first and second degree murder:

1. The defendant is charged with two alternative counts of first and second-degree murder. He has previously entered pleas of not guilty to both charges. It is anticipated that the defendant will change his pleas of not guilty by reason of insanity at a hearing scheduled for November 20, 2018.

2. The State hereby certifies pursuant to RSA 651:8-a, that it accepts the defendant's pleas of not guilty by reason of insanity.

3. Because a plea of not guilty by reason of insanity requires the defendant to acknowledge the underlying acts alleged in the indictments while claiming he cannot be held criminally responsible for those acts, *State v. Bryce*, 118 N.H. 458, 459 (1978), *State v. Farmer*, 95 N.H. 341, 342 (1983), the Court should advise the defendant not only of the potential consequences of this plea and counsel him, but also of the full range of constitutional rights he will waive in connection with it. Accordingly, the State and defense agree that an adequate colloquy on the plea will consist of the Court's standard colloquy required under *McIntire v. Alabama*, 395 U.S. 238 (1969), supplemented by those questions set forth in the colloquy proposed by the parties and provided to the Court.

4. Pursuant to RSA 651:8-c, IV, RSA 651:9-a, and the experts' reports, including the original report and addendum report from Dr. Albert Deukeris, the State is also asking the Court to find that the defendant meets the criteria for commitment to the secure psychiatric unit for a period of five years, subject to renewal every five years thereafter. Specifically, that based on the experts' reports, the defendant's mental health history, and facts of this case, there is clear and convincing evidence that the defendant suffers from a mental disease or defect and that his release would create a substantial risk of harm to others. The existence of clear and convincing evidence on the issue of dangerousness is also presumed where the charges of which the person has been acquitted involve serious bodily injury to

property damage. RSA 651:8-b, IV. In this case, the murder charges involve serious bodily injury resulting in death to the victim.

2. The defendant is now stipulating that he meets the criteria for committal pursuant to RSA 651:8-b, IV and RSA 651:9-a. However, the defendant agrees that the Court may make its committal determination based on the experts' reports, the defendant's mental health history, and facts of this case.


Respectfully submitted,

November 20, 2018



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November 20, 2018

  
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