

STATE OF NEW HAMPSHIRE

SULLIVAN, SS

SUPERIOR COURT

The State of New Hampshire

Case No. 213-1988-CR-00344

v.

Robert L. Lamontagne

PETITION FOR WRIT OF MANDAMUS

NOW COMES Robert L. Lamontagne, hereinafter "Petitioner," and respectfully petitions this Honorable Court for a Writ of Mandamus to compel Grafton County Attorney Martha Hornick hereinafter "Respondent," to recognize Defendant "Petitioner" as a "victim" under the New Hampshire Victims' Bill of Rights, RSA 21-M:8-k, and to afford the Petitioner all rights attendant thereto.

In support of this petition, the Petitioner states as follows:

I. JURISDICTION AND AUTHORITY

1. This Court has jurisdiction to issue a Writ of Mandamus pursuant to RSA 491:7, which grants the Superior Court authority to issue writs of mandamus when appropriate, and under its inherent equitable powers to enforce statutory rights.
2. The New Hampshire Victims' Bill of Rights, RSA 21-M:8-k, establishes specific rights for victims of crime.

II. FACTUAL BACKGROUND

3. In 1990 the Petitioner was tried and convicted in the Cheshire County Superior Court of three felony counts of Endangering the Welfare of a Minor. He served nearly a decade in the New Hampshire State Prison.
4. Around the year 2021 the Petitioner learned through the media source InDepthNH.org that the lead investigator in his case, Keene Police Officer James McLaughlin, was on the "Laurie List," or alternatively named "Exculpatory Evidence Schedule." The placement of Officer McLaughlin was in 1985 and the reason given was for "Falsifying Records."
5. The Petitioner's late Attorney Bruce Jasper and the Petitioner himself were never informed by Cheshire County Attorney Ed O'Brien pre-trial that the lead investigator in his case had documented adverse credibility findings.

6. Since 1963 the United States Supreme Court in *Brady v. Maryland* has decided that exculpatory evidence not turned over to the defense in state trial constitutes a federal due process violation.
7. New Hampshire laws makes it a misdemeanor for a prosecutor to refrain from disclosing Brady material during discovery (see RSA 643:1).
8. New Hampshire law makes it a felony to conceal evidence from an official proceeding (see RSA 641:6).
9. On 03/21/25 counsel for the Petitioner sent Grafton County Attorney Martha Hornick a letter informing her that he represented the Petitioner in the matter of investigating the validity of his convictions given the Brady violations involved.
10. On 03/31/25 counsel for the Petitioner sent Attorney Hornick a letter and subsequent e-mail requesting that the Petitioner be formally legally recognized as a "victim" under RSA 21-M:8-k for criminal due process violations that occurred during his 1990 trial. As of the date of this filing Attorney Hornick has failed to respond to this request.
11. On 04/18/25 counsel for the Petitioner sent Attorney General John Formella a letter appealing the apparent denial of Attorney Hornick to properly designate the Petitioner as a "victim" and afford him all the rights associated. As of the date of this filing the New Hampshire Department of Justice has failed to respond to this request.

III. LEGAL BASIS FOR RELIEF

12. RSA 21-M:8-k defines a "victim" as "a natural person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of the commission or attempted commission of a crime." Petitioner meets this definition by virtue of the fact that he was imprisoned for nearly a decade without having had a constitutionally fair trial.
13. The recognition of an individual as a "victim" under RSA 21-M:8-k is a ministerial duty of the county prosecutor, not a discretionary act, as the statute imposes a clear legal obligation to afford victims their enumerated rights once the statutory criteria are met.
14. Respondent's refusal to recognize Petitioner as a victim constitutes a failure to perform a non discretionary duty mandated by law, thereby violating RSA 21-M:8-k.
15. Petitioner has a clear legal right to be recognized as a victim and to receive the rights provided under RSA 21-M:8-k.
16. Petitioner has no other adequate remedy at law to compel Respondent's compliance with RSA 21-M:8-k.

IV. REQUEST FOR RELIEF

WHEREFORE, the Petitioner requests this Honorable Court to order the following relief:

- A. Issue a Writ of Mandamus compelling Grafton County Attorney Martha Hornick to designate the Petitioner as a "victim" and afford him all the statutory rights attached thereto, or
- B. Schedule a hearing if the Court is inclined to deny this Petition in which the Petitioner respectfully requests five (5) minutes for oral argument; and

C. Grant any other relief this Honorable Court deems just and proper.

Respectfully submitted,

Robert L. Lamontagne

By Bradley Jardis

5/4/25

I hereby certify that on the above date, a copy of this Petition was mailed to Grafton County Attorney Martha Hornick.

Bradley Jardis
10 Congress Street #302
Amesbury, MA 01913