

STATE OF NEW HAMPSHIRE

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ROCKINGHAM  
SUPERIOR COURT

SUPERIOR COURT

2007 OCT 24 A 10:13

ROCKINGHAM, SS.

OCTOBER, 2007

STATE OF NEW HAMPSHIRE

v.

MICHAEL V. BENTON

07-S-1394 & 1395

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**DEFENDANT'S MOTION TO EXCEED #6**  
**RE: DVDs for Surveillance Footage and Interviews**

NOW COMES the accused, MICHAEL V. BENTON, by and through his attorneys, Joseph E. Welsh and Richard E. Samdperil, and respectfully request this Honorable Court authorize defense counsel to seek reimbursement for the cost of 66 DVDs that contained surveillance footage and interviews with witnesses. Specifically, the defense seeks authorization to bill for the cost of 66 DVDs. These DVDs were provided to the defense by the Attorney General's Office as part of the discovery in this case. As grounds for this motion, the following is stated:

1. Michael Benton is indicted for First Degree Murder, and Conspiracy to Commit Capital Murder.

2. The defendant is one of three co-defendants in a capital murder case. The investigation in this case covers four states and a period of almost two years.

3. On September 7, 2007 the State provided to the defense 66 DVDs that contained surveillance footage, audio and video recordings of interviews with witnesses, and photographs. These discs are essential to the Mr. Benton's case and can be viewed in no other manner.

4. The Attorney General's office seeks reimbursement for the cost of providing this material to the defense.

5. Mr. Benton has been found to be indigent. The Court has appointed Samdperil & Welsh, PLLC to represent Mr. Benton.

6. The Department of Safety invoice indicates that the cost of providing the 66 DVDs (at \$10 a DVD) is \$660.

7. Supreme Court Rule 47 provides that "[n]o reimbursement will be paid for overhead expenses including photocopies...." S. Ct. R. 47(3)(i). However, "upon an express, written finding of good cause and exceptional circumstances by the court ... additional fees [will] be authorized." Defense counsel must obtain court approval prior to these guidelines being exceeded. S. Ct. R. 47(2).

8. Defense counsel requests that, given the unique nature of this case, the extensive amount of discovery provided to the defense so far, and the importance of viewing this evidence, the court make express, written findings that there is good cause and exceptional circumstances that authorize the defense to obtain reimbursement for the DVDs, and that such reimbursement shall not exceed \$660.00 without further motion or court approval.

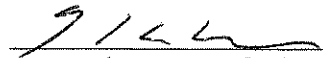
9. To the extent the defense seeks reimbursement for additional discovery not yet provided, the defense agrees to file a separate motion for such expenses.

**WHEREFORE**, the defendant, Michael Benton, respectfully prays this honorable Court authorize:

- a) grant this motion; and
- b) authorize reimbursement for the cost of 66 DVDs, in an amount not to exceed \$660.00.

DATED: October 22, 2007.

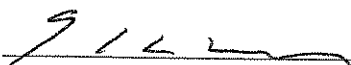
Respectfully submitted  
on behalf of the defendant,  
by:

  
\_\_\_\_\_  
Joseph E. Welsh, Esq.  
SAMDPERIL & WELSH, PLLC  
111 Water Street  
P.O. Box 38  
Exeter, NH 03833  
(603) 775-7570

NOTICE:

CERTIFICATE OF SERVICE

I, Joseph E. Welsh, do hereby certify that a copy of the foregoing motion was forwarded this 22<sup>nd</sup> day of October, 2007 to Kirsten Wilson, Esquire, and Charles F. Keefe, Esquire, Assistant Attorneys General.

  
\_\_\_\_\_  
Joseph E. Welsh, Esq.

STATE OF NEW HAMPSHIRE

Department of Safety

Concord, N.H. 03305

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SEP 20 2007

SAMDPERIL & WELSH, PLLC  
Attorneys at Law

Invoice: 99516

Date: 9-19-07

RICHARD SAMPERIL ESQ  
JOSEPH WELSH ESQ  
SAMDPERIL & WELSH PLLC  
PO BOX 38  
EXETER NH 03833

DISCOVERY MATERIALS

Amount

STATE V BROOKS et. al  
FL05-5440

66 DVDs OF SURVEILLANCE FOOTAGE AND INTERVIEWS

(@ \$10.00 each)

\$660.00

Make check payable to: STATE OF NEW HAMPSHIRE

Forward to: N.H. DEPARTMENT OF SAFETY, ATTN: BUSINESS OFFICE, 10 HAZEN DRIVE, CONCORD, N.H. 03305

State Agencies: Please make payments on:

Intergovernmental Payment Voucher (form A-6-A) Fund \_\_\_\_\_ Agcy \_\_\_\_\_ Orgn \_\_\_\_\_ Rev/Src \_\_\_\_\_

or Transfer of Expenditure (form A-11) Fund 010 Agcy 023 Orgn 4022 O/CLS 020 Obj 0252

INCLUDE COPY OF A-6-A OR A-11 FORM WITH INVOICE