

HILLSBOROUGH, SS. THE STATE OF NEW HAMPSHIRE SUPERIOR COURT
Northern District

State of New Hampshire

v.

Kayla Montgomery

Case No. 216-2022-CR-01037

SENTENCING ADDENDUM

and

**MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF NEW HAMPSHIRE
AND KAYLA MONTGOMERY**

In consideration of Kayla Montgomery's ("Ms. Montgomery") cooperation with the investigation and prosecution of various criminal cases, and subject to the conditions set forth below, the State of New Hampshire ("the State"), by and through the Office of the Attorney General, enters into the following agreement with Ms. Montgomery:

I. THE OBLIGATIONS OF THE STATE OF NEW HAMPSHIRE

Incident to Ms. Montgomery's plea of guilty to Charge ID#s 1982119C (perjury) and 1982120C (perjury) in case number 216-2022-CR-01037, the State will recommend that the court impose a sentence of 3½ (three-and-one-half) to 7 (seven) years in the New Hampshire State Prison on each charge.

On Charge ID# 1982119C, the State will recommend that 1½ (one-and-one-half) years of the minimum term be suspended. On Charge ID# 1982120C, the State will recommend that all of the minimum term and all of the maximum term be suspended. Both suspended sentences are conditioned as outlined below in A-B as well as any conditions included in the respective State Prison Sentence form for each charge. Both suspended sentences would begin on the day of the sentencing hearing and end 10 (ten) years from Ms. Montgomery's release on Charge ID# 1982119C. Any suspended sentence may be imposed after a hearing at the request of the State. If imposed, any sentence imposed on Charge ID# 1982120C is to run consecutive to any sentence imposed on Charge ID# 1982119C.

The above-referenced suspended sentences are conditioned as follows:

- A. Ms. Montgomery's compliance with the obligations outlined in Section II.A; and

- B. Ms. Montgomery's compliance with the obligations outlined in Section II.B as they pertain to any and all pending and future charges against Adam Montgomery.

On Charge ID# 1982119C, the State agrees that it will take no position on Ms. Montgomery filing to suspend the balance of the maximum sentence to the same end date (10 (ten) years from her release on Charge ID# 1982119C) and terminate her parole after 3 (three) years' release as long as (1) Ms. Montgomery has not had any of the suspended time imposed on either Charge ID# 1982119C or 1982120C; (2) there is no request pending before the Court seeking to impose any of the suspended time in either Charge ID# 1982119C or 1982120C; and (3) Ms. Montgomery has remained of good behavior and in compliance with all terms and conditions of her sentence, including this Memorandum of Agreement.

Incident to Ms. Montgomery's plea of guilty to Charge ID#s 1982119C and 1982120C and her sentencing in accordance with this Memorandum of Agreement, the State will enter *nolle prosequis* on all pending charges in case numbers 216-2022-CR-00039 and 216-2022-CR-00652.

II. THE OBLIGATIONS OF KAYLA MONTGOMERY

The obligations of the State of New Hampshire as set forth in Section I above are expressly contingent on Ms. Montgomery satisfying the following conditions and obligations:

- A. Ms. Montgomery will accept full responsibility for her role in making two false material statements to the Grand Jury for Hillsborough County Northern District on or about May 20, 2022, as more specifically described in the indictments for Charge ID#s 1982119C and 1982120C.
1. Ms. Montgomery will plead guilty to the above referenced Charge ID#s 1982119C (perjury) and 1982120C (perjury).
 2. At the sentencing hearing, Ms. Montgomery shall agree that the sentences recommended by the State of New Hampshire and set forth in Section I are appropriate, and assent to their imposition.
- B. Ms. Montgomery must comply fully, truthfully, and in a timely manner with all reasonable requests of the State of New Hampshire pursuant to this agreement. This obligation includes the following:
1. Ms. Montgomery must at all times act in good faith and provide truthful, accurate, and complete information, statements, and testimony. Making a material false statement or omission in any context or in any state or federal proceeding, including, without limitation, in affidavits, interviews, statements, pretrial meetings, depositions, hearings, trials, retrials, and any post-trial hearings or any other collateral proceedings, will constitute a breach of this agreement. **In the event of such a breach, or any other breach of this agreement by Ms. Montgomery, the State of New Hampshire will not be bound by the**

agreement herein and will be released from all of its obligations hereunder and may seek the remedies set forth below.

2. Ms. Montgomery must cooperate in good faith and employ his best efforts under this agreement. The cooperation required of Ms. Montgomery by this agreement includes all state or federal proceedings irrespective of the number of trials if more than one, including but not limited to meeting with prosecutors or police, preparing for and testifying in any pretrial hearings, depositions, trials, retrials, and any post-trial hearings or other collateral proceedings. Ms. Montgomery must comply with all reasonable requests made by the State within the scope of this agreement. A failure to so cooperate will constitute a breach of this agreement. **In the event of such a breach, or any other breach of this agreement by Ms. Montgomery, the State of New Hampshire will not be bound by the agreement herein and will be released from all of its obligations hereunder and may seek the remedies set forth below.**

3. **Knowingly making or having made a material false statement or omission in any context or in any proceeding, including, without limitation, affidavits, interviews, statements, pretrial meetings, depositions, hearings, trials, retrials, and any post-trial state or federal hearings or any other collateral proceedings, will constitute a breach of this agreement. In the event of such a breach, or any other breach of this agreement by Ms. Montgomery, the State of New Hampshire will not be bound by the agreement herein and will be released from all of its obligations hereunder and may seek the remedies set forth below.**

III. BREACH OF AGREEMENT

Ms. Montgomery's failure to execute or comply with any of the above obligations shall constitute a breach of this agreement. In the event of such a breach as determined by a court of competent jurisdiction, the State of New Hampshire may seek the following remedies:

- A. The State may seek the imposition of any suspended sentence ordered as the result of the guilty plea referenced above.

- B. The State may make full use without any limitation, for any purpose in any forum or proceeding, of any and all sworn or unsworn statements or other information or evidence provided by Ms. Montgomery, including the use against Ms. Montgomery of statements she made in so-called proffer interviews on June 3 and June 23, 2022. This remedy would specifically invalidate any and all restrictions on the use of said statements as described in letters dated June 3 and June 23, 2022.

- C. Ms. Montgomery may be prosecuted in any court of competent jurisdiction to the full extent of the law. Such prosecution includes instituting any and all charges, including any previously dismissed or *nolle prosequi* charges, against Ms. Montgomery that are supported by the evidence.

- D. Ms. Montgomery may be prosecuted in any court of competent jurisdiction to the full extent of the law for perjury or obstruction of justice or any other appropriate offense in the event that she knowingly makes a material false statement or omission during any events or proceedings, including during proffers, interviews, statements, affidavits, meetings, testimony before a grand jury, testimony at a deposition, testimony at a hearing or trial, retrials, and any post-trial state or federal hearings or other collateral proceedings in the course of fulfilling her obligations under this agreement.
- E. **Waiver of double jeopardy protections:** Ms. Montgomery agrees that any prosecution and sentencing subsequent to a breach of this plea agreement is not barred by the Double Jeopardy Clause of the United States or New Hampshire Constitutions, or any other constitutional provision or law or rule, and that such double jeopardy rights as she might otherwise have enjoyed under these provisions are hereby waived, except that Ms. Montgomery may raise any other defense or claim that she could have raised prior to entry of this agreement.
- F. **Waiver of speedy trial protections:** Ms. Montgomery agrees that any prosecution and sentencing subsequent to a breach of this plea agreement is not barred by speedy trial protections under the Due Process Clause of the United States or New Hampshire Constitutions, or any other constitutional provision or law or rule, and that such speedy trial rights as she might otherwise have enjoyed under these provisions are hereby waived, except that Ms. Montgomery may raise any other defense or claim that she could have raised prior to entry of this agreement.
- G. **Waiver of the statute of limitations:** Ms. Montgomery agrees that any prosecution and sentencing subsequent to a breach of this plea agreement is not barred by the Statute of Limitations, and that such limitation as she might otherwise have enjoyed under these provisions is hereby waived, except that Ms. Montgomery may raise any other defense or claim that she could have raised prior to the entry of this agreement.
- H. In the event that the Hillsborough County Superior Court – Northern District does not impose the sentence recommended by the State pursuant to this agreement, both the State and Ms. Montgomery retain the right to withdraw the plea agreement and proceed to trial on the original charges or whatever additional charges the State chooses to bring.

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IV. ADDITIONAL TERMS

- A. This agreement constitutes the full and complete agreement between the parties and no other promises or agreement exists between the parties. There shall be no modification to this agreement unless made in writing, signed by all parties, and adopted by the Court as an amendment to the sentencing order in this case.



Jesse O'Neill, Esquire
Senior Assistant Attorney General
NH Bar ID# 20723

11/14/22

Date

I, Kayla Montgomery, have read this Agreement and consulted with my attorney about its provisions and my rights. I fully understand all my rights and the Agreement's terms and conditions and freely and voluntarily agree to them.




Kayla Montgomery
Defendant

11/15/22

Date

I, Paul J. Garrity, Esq., am counsel for Kayla Montgomery in this case. I have carefully reviewed the entire contents of this Agreement, and I have fully explained to Ms. Montgomery the Agreement and her rights with respect to the Agreement and the pending charges. I believe that Ms. Montgomery's decision to enter into this Agreement is a knowing, intelligent, and voluntary one.



Paul J. Garrity, Esquire
Counsel for Kayla Montgomery
NH Bar ID# 905

11/15/22

Date