

HILLSBOROUGH, SS.
Northern District

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

State of New Hampshire

v.

Kayla Montgomery

Case No. 216-2022-CR-01037
CID 1982119c & CID 1982120c

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 is 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.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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

11/16/22

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



Honorable Amy B. Messer
November 18, 2022

Case Name: State v. Kayla Montgomery

Case Number: 216-2022-CR-01037

STATE PRISON SENTENCE

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

PROBATION

- ☐ A. The defendant is placed on probation for a period of _____ year(s), upon the usual terms of probation and any special terms of probation determined by the Probation/Parole Officer.

Effective: ☐ Forthwith ☐ Upon release from _____

The defendant is ordered to report immediately, or immediately upon release, to the nearest Probation/Parole Office.

- ☐ B. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.

Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

FINANCIAL OBLIGATIONS

- ☐ A. **Fines and Fees:**

Fine of \$ _____, plus a statutory penalty assessment of \$ 0.00 to be paid:

☐ Today

☐ By _____

☐ Through the Department of Corrections as directed by the Probation/Parole Officer. A 10 % service charge is assessed by DOC for the collection of fines and fees, other than supervision fees.

☐ \$ _____ of the fine and \$ _____ of the penalty assessment is suspended for _____ year(s).

A \$25.00 fee is assessed in each case file when a fine is paid on a date later than sentencing.

- ☐ B. **Restitution:**

The defendant shall pay restitution of \$ _____ to _____

☐ Restitution shall be paid through the Department of Corrections as directed by the Probation/Parole Officer. A 17% administrative fee is assessed for the collection of restitution.

☐ At the request of the defendant or the Department of Corrections, a hearing may be scheduled on the amount or method of payment of restitution.

☐ Restitution is not ordered because: _____

- ☒ C. **Appointed Counsel: NOTE:** Financial Obligations, Section C is NOT a term and condition of the sentence.

☐ The Court finds that the defendant has the ability to pay:

counsel fees and expenses in the amount of \$ _____

payable through _____ in the amount of \$ _____ per month.

☐ The Court order for repayment is suspended until the time of the defendant's release from state prison.

☒ The Court finds that the defendant has no ability to pay counsel fees and expenses.

Case Name: State v. Kayla Montgomery

Case Number: 216-2022-CR-01037

STATE PRISON SENTENCE

OTHER CONDITIONS

- ☒ A. The defendant is to participate meaningfully in and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer.
- ☒ B. Subject to the provisions of RSA 651-A:22-a, the Department of Corrections shall have the authority to award the defendant earned time reductions against the minimum and maximum sentences for successful completion of programming while incarcerated.
- ☐ C. Under the direction of the Probation/Parole Officer, the defendant shall tour the
☐ New Hampshire State Prison ☐ House of Corrections
- ☐ D. The defendant shall perform _____ hours of community service and provide proof to _____ within _____ of today's date.
- ☐ E. The defendant is ordered to have no contact with _____ either directly or indirectly, including but not limited to contact in-person, by mail, phone, email, text message, social networking sites or through third parties.
- ☒ F. Law enforcement agencies may ☒ destroy the evidence ☒ return evidence to its rightful owner.
- ☒ G. The defendant and the State have waived sentence review in writing or on the record.
- ☒ H. The defendant is ordered to be of good behavior and comply with all the terms of this sentence.
- ☒ I. Other:

The 5-page Sentencing Addendum/MOA, signed by the defendant and the State, is hereby incorporated by reference and included as part of this sentencing order as if fully stated herein.

For Court Use Only



Honorable Amy B. Messer
November 18, 2022

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: Hillsborough Superior Court Northern District
Case Name: State v. Kayla Montgomery
Case Number: 216-2022-CR-01037 Charge ID Number: 1982120C
(if known)

STATE PRISON SENTENCE

Plea/Verdict: Guilty	
Crime: Perjury, RSA 641:1, I(a)	Date of Crime: 05/20/2022

A finding of GUILTY/TRUE is entered.

CONVICTION AND CONFINEMENT

☐ A. The defendant has been convicted of Domestic Violence contrary to RSA 631:2-b or of an offense recorded as Domestic Violence. See attached Domestic Violence Sentencing Addendum.

☒ B. The defendant is sentenced to the New Hampshire State Prison for not more than 7 years, nor less than 3 1/2 years

There is added to the minimum sentence a disciplinary period equal to 150 days for each year of the minimum term of the defendant's sentence, to be prorated for any part of the year.

Pretrial confinement credit: 0 days.

☒ C. This sentence is to be served as follows:

☐ Stand committed ☐ Commencing _____

☒ All of the minimum sentence and all of the maximum sentence is suspended.

Suspensions are conditioned upon good behavior and compliance with all of the terms of this order.

Any suspended sentence may be imposed after a hearing at the request of the State. The suspended sentence begins today and ends 10 years from ☐ today or ☒ release on 1982119C

☐ _____ of the sentence is deferred for a period of _____ year(s). The Court retains jurisdiction up to and after the deferred period to impose or terminate the sentence or to suspend or further defer the sentence for an additional period of _____ year(s). Thirty (30) days prior to the expiration of the deferred period, the defendant may petition the Court to show cause why the deferred commitment should not be imposed, suspended and/or further deferred. Failure to petition within the prescribed time will result in the immediate issuance of a warrant for your arrest.

☒ D. The sentence is ☒ consecutive to case number and charge ID 216-2022-CR-01037 1982119C
☐ concurrent with case number and charge ID _____

☐ E. See Addendum to State Prison Sentence Sexual Offender Assessment and Treatment.

☐ F. See Addendum to State Prison Sentence Substance Use Disorder Assessment and Treatment.

☒ G. The Court recommends to the Department of Corrections:

☒ Screen and/or assess for drug and alcohol treatment needs.

☐ Sentence to be served at House of Corrections

☐ _____

Case Name: State v. Kayla Montgomery

Case Number: 216-2022-CR-01037

STATE PRISON SENTENCE

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

PROBATION

- ☐ A. The defendant is placed on probation for a period of _____ year(s), upon the usual terms of probation and any special terms of probation determined by the Probation/Parole Officer.

Effective: ☐ Forthwith ☐ Upon release from _____

The defendant is ordered to report immediately, or immediately upon release, to the nearest Probation/Parole Office.

- ☐ B. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.

Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

FINANCIAL OBLIGATIONS

- ☐ A. **Fines and Fees:**

Fine of \$ _____, plus a statutory penalty assessment of \$ 0.00 to be paid:

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☐ By _____

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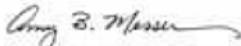
STATE PRISON SENTENCE

OTHER CONDITIONS

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- ☒ B. Subject to the provisions of RSA 651-A:22-a, the Department of Corrections shall have the authority to award the defendant earned time reductions against the minimum and maximum sentences for successful completion of programming while incarcerated.
- ☐ C. Under the direction of the Probation/Parole Officer, the defendant shall tour the
☐ New Hampshire State Prison ☐ House of Corrections
- ☐ D. The defendant shall perform _____ hours of community service and provide proof to _____ within _____ of today's date.
- ☐ E. The defendant is ordered to have no contact with _____ either directly or indirectly, including but not limited to contact in-person, by mail, phone, email, text message, social networking sites or through third parties.
- ☒ F. Law enforcement agencies may ☒ destroy the evidence ☒ return evidence to its rightful owner.
- ☒ G. The defendant and the State have waived sentence review in writing or on the record.
- ☒ H. The defendant is ordered to be of good behavior and comply with all the terms of this sentence.
- ☒ I. Other:

The 5-page Sentencing Addendum/MOA, signed by the defendant and the State, is hereby incorporated by reference and included as part of this sentencing order as if fully stated herein.

For Court Use Only



Honorable Amy B. Messer

November 18, 2022