

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

State of New Hampshire

v.

Chad Evans

00-S-888-896-F AND 00-S-934-I

DEFENDANT'S OBJECTION TO STATE'S MOTION IN LIMINE
TO ADMIT AMANDA BORTNER'S EXCITED UTTERANCES

NOW COMES Chad Evans and, by his attorneys, objects to the State's Motion in Limine to Amanda Bortner's excited utterances:

In support of this Objection, defendant states:

1. He is charged with second degree murder and eight felony counts regarding to Kassidy Bortner.

2. The State seeks to introduce comments of Amanda Bortner made to Tracey Foley on November 16, 2000, the day of the arrest of Chad Evans.

3. The State seeks to avoid an exclusion of this evidence under the hearsay rules, New Hampshire Rules of Evidence, Rule 801, 802, by suggesting a two-hour conversation was an excited utterance and therefore admissible pursuant to New Hampshire Rules of Evidence, Rule 803(2).

4. The evidence will show that this conversation simply was one more discussion between Ms. Bortner and others regarding the circumstances surrounding her daughter's death.

5. This conversation occurred a week after Kassidy's death. It was not the product of Mr. Evans' arrest and instead was a response to her difficult circumstances.

6. The conversation was not an excited utterance pursuant to New Hampshire Rules of Evidence, Rule 803(2).

WHEREFORE, defendant prays that:

A. The Court schedule an evidentiary hearing to determine the circumstances of the conversation between Tracey Foley and Amanda Bortner.

B. After hearing, deny the State's Motion in Limine to admit the content of this two-hour conversation on November 16, 2000.

C. And for such other relief as may be just and proper.

Respectfully submitted,
CHAD EVANS
By his attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANT'S OBJECTION TO STATE'S MOTION IN LIMINE TO ADMIT AMANDA BORTNER'S EXCITED UTTERANCES has been forwarded to Senior Assistant Attorney General N. William Delker and Assistant Attorney General Simon R. Brown, this ____ day of November, 2001.

Alan J. Cronheim