

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIREMark Vedrani

v.

Civil No. 09-cv-320-JL

William Wrenn, Commissioner  
New Hampshire Department of  
Corrections, et al.**PROCEDURAL ORDER**

On March 30, 2011, the court denied without prejudice the defendant's motion for summary judgment. The parties are ordered to confer and schedule an evidentiary hearing with the clerk which will address Issues 1, 2, and 3 as set forth in Judge Muirhead's November 18, 2009 order (document no. 4).

The parties shall file supplemental briefs no later than **7 days** before the hearing. The briefs shall address Issues 1 through 3, and shall specifically address:

- the overarching issue, implicated in Issues 1 and 2, of defense counsel's election of a trial strategy and tactics in pursuance of a "mutual combat" finding by the jury, as opposed to the assertion of self-defense as an affirmative defense. Counsel shall specifically address and cite applicable federal authority on the permissibility and constitutional implications of counsel's election of a trial strategy or tactic that is inconsistent with a strategy desired by a defendant, and in support of which a defendant purportedly wished to testify;<sup>1</sup> and

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<sup>1</sup>In other words, was defense counsel required to adopt the strategy and tactics urged by his client? And if so, was his failure to do so a violation of his client's constitutional rights?

- the legal operation of "mutual combat" under the New Hampshire Criminal Code as an offense, a lesser included offense, and an affirmative defense, both in general and under the particular circumstances present in this case.

The briefs shall not include citations to the record, but rather shall include as exhibits any portion of the record cited in the brief.

Further, the brief shall identify the applicable standard of review, and identify all points in the state court record where each claim was addressed.

The parties are allowed 35 pages, not including exhibits.

**SO ORDERED.**



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Joseph N. Laplante  
United States District Judge

Dated: June 10, 2011

cc: Sven Wiberg, Esq.  
Elizabeth C. Woodcock, Esq.