THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS. **SUPERIOR COURT**

The State of New Hampshire

v.

John A. Brooks

07-S-1028-1031

ORDER

The defendant, John A. Brooks, has been indicted on two counts of Capital Murder, one count of Conspiracy to Commit Capital Murder, and one count of First Degree Murder for his alleged involvement in the death of Jack Reid. See RSA 630:1; RSA 630:1-a; RSA 629:3. He now seeks a court order compelling the state to produce all outstanding discovery immediately. The court held a hearing on this matter on June 26, 2007.

The defendant waived a formal arraignment hearing, and on May 16, 2007, the Clerk's office issued the standard arraignment order and structuring conference notice. The notice was amended on June 5, 2007, and a structuring conference was initially scheduled for June 12, 2007. As a matter of course, this court holds a structuring conference approximately 30 days after the issuance of an arraignment order in felony cases; however, in a case as complex as First Degree or Capital Murder, the structuring conference is scheduled within one week of the notice. This schedule permits counsel and the court to adjust the

standard 30-day discovery deadline set out in the notice in light of the nature and complexity of a particular case.

The purpose of the June 12 structuring conference would have been to set appropriate discovery deadlines given the multi-state investigation underway in this case. However, in response to a motion to continue filed by the defendant, the structuring conference was rescheduled to August 3, 2007, the earliest available date. As a result, the standard discovery deadlines passed before the court and the parties conferred about their practical implications.

While the court is sensitive to the defendant's right to open file discovery pursuant to Superior Court Rule 98, defense counsel assured the court that the Attorney General's office has cooperatively provided discovery as soon as it has received it from the state police or other sources. Indeed, the defendant has received approximately 3,000 pages of discovery to date. The court declines to compel discovery at this time because it appears that the Attorney General's office continues to work with law enforcement and continues to provide discovery as they receive it. It is undisputed that the Attorney General's office has provided to defense counsel all discovery materials currently in its possession. The parties shall be prepared to address outstanding discovery on August 3.

The defendant also raised a concern about the manner in which police reports are dated. The court assumes that all reports will be dated when they are written, and that the copies provided to the defendant will accurately reflect the date the report was originally created. Counsel may deal with relevant

discrepancies in report dating through additional discovery or cross-examination at trial.

So **ORDERED**.

6/28/07
DATE

PC Coffey
PATRICIA C. COFFEY
Presiding Justice