

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2011-0297, State of New Hampshire v. Gary E. Marchand, the court on August 2, 2012, issued the following order:

On July 31, 2012, the court issued an opinion in this case. On its own motion, the court hereby orders that the opinion be modified as follows:

The first two paragraphs of the slip opinion, which appear on pages 1 and 2 of the slip opinion, are deleted and replaced by the following paragraph:

HICKS, J. This is an appeal from an order of the Superior Court (Nicolosi, J.) denying the State's request to compel the defendant, Gary E. Marchand, to undergo a psychological evaluation by the State's expert. This case presents us with two questions: (1) does the right against self-incrimination prevent the State from compelling a defendant to undergo a psychological or psychiatric examination when he raises an insanity defense; and (2) if such examinations may be compelled, what procedures should trial courts use when ordering them? We answer the first question in the negative, and provide a procedural framework for courts to follow. Accordingly, we reverse in part, vacate in part, and remand.

The last sentence of the tenth paragraph of the opinion, which appears on page 4 of the slip opinion, is modified by deleting the word "interlocutory," so that said sentence, as modified, shall state:

This appeal followed.

Slip opinion modified.

Dalianis, C.J., and Hicks and Conboy, JJ., concurred.

**Eileen Fox,
Clerk**