

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit - Probate Division - Nashua
30 Spring Street, Suite 103
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<https://www.courts.nh.gov>

NOTICE OF DECISION

FILE COPY

Case Name: **Estate of Harmony Montgomery**
Case Number: **316-2024-ET-00225**

On March 11, 2024, Judge Beth H Kissinger issued orders relative to:

Petition for Administration of Estate of Person Presumed Dead is granted; letters of appointment to be issued. Prior to the issuance of said letters, the fiduciary is ordered to file with the court, within 30 days of this order, a fiduciary bond in amount of \$10,000 with corporate sureties. Failure to file the bond within 30 days may result in dismissal of the case. Further order: See Supplemental Order attached here to.

Any Motion for Reconsideration must be filed with this court within 10 days of receiving this notice. Any appeals to the Supreme Court must be filed within 30 days of receiving this notice.

March 12, 2024

Sherry L. Bisson
Clerk of Court

C: Crystal Sorey; Sheliah M. Kaufold, ESQ; Adam Montgomery

JAN 29 2024

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<https://www.courts.nh.gov>

Court Name: **9th Circuit - Probate Division - Nashua**

Case Name: **ESTATE OF HARMONY MONTGOMERY**

Case Number: **316-2024-ET-225**
 (if known)

**PETITION FOR ADMINISTRATION OF ESTATE
 OF PERSON PRESUMED DEAD (RSA 553:18 and 553:19)**

1. Petitioner Name **CRYSTAL SOREY** Telephone _____

Mailing Address _____

2. Petitioner Name _____ Telephone _____

Mailing Address _____

3. Attorney Name **SHELIAH M. KAUFOLD, ESQUIRE** Telephone **(603) 772-3433**

Mailing Address **c/o Russman Law, 14 Center Street, Exeter NH 03833**

4. Person Presumed Dead **Harmony Montgomery**

Last known residence (street, city or town) **Manchester, NH**

Has person presumed dead lived in this county for at least one year? Yes No

5. This person: (select one)

Is presumed to have been killed as a result of some catastrophic event, but his or her body could not be recovered.

Left his or her home and has not been heard of or from directly or indirectly for 6 months. The petitioner believes he or she may be dead.

6. The legatees and heirs-at-law to the estate of the person presumed dead are as follows:

Name	Mailing address	Relationship to person in #4
Crystal Sorey	_____	Mother
Adam Montgomery	NH State Prison for Men	Father
	281 N. State Street, Concord, NH 03301	

7. The value of the estate of the person presumed dead consists, as nearly as can be ascertained, of:

Real Estate \$ **0.00**

Personal Estate \$ **0.00**

* **Total amount of Estate** \$ **0.00***
 chose in action

8. The petitioner requests that administration be granted to **Crystal Sorey**

of **Fitchburg, MA** and whose date of birth is **09/14/1990**

Case Name: **ESTATE OF HARMONY MONTGOMERY**

Case Number:

PETITION FOR ADMINISTRATION OF ESTATE OF PERSON PRESUMED DEAD (RSA 553:18 AND 553:19)

The petitioner has also filed with this petition a "Notice on Petition for Administration of Estate of Person Presumed Dead", and requests that the information contained in that form be published and that if no information is received indicating that Harmony Montgomery is alive, and that circumstances lead to a reasonable belief that he or she is dead, that administration of his or her estate be granted.

Date

1/11/24

X Capital Sons
Petitioner Signature

ORDER FOR PUBLICATION

It is ordered that the annexed notice be published in a newspaper with statewide distribution and which is also published on the Internet. (The petitioner is responsible for arranging publication.) In addition, the annexed notice shall be published in the county in which the person had last lived for one year. Such notice shall be published at least once per week for four consecutive weeks. A copy of the "Notice on Petition for Administration of Estate of Person Presumed Dead" shall be given to the following relatives: Mother : Father (BHM)

The New
Hampshire
Union Leader
(B4)

Date

2-6-24

Beth
Signature of Judge

Beth H. Kissinger
Printed Name of Judge

ORDER FOR ADMINISTRATION

Petition for Administration of Estate of Person Presumed Dead is granted; letters of appointment to be issued. Prior to the issuance of said letters, the fiduciary is ordered to file with the court, within 30 days of this order, a fiduciary bond in the amount of \$ 10,000. without sureties with corporate sureties. Failure to file the bond within 30 days may result in dismissal of the case.

Further order See Supplemental Order attached hereto.

Date

3-11-24

Beth
Signature of Judge

Beth H. Kissinger

Printed Name of Judge

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Case Name: **Estate of Harmony Montgomery**
Case Number: **316-2024-ET-00225**

SUPPLEMENTAL ORDERS

The Court held a hearing on March 11, 2024 in the above-captioned matter to consider a *Petition for Administration of Person Presumed Dead*, see Index #1, submitted by the Crystal Sorey ("Ms. Sorey"), seeking a court-order declaring that her daughter, Harmony Montgomery, is dead, "as a result of some catastrophic event but . . . her body could not be recovered." RSA 553:19. She also seeks appointment as administrator of the Estate of Harmony Montgomery. RSA 553:18. Attending the hearing were: the petitioner and intestate heir of the estate, see RSA 561:1, Ms. Sorey, and her counsel, Attorney Sheliah M. Kaufold. The father of Harmony Montgomery, and intestate heir of the estate, Adam Montgomery, was properly served with notice of the *Petition* and hearing. The Court provided for attendance via WebEx, however, he did not appear. The Court was informed by Corporal Wienckoski, from the Department of Corrections, that Mr. Montgomery had refused to attend the hearing.

The Court begins with the statutes applicable to consideration of a *Petition for Administration of a Person Presumed Dead*. RSA 553:18 provides that a judge sitting in the Circuit Court-Probate Division, "following a hearing, may appoint an administrator of the estate of a person, with such limitations and powers as the judge deems appropriate: (a) [p]resumed dead pursuant to RSA 553:19, I . . ." RSA 553:19 directs, in turn, that:

[i]n the absence of a death certificate, the fact of death may be established after an evidentiary hearing if the court finds by clear and convincing evidence: . . . [t]hat the person is presumed to have been killed as a result of some catastrophic event but his or her body could not be recovered . . .

RSA 553:19, I.

In the absence of any objection to the *Petition*, the Court proceeded on offers of proof. Attorney Kaufold offered that her client, Ms. Sorey, would testify, as evidence of the death of Harmony Montgomery, that she has not had contact with her daughter since 2019. Attorney Kaufold offered that Adam Montgomery was convicted by a jury of second-degree murder in an associated criminal matter concerning the death of Harmony Montgomery. She also offered that he was convicted of falsifying physical evidence and abuse of a corpse, and that there was testimony by his wife, Kayla Montgomery, that she had handled Harmony Montgomery's lifeless body.

Based upon the offers presented, but *conditioned on submission of an authenticated copy of the jury verdict(s)*, the Court will GRANT the *Petition*. It observes that in light of the prolonged absence of contact, and the jury verdicts, *inter alia*, that Adam Montgomery murdered his daughter, and mishandled the corpse, Ms. Sorey has carried her burden to demonstrate that Harmony was killed “as a result of some catastrophic event.” No death certificate has issued as her body has not been located.

The Court next considered whether to appoint Ms. Sorey as estate administrator. This is an intestate estate. RSA 561:1. Accordingly, pursuant to RSA 552:3 and RSA 553:3, Ms. Sorey, as next of kin, is a preferred person to be appointed as administrator. In general, courts follow the statutory preferences set forth in RSA 553:3. See generally, Munsey v. Webster, 24 N.H. 126, 126-127 (1851)(applying prior version of the law). As to suitability of Ms. Sorey, see generally, RSA 553:4 (“*n*o person . . . deemed by the judge unsuitable, shall be appointed to administer an estate”), the Court observes that although she appeared inexperienced in estate administration, Attorney Kaufold will assist her through the closure of this estate administration. The Court reminded Ms. Sorey of some of her fiduciary obligations in the estate administration, and she appeared willing to follow through on them.

Accordingly, the Court will GRANT the *Petition for Administration of Person Presumed Dead*, see Index #1, and appoint Ms. Sorey as administrator **subject to the following conditions:**

- Ms. Sorey shall, **within thirty (30) days of the date of this Order**, file a fiduciary bond in the amount of **\$10,000 with corporate sureties**. No certificate of appointment shall issue until the bond is filed with, and accepted by, the Court.
- Attorney Kaufold is **DIRECTED** to submit, **on or before March 15, 2024**, an authenticated copy of the jury verdict(s) in the matter of the State v. Adam Montgomery, (Hills. North Superior Ct.).
- At the hearing, Ms. Sorey testified that she will be seeking to pursue a wrongful death claim or claims in New Hampshire on behalf of the Estate. Accordingly, she is **DIRECTED** pursuant to Circuit Court-Probate Division - Administrative Order 7, and Circuit Court – Probate Division Rule 101, to file a Status Report on the date six months following issuance of the Certificate of Appointment, and every six months thereafter, until the wrongful death action(s) have been resolved.
- Ms. Sorey, in her capacity as administrator is further **DIRECTED** to inform the Court **within seven (7) days** of either final judgment in a litigated proceeding, or upon execution of a settlement agreement, that a resolution has been attained, and the expected receipt into the Estate of any funds therefrom so that the Court may review the amount of the bond required. Neither she nor her counsel shall take possession of any estate funds until the bond amount has been reviewed.
- Pursuant to RSA 556:14, Circuit Court – Probate Division Rule 88, and long-standing common law, see, e.g., Cote v. Martel, 103 N.H. 110 (1960), the Probate Division must review all attorney’s fees paid by the estate for reasonableness, even if such fees are approved as part of a settlement agreement by the Superior Court. Cote, 103 N.H. at 113. Ms. Sorey is

specifically DIRECTED that no fees shall be taken by counsel in either this matter, or as a fee in the underlying wrongful death matter, without prior court approval. The gross amount of any judgment or settlement shall be deposited in the Estate of Harmony Montgomery account pending approval of the Court to remit attorney's fees.

Ordered by the Court:

March 11, 2024

Date

Beth H.
Judge Beth H. Kissinger