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SUPREME COURT
OF THE
STATE OF CONNECTICUT

S.C. 20781

STATE OF CONNECTICUT
v.
JEAN JACQUES

BRIEF OF DEFENDANT-APPELLANT
WITH PARTY APPENDIX

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Notation re. Transcript

Transcript referred to in this brief is designated as follows:

PCT	Transcript from probable cause hearing on January 12, 2016, Strackbein, J.
MT	Transcript of motion proceedings on April 7, 2022, Murphy, J.
1MT	Transcript of motion proceedings on April 8, 2022, Murphy J.
1T	Trial transcript of May 16, 2022, Murphy, J.
2T	Trial transcript of May 17, 2022, Murphy, J.
3T	Trial transcript of May 18, 2022, Murphy, J.
4T	Trial transcript of May 19, 2022, Murphy, J.
5T	Trial transcript of May 20, 2022, Murphy, J.
6T	Trial transcript of May 24, 2022, Murphy, J.
7T	Trial transcript of May 25, 2022, Murphy, J.
8T	Trial transcript of May 26, 2022, Murphy, J.
9T	Trial transcript of May 31, 2022, Murphy, J.
10T	Trial transcript of June 1, 2022, Murphy, J.
11T	Trial transcript of June 2, 2022, Murphy, J.
12T	Trial transcript of June 3, 2022, Murphy, J.
13T	Trial transcript of June 6, 2022, Murphy, J.
ST	Transcript from sentencing proceedings of October 26, 2022, Murphy, J.

I. Nature of the proceedings and statement of the facts

After a retrial, a jury convicted Jean Jacques of murder. 13T79. On October 26, 2022, the court (Murphy, J.) sentenced him to serve 60 years of incarceration. ST78.

The murder charge was based on the death of Casey Chadwick, whose body was found by her boyfriend Jean Joseph ("Eddy") in a closet in her New London apartment on July 15, 2015. 2T15-18, 37. She had been stabbed numerous times. 6T127-28. Eddy last saw Casey the night before when he left her apartment around 9 p.m. to go to Johane Jean Baptist's apartment, who was the mother of his four-year-old son. 2T24-25. Casey was angry that Eddy was going there because he often spent the night at Johane's – despite claiming his relationship with her was platonic. 2T24-25, 49.

At 11:30 p.m., Casey texted Eddy and told him that "Zoe" was over. 2T40; 4T51. At trial, Eddy identified defendant as Zoe. 2T40-41. Casey and defendant were friends, and it was not unusual for him to visit her at her apartment. 2T41-42, 83. Eddy, who made a living selling crack, testified that defendant would come over and sell marijuana to them. 2T41-42, 63-64. Although Casey had no concerns about defendant being there that night, Eddy told her to tell him that she was going to go to bed. 2T85-86. Eddy also called defendant, told him it was late and that he would see him the next day. 2T43.

During the text exchange with Casey, Eddy said that he was about to leave Johane's place, and Casey called him a liar and said he should get his "shit," or she would throw it out. 2T86-87. On cross-examination, Eddy denied she was referring to his drugs and said that she was just upset. 2T87-88. He claimed he would not have cared if she threw away his crack, even though selling drugs was his only livelihood. 2T63, 89. The last text Casey sent to anyone was at 12:20 a.m. 4T53.

Eddy remained at Johane's and did not go to Casey's apartment until 1 p.m. the next day. 2T28. She had not responded to any of his texts or phone calls that morning. 2T27. Casey was not at the apartment, and it looked like it had been ransacked and that their marijuana and his drugs were missing. 2T30-31, 34-35. Believing that the police had searched the apartment, Eddy called them and asked if someone named Casey had been arrested. 2T32-35. He did not give his real name but lied that he was her brother. 2T33.

Eddy then drove to Roussell Hypolite's house ("PK"), who returned to the apartment with him. 2T35-36. They searched the apartment and ultimately found Casey's body in a closet off the kitchen. 2T37. There was a mop and bucket filled with water in the kitchen and the apartment smelled of cleaning supplies. 1T49, 51-52, 55. When Detective Calouro arrived at the scene, Eddy said his girlfriend had been murdered. 3T19. He wanted to help the police find the killer and told them that defendant was at the apartment the night before and he gave them defendant's phone number. 2T44-45; 3T19.

The state's theory at trial was that defendant and Casey got into an argument, he killed her, and then stole Eddy's drugs so that he could sell them. There was evidence that a few days before the murder, the police used a confidential informant ("Caddi") to make a controlled buy of crack from defendant. 3T20-23. Caddi called defendant on speaker phone with police present, but defendant told him he did not have any drugs. 3T22-23. After police learned that defendant had been at Casey's apartment, they immediately arranged for a "buy-bust" operation because they suspected defendant was involved in Casey's death. 3T24. Police watched under surveillance as Caddi bought drugs from defendant and then they arrested defendant. 3T24-28. The state claimed the drugs defendant sold to Caddi were the drugs he stole from Casey's apartment. 11T20-25.

When the police took defendant into custody after the drug sale, they noticed he had several fresh cuts on his hands. 4T37. A medical examiner examined the wounds and testified there were “sharp force injuries” on both hands, which are cuts that have smooth sides to them like those produced by a knife or a broken plate. 4T36; 6T80-86. Defendant, who worked at the Rustic Cafe as a dishwasher, had cut himself on a broken plate the night before his arrest. 5T4-7; 9T16. The medical examiner opined the wounds could have been caused by a knife or a broken plate, and she did not know which. 6T87-88.

Defendant told police that his friend Indira Gomes picked him up from a laundromat around 6 a.m. on June 15, 2015, which she confirmed. 5T20; 6T22. Lt. Gomes testified that Indira told him that defendant left a black duffel bag in her car. 5T20. The bag had several items of clothing inside which appeared to have blood on them, including on the back right pocket of a pair of jeans. 5T21-23. Subsequent testing showed that the blood on the pocket was consistent with Casey's DNA. 7T17, 21, 45. At trial, Indira disputed that she told the police the bag was defendant’s and said it was the police who later told her it was his. 6T25-26. She testified she never saw defendant with a bag when she picked him up and never saw him put the bag in her car but simply assumed he must have. 6T25-35.

After the arrest, the police collected the clothes that defendant was wearing and took photographs to document his body, including the cuts on his hands. 3T83, 105, 113-17. There appeared to be blood on the defendant's right sneaker, and subsequent testing revealed the blood was consistent with Casey’s DNA. 3T122-23; 7T39-40. A few of the 30 or more blood samples collected at the crime scene contained, or were consistent with, defendant’s DNA. 7T35-43, 46-51; st. ex. 121 (DNA report - living room floor swab); st. ex. 123 (Supp. DNA report III – west kitchen wall, bedroom floor).

The defense presented third party culpability evidence through two witnesses who implicated Casey's boyfriend Eddy. Ricardy Sylpha testified he was with Eddy a few days before Casey was murdered. 10T14-15. They were driving and they saw Casey in a car with someone. 10T15. It was dark and Sylpha could not see who Casey was with, but Eddy flew into a jealous rage. 10T15. Eddy told Sylpha it was defendant, and he was upset that Casey was hanging out with him. 10T15-16. Eddy continued to follow the car even after he dropped off Sylpha. 10T16-17.

Wesley Hilyard stopped by Casey's apartment around 2 a.m. on the day her body was found. 9T34-39. Hilyard testified that Eddy answered the door wearing gloves covered in blood. 9T36-38. He was concerned after speaking with Eddy and felt that something was wrong. 9T36-39, 44. He did not tell anyone because he feared what Eddy was capable of. 9T35, 53-54. The next day he saw on the news that Casey had been murdered. 9T38.[1]

Defendant did not testify at trial. Additional facts will be discussed below.

II. Argument

A. The trial court improperly denied defendant's request for a probable cause hearing.

It is a state constitutional right, as well as a statutory right, for a defendant charged with murder to have a probable cause hearing before he can be tried for that crime. Conn. Const. art. 1, § 8; Gen. Stat. § 54-46a. The trial court deprived defendant of these rights by

[1] Hilyard thought this incident happened in February 2015 and the letter he wrote to defendant's attorney also indicated it occurred in February. 9T50-51. However, he said several times at trial that it happened the day before Casey was murdered. 9T36, 38, 67.

denying his request for a probable cause hearing. Although there had been a probable cause hearing before the first trial, the judge had relied on evidence seized during the illegal search of defendant's apartment, which this Court held should have been suppressed, and was not to be used on retrial. *State v. Jacques*, 332 Conn. 271, 277-78 (2019). Defendant's conviction should be reversed and remanded for a new probable cause hearing.

1. Specific facts. Prior to trial, defendant moved for a probable cause hearing stating that because his conviction was overturned, his case "starts from scratch and it's his right to have a hearing in probable cause." MT16. The state argued that defendant was not entitled to a probable cause hearing because he had one before the first trial. *Id*. The court agreed and stated although "the matter was sent back from the supreme court, that was relative to one issue, not all issues, the charges were not dismissed." *Id*. It also stated that because the conviction was reversed due to a suppression issue, and because the probable cause statute does not allow motions to suppress in connection with a probable cause hearing, the prior hearing "sufficiently meets Mr. Jacques' concerns in this particular matter given the intent of the probable cause hearing statute." MT17.

There is no question that the state and trial court relied heavily on the evidence from the illegal search at the probable cause hearing.[2]

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[2] The transcript from the probable cause hearing is one of the transcripts ordered in connection with this appeal. Defendant asks this Court to take judicial notice of that transcript. See *Oliphant v. Comm'r of Corr.*, 274 Conn. 563, 579 n.17 (2005)("'there is no question…concerning our power to take judicial notice of files of the Superior Court, whether the file is from the case at bar or otherwise'").

The state presented four witnesses at the hearing: the 911 dispatcher, Casey's boyfriend Eddy, jailhouse informant Tywan Jenkins and lead investigator Anthony Gomes. Jenkins, who was defendant's cellmate at Corrigan Correctional Center in July 2015, testified that defendant wanted help writing out his version of what happened that night. PCT66-68. Defendant is Haitian and spoke with a heavy accent, and Jenkins often had difficulty understanding him. *Id*. at 68, 108. At the hearing, he testified about the three or four statements he wrote out for defendant. *Id*. at 77-85. He also testified about things defendant allegedly told him about the murder. *Id*. at 97-105. When asked what defendant told him about the drugs in Casey's apartment and her cell phone, he testified defendant told him they were in a hole in the wall in the bathroom behind the toilet. *Id*. at 103-04 . Jenkins ultimately gave a written statement to the police indicating what defendant told him. *Id*. at 88-89, 127-28.

In response to the information Jenkins gave the police, Lt. Gomes testified that he and another detective went to defendant's apartment and found a bag with drugs and a cell phone in a hole in the bathroom wall. *Id*. at 134-35. They removed the bag from the wall and took photographs of the items. *Id*. at 135-36. Gomes confirmed that defendant lived in that apartment and that the cell phone belonged to Casey. *Id*. at 138, 141.

During argument at the hearing, the state argued:

> What's telling, Your Honor, is that the defendant–the time frame of this. If you notice during the course of the investigation, the defendant is arrested; he's put into the jail on this. He then communicates the information about what appears to be marijuana and crack cocaine that's secreted in the apartment of the defendant to Mr.

> Jenkins, who was incarcerated during that time frame. And that information, that bears out because the officers go directly there and find her cell phone that was taken from the scene, find the drugs in defendant's apartment. *Id*. at 153-54.

The trial court placed great emphasis on this evidence. It stated:

> Based on the Court's review of the exhibits, the autopsy report, the DNA report, all the photographs, and the totality of the testimony and the evidence submitted during the hearing, the Court's going to make the following findings: That although I understand some of the valid points Attorney DeSantis has made, looking at the inconsistent statements of the defendant to the police and to Mr. Jenkins, especially asserting that he was never in Miss Chadwick's apartment, obviously he was there. Miss Chadwick had texted Mr. Joseph that the defendant was there; Mr. Joseph had spoken to the defendant while he was there and of course his DNA was there. Regarding the testimony of Mr. Jenkins, he had no reason to lie or set up the defendant. And despite the fact that the defendant may have spoken about numerous issues, the facts in this case that were disclosed to Mr. Jenkins, the location of the body, the attempt to clean the scene, all things that were verified later, **there's the inescapable fact that the marijuana, crack cocaine and, most importantly, Miss Chadwick's cell phone were exactly where the defendant told Mr.**

> **Jenkins they were. And how in the world Mr. Jenkins would make that up, that information, is impossible. The items were hidden in a hole in the wall of the apartment of Mr. Jacques. And this lends credibility to Mr. Jenkins's testimony.** Therefore, it's the finding of the Court that there is probable cause to believe the person who committed the murder of Miss Chadwick is the defendant, Jean Jacques, and the defendant intended to cause the death of Miss Chadwick and in fact did cause her death.

PCT161-62 (emp. added).

2. Reviewability. This issue is preserved. Should it not be adequately preserved, it can be reviewed pursuant to *State v. Golding*, 213 Conn. 233 (1989). The record is adequate for review, and the issue is of constitutional magnitude because the right to a probable cause hearing is mandated by our state constitution. *State v. Brown*, 279 Conn. 493, 502-04 (2006)(citing cases where *Golding* review applied to unpreserved claims concerning probable cause hearings); cf. *State v. Ramos*, 201 Conn. 598, 602-03 (1986)(reviewing denial of motion to dismiss based on court's failure to give defendant a probable cause hearing under *State v. Evans*, 165 Conn. 61 (1973) because it implicated constitutional right not to be tried without a finding of probable cause); Conn. Const. art. 1, § 8.

3. Standard of review. Because defendant's claim involves a deprivation of his constitutional right, it must be reviewed de novo. Not only is the right to a probable cause hearing set forth in our state constitution, Conn. Const. art. 1, § 8, but Gen. Stat. § 54-46a was enacted to effectuate that right. *State v. Mitchell*, 200 Conn. 323, 329-31 (1986)(purpose of Gen. Stat. § 54-46a to give effect to

constitutional right to probable cause hearing). It is well-settled that claims involving constitutional issues are given plenary review. *State v. Douglas C.*, 345 Conn. 421, 435 (2022). In addition, issues involving statutory construction are reviewed de novo. *State v. Pare*, 253 Conn. 611, 621 (2000).

4. Defendant's trial should not have gone forward because the trial court failed to give him his constitutionally mandated probable cause hearing.

This case involves the unique issue of whether a trial court can deny a request for a probable cause hearing after the defendant's conviction was reversed on appeal and the case has been remanded for a new trial. There are no cases in Connecticut addressing this precise issue. However, considering the origin of this constitutional right, as well as Gen. Stat. § 54-46a, and because the first trial judge relied on evidence from an illegal search to find probable cause, defendant should have received a new probable cause hearing before the second trial.

In 1982, Connecticut voters approved a constitutional amendment abolishing the previous constitutional requirement that a grand jury find probable cause before the state could prosecute persons charged with crimes punishable by death or life imprisonment. *State v. Conn*, 234 Conn. 97, 109 (1995). Instead, probable cause hearings would be conducted in accordance with the procedures established by the legislature. That right is set forth in article first, section 8 of our constitution which states "[n]o person shall be held to answer for any crime, punishable by death or life imprisonment, unless upon probable cause shown at a hearing in accordance with procedures prescribed by law." Conn. Const. art. 1, § 8 (amend. XVII). In May 1983, Gen. Stat. § 54-46a was enacted, which states in pertinent part:

> No person charged by the state, who has not been indicted by a grand jury prior to May 26, 1983, shall be put to plea or held to trial for any crime punishable by death, life imprisonment without the possibility of release or life imprisonment unless the court at a preliminary hearing determines there is probable cause to believe that the offense charged has been committed and that the accused person has committed it.

See *Conn*, 234 Conn. at 109.

The amendment originated due to criticisms of the grand jury procedures, which were conducted in secret, and defendants could not have an attorney or present any evidence. *State v. Mitchell*, 200 Conn. 323, 327 (1986). In addition, to protect the secrecy of the proceedings, the use of a transcript was restricted by statute,[3] which effectively prevented defendants from obtaining judicial review of a finding of probable cause. *Id*. Thus, the constitutional amendment was proposed to correct these problems and "to provide expanded protections to an accused charged with a serious crime." *Id*. at 328. Accordingly, under Gen. Stat. § 54-46a, a defendant has "a full panoply of adversarial rights," including the right to an attorney, the protection of the rules of evidence, and a hearing that is conducted in public. *Id*. at 330-31; see *Conn*, 234 Conn. at 110.

Consequently, before a person can be tried for serious crimes, there must be a probable cause hearing, which is a "critical stage in the prosecution." *Mitchell*, 200 Conn. at 332. "A judicial determination of probable cause has thus been made a constitutional prerequisite to the court's subsequent jurisdiction to hear the trial." *Id*. Indeed, the

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[3] See Gen. Stat. § 54-45a.

Mitchell Court held that defendants were entitled to appellate review of findings of probable cause and that this was "essential to fulfilling the purpose" of the constitutional amendment, which was to provide greater protections to criminal defendants. *Id.* at 331-32. "[A]n invalid finding of probable cause at such a hearing undermines the court's power to hear the case at trial." *Id.* at 332.

Given these constitutional underpinnings, the court was wrong to deprive defendant of a new probable cause hearing. There is no doubt that the original finding of probable cause was based in large part upon the cell phone and drug evidence, which the court found to be significant. See PCT161 ("there's the inescapable fact that the marijuana, crack cocaine and, most importantly, Miss Chadwick's cell phone were exactly where the defendant told Mr. Jenkins they were"). There is no way of knowing if the court would have found Jenkins credible without that evidence, how much weight the court gave it or if the court would have found probable cause in the absence of such evidence. Nevertheless, this Court's reversal of defendant's conviction because of an illegal search put the case back at square one and the trial court was bound by this Court's ruling that the illegally obtained evidence could not be used on retrial. Thus, before the trial court had jurisdiction over defendant, there had to be a probable cause finding *without that evidence.* The court's refusal to hold a new probable cause hearing, when the trial court relied on that evidence at the original probable cause hearing, is simply wrong.

Further, there is no merit to the court's rationale that because defendant's conviction was reversed on a suppression issue and because Gen. Stat. § 54-46a excludes motions to suppress at probable cause hearings, the first probable cause hearing was sufficient. The exclusion of suppression motions at such hearings is just a procedural directive and has nothing to do with whether defendant was entitled to

another probable cause hearing. Given that a trial court does not have jurisdiction unless there is a finding of probable cause, it has no jurisdiction to rule on suppression motions or motions for discovery. Here, because the illegally obtained evidence could not be considered, the trial court did not have jurisdiction over defendant until there was a finding of probable cause. That did not occur here.

5. Defendant's conviction must be reversed and the case should be remanded for a new probable cause hearing.

The type of error that occurs at a probable cause hearing determines what remedy, if any, applies. If there was insufficient evidence to justify a finding of probable cause, the conviction is automatically reversed because the trial court lacked jurisdiction over the defendant. Thus, in *State v. Boyd*, 214 Conn. 132, 135-36 (1990), the Court held that even though the defendant received a fair trial, his claim that there was insufficient evidence to establish probable cause was nevertheless reviewable. There, the defendant challenged the admission of his codefendant's statement at the hearing, and claimed that without the statement, there was insufficient evidence to find probable cause to prosecute him for felony murder. *Id*. at 134-35. The Court agreed and because of this deficiency, the trial court lacked jurisdiction over the defendant, and therefore, his subsequent prosecution and conviction were rendered moot. *Id*. at 141.

The dissent reasoned that remanding the case for a new trial was a flagrant waste of judicial resources given the fairness of the defendant's trial, and that a second trial would be an unnecessary hardship upon the victim's family. *Id*. at 144 (Shea, J., dissenting). The majority, however, reasoned that those considerations did not warrant abandoning the constitutional procedural principles already recognized by the Court, and to follow the dissent's suggestion would essentially

make the right to a probable cause finding a right without a remedy. *Id*. at 141 n.11.[4]

In cases where there were other types of errors, such as the failure to disclose exculpatory documents or the denial of counsel at the probable cause hearing, harmless error review applies. *State v. Brown*, 279 Conn. 493, 509 (2006); *State v. White*, 229 Conn. 125, 140 (1994). In *White*, the Court applied harmless error review and reversed the defendants' convictions and remanded for a new probable cause hearing based on the state's failure to disclose exculpatory evidence prior to the hearing. After first finding there was a reasonable probability that the result of the hearing would have been different had the state disclosed the exculpatory evidence in a timely manner, the Court then considered whether the nondisclosure deprived the defendants of a fair trial and concluded that it did. *Id*. at 137-39. Although it reasoned that the *Brady* violation would have been harmless had it not affected the fairness of the defendants' trial, because it did impact their trial, the convictions were reversed, and they were entitled to a new probable cause hearing. *Id*. at 140, 164.

In the present case, the court's refusal to hold a probable cause hearing is the type of error subject to automatic reversal for two reasons. First, just as in cases with insufficient evidence to justify a finding of probable cause, by not having a new hearing, the court deprived defendant of the "constitutional prerequisite to the court's subsequent jurisdiction to hear the trial," *Mitchell*, 200 Conn. at 330,

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[4] *Boyd's* automatic reversal rule remains good law in cases where there was insufficient evidence to establish probable cause despite several invitations for this Court to reconsider it. See *Brown*, 279 Conn. at 509 n.6 (citing cases & declining state's invitation to overrule it).

which is structural error. A structural error is one that "affects the 'framework within which the trial proceeds,'" such that it pervades or undermines the fairness of a trial. *State v. Cushard*, 328 Conn. 558, 570 (2018)(cit. omit). "'[T]hese errors deprive defendants of basic protections without which a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence.'" *State v. Lopez*, 271 Conn. 724, 733-34 (2004).

Allowing a trial to go forward when the court did not have jurisdiction over the defendant certainly meets that definition. The right to a probable cause hearing would be meaningless if a judge could simply refuse to honor it, or if a defendant had to prove he was somehow harmed by not being given one. See *id*. at 739 (structural error is "virtually impossible to pinpoint the exact harm, [but] it remains abundantly clear that the trial process was flawed significantly"). In addition, it does not matter that a court found probable cause before the first trial because that court considered evidence which should have been suppressed.

Second, automatic reversal is warranted because the court violated Gen Stat. § 54-46a, which is a mandatory statute. "The test to be applied 'in determining whether a [rule] is mandatory or directory is whether the prescribed mode of action is the essence of the thing to be accomplished, or in other words, whether it relates to a matter of substance or a matter of convenience....'" *State v. Pare*, 253 Conn. 611, 622 (2000)(cit. omit). If it is a matter of substance, the statute is mandatory. *Id*. at 623. Here, there is no question that the statute is mandatory. Not only does it use the word "shall," but it was designed to implement a constitutional right, and therefore, it is a matter of substance.

Further, a violation of this statute is not amenable to harmless error analysis because there is no way to assess how much the trial

court relied on the drug and cell phone evidence to find probable cause. The question is not whether there might have been enough evidence to find probable cause without that evidence. Because "of the weighty interest protected by a [probable cause hearing], and the impracticality of gauging the results" of a hearing without such evidence, the violation of the statute "requires automatic reversal of the judgment." *Id*. at 639.

This case is similar to *Pare*, where the court's violation of a mandatory practice book section (Conn. Prac. Book § 42-31) requiring that the court poll the jury upon a timely request, warranted automatic reversal. The *Pare* Court first concluded that the statute, although not constitutional in nature, was enacted to protect a defendant's constitutional right to a unanimous verdict, and therefore, the court's denial of a timely request was "of substantial and unique magnitude." *Id*. at 623, 636. It also agreed with defendant that there was no way to assess the harm stemming from the court's denial. *Id*. at 635-36. It reasoned that even though individual jurors rarely changed their decision upon being polled, reversal per se was still warranted because of those reasons. *Id*. at 639.

The same is true in this case. Even if the trial court might have found probable cause had it granted defendant's request, that does not justify applying harmless error review given the purpose behind Gen. Stat. § 54-46a and the impracticality of determining the result had the trial court not considered the illegal evidence.

For all these reasons, defendant's conviction must be reversed, and this case should be remanded for a new probable cause hearing.

B. The trial court improperly admitted a police statement into evidence under *Whelan* because the declarant was functionally unavailable for cross-examination.

The trial court abused its discretion and violated defendant's state and federal rights to confrontation when it allowed the state to introduce Tywan Jenkins' police statement into evidence under *State v. Whelan*, 200 Conn. 743 (1986). U.S. Const. amend. VI; Conn. Const. art. 1, § 8. Jenkins, who had suffered a stroke after the first trial, had no memory of defendant or the things he discussed in his police statement. He also did not remember even giving a statement to the police. Allowing the state to introduce the statement under these circumstances was extremely unfair and should not fall within the limited hearsay exception carved out in *Whelan*. Alternatively, this Court should modify *Whelan* and hold that it does not apply in situations where the witness suffers from memory loss due to a medical or physical condition, as opposed to situations where the memory loss is feigned.

1. Specific facts. Sometime after the first trial, Tywan Jenkins suffered a stroke which affected his memory. Despite his medical condition, the state called him to testify. Jenkins testified he did not know anyone named Jean Jacques and did not remember being cellmates with him. 7T100-02. He did not remember giving a statement to the police in 2015 regarding Casey's murder. 7T102. He explained that he had suffered from a stroke, although he did not know when, and that it affected his memory. 7T101-02.

After those brief questions, the state offered his police statement into evidence and defendant objected. 7T102. He argued that because Jenkins had a total lack of memory due to his stroke, its admission would violate defendant's sixth amendment right to cross-examination

under *Crawford v. Washington*, 541 U.S. 36 (2004), because he would have no opportunity for a meaningful cross-examination. 7T102-03. The state argued it was admissible under *Whelan* because Jenkins was available at trial and subject to cross-examination. 7T105. The state also noted that Jenkins had previously testified at the probable cause hearing and at the suppression hearing.[5] 7T104-05. Defendant disagreed. "[T]his is much different than memory loss. This is brain damage. He's had significant brain damage, unfortunately, and it's very sad, but it's not memory loss. It's a fact that he has had a physical injury and has therefore become unavailable as a witness." 7T107.

The court noted that Jenkins had taken an oath to tell the truth and that he had been "adequately responding" to the state's questions. 7T109. It also noted that Jenkins had previously been subject to cross-examination "in a prior trial, involving the same parties." 7T110. Ultimately, the court concluded that there was no sixth amendment violation and that the statement was admissible under *Whelan*. 7T110-12. The state then read Jenkins' statement to the jury. 7T119-24; st. ex. 82.

Defendant then tried unsuccessfully to cross-examine Jenkins, who stated he did not remember anything about his statement and answered "I don't know" or "I don't recall" to nearly every question defendant asked him about the statement. 7T125-37. When defendant asked if one of the ways to get out of prison was to give information about a crime, Jenkins stated from what he read and what his wife told him, he "was supposed to be released in six days" and that his wife told him he was only in jail for 60 days. 7T127-28. He did not recall if he was in prison when the crime occurred, if his daughter was friends

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[5] The state was apparently referring to a suppression hearing from the first trial because there was no such hearing before this trial.

with Casey or if he read about the crime in the newspaper with his daughter. 7T128. He did not know what date it was, and he explained that "I normally walk around with a body camera, and then at night, I download it and see what I've done throughout the day." 7T130. When defendant asked if Jenkins had pending charges when he gave his statement, he did not recall and only knew he was in jail because "[m]y wife punched it up on the computer." 7T136. He stated that he was told he was a jailhouse snitch and could not see his grandchildren because it was dangerous. 7T136. Finally, when defendant asked if making up information about people in jail to help himself would make people upset with him, Jenkins stated he did not recall. 7T137.

2. Reviewability. This issue is preserved based on the objections and arguments above. In addition, defendant filed a motion for a new trial and memorandum in support based in part on the admission of Jenkins' statement, which was denied. ST2-5, 27; Clerk Appendix ("CA"), p. 79. To the extent it is not preserved, it can be reviewed under *State v. Golding*, 213 Conn. 233 (1989). There is no question the record is adequate for review and that this claim implicates defendant's constitutional right to confrontation. *State v. Smith*, 289 Conn. 598, 620 (2008).

3. Standard of review. A trial court's decision to admit a statement under *Whelan* is reviewed for abuse of discretion. *State v. Newsome*, 238 Conn. 588, 596 (1996). When determining if the admission of a statement violated a defendant's confrontation clause rights, a reviewing court exercises plenary review. *State v. Simpson*, 286 Conn. 634, 651 (2008). In addition, the factors from *State v. Geisler*, 222 Conn. 672, 684-86 (1992) are considered in deciding if the state constitution offers more protections to citizens than the United States Constitution. These are: "1) persuasive relevant federal precedents; 2) the text of the operative constitutional provisions; 3)

historical insights into the intent of our constitutional forebears; 4) related Connecticut precedents; 5) persuasive precedents of other states; and 6) contemporary understandings of applicable economic and sociological norms, or as otherwise described, relevant public policies." *State v. Patel*, 342 Conn. 445, 466 (2022).

4. It was improper to admit the police statement of Jenkins when he had no memory of making it or of the incidents contained in the statement.

The trial court violated defendant's sixth amendment right to confrontation right as well as abused its discretion when it admitted Jenkins' statement under *Whelan*. Contrary to what the court held, Jenkins was functionally unavailable for cross-examination given his complete lack of memory due to his stroke. This is far different from other cases where a witness suffered memory loss about some but not all details of the incident, or where a witness feigns memory loss.

For a statement to be admitted under *Whelan*, four conditions must be met: (1) the statement is in writing or reliably recorded; (2) the statement or recording is signed or otherwise authenticated; (3) the declarant has personal knowledge of the statement's contents; and (4) "the declarant testifies at trial and is subject to cross-examination." *Whelan*, 200 Conn. at 753; see also Conn. Code of Evid. § 8-5 (1).

"'Beyond evidentiary principles, the state's use of hearsay evidence against an accused in a criminal trial is limited by the confrontation clause of the sixth amendment.'" *State v. Rivera*, 268 Conn. 351, 361 (2004)(cit. omit). The confrontation clause "'bars admission of some evidence that would otherwise be admissible under an exception to the hearsay rule.'" *Id.* at 362 (cit. omit). In *Crawford*, 541 U.S. 36 (2004), the U.S. Supreme Court held that testimonial hearsay is admissible only when the declarant is unavailable to testify

and there has been a prior opportunity to cross-examine the declarant. An individual's right to confrontation should not be left to the "vagaries of the rules of evidence." *Id*. at 61.

"Confrontation means more than being allowed to confront the witness physically." *Davis v. Alaska*, 415 U.S. 308, 315 (1974). Professor Wigmore stated:

> The main and essential purpose of confrontation is to secure for the opponent the opportunity of cross-examination. The opponent demands confrontation, not for the idle purpose of gazing upon the witness, or of being gazed upon by him, but for the purpose of cross-examination, which cannot be had except by the direct and personal putting of questions and obtaining immediate answers.

5 J. Wigmore, *Evidence* § 1395, p. 123 (3d ed. 1940)(emp. orig). Although the defense is not entitled to any cross-examination he might wish, he is entitled to an opportunity for an effective cross-examination. *State v. Lanier*, 347 Conn. 179, 190 (2023).

In *United States v. Owens*, 484 U.S. 554 (1988), the U.S. Supreme Court held that the defendant's sixth amendment right was not violated when an out-of-court identification of the defendant was introduced by a witness who had no memory of the basis for the identification. In that case, the witness was a correctional officer who was brutally attacked and beaten with a metal pipe resulting in a fractured skull and an impaired memory. *Id*. at 556. About a month after the attack, he told an FBI agent that the attacker had been the defendant. *Id*. At trial, he testified about the events leading up to the incident but could not remember seeing his assailant. *Id*. However, he

testified that he clearly remembered identifying the defendant as his assailant to the FBI agent. *Id*.

Holding that the right to cross-examination was not abridged because of the witness's memory loss, the Court referred to its prior decision in *Delaware v. Fensterer*, 474 U.S. 15 (1985), where there was no confrontation clause violation when an expert witness testified as to his opinion but could not recall the basis on which he had formed that opinion. *Owens*, 484 U.S. at 558-59. The *Fensterer* Court had reasoned there was no violation because the defendant had "the opportunity to bring out such matters as the witness' bias, his lack of care and attentiveness, his poor eyesight, and even (what is often a prime objective of cross-examination)…the very fact that he has a bad memory." *Id*. at 559. Based on that rationale, the *Owens* Court stated:

> If the ability to inquire into these matters suffices to establish the constitutionally requisite opportunity for cross-examination when a witness testifies as to his current belief, the basis for which he cannot recall, we see no reason why it should not suffice when the witness' past belief is introduced and he is unable to recollect the reason for that past belief. In both cases the foundation for the belief (current or past) cannot effectively be elicited, but other means of impugning the belief are available. *Id*.

Putting aside the fact that *Owens* was decided prior to *Crawford*, it should not control here because there is a significant difference between *Owens* and this case. Unlike the witness in *Owens* who could testify about the events leading up to the attack, Jenkins did not remember anything about the contents of his statement or that he ever gave a statement to the police. Thus, this was not a situation

where defendant could have challenged the basis for his past belief that defendant had confessed to him. Indeed, the fact that he responded to every question about his belief with "I don't recall" or "I don't know" shows that defendant was deprived of any means of impugning his belief.

Many scholars and commentators suggest that *Owens* is not definitive in cases where there is total memory loss. See Paul F. Rothstein & Ronald J. Coleman, *Confronting Memory Loss*, 55 Ga. L. Rev. 95, 114 & n.117 (2020)(stating *Owens* is the leading U.S. Supreme Court case on memory loss but that it has left many issues unresolved and the Court has never faced a situation where the witness could not recall both the incident and making the statement); Ann M. Murphy, *Vanishing Point: Alzheimer's Disease and its Challenges to the Federal Rules*, 2012 Mich. St. L. Rev. 1245, 1272 (noting *Owens* did not involve total memory loss). While our Courts have also examined cases where a witness claimed memory loss, they are distinguishable. In *State v. Simpson*, 286 Conn. 634, 651 (2008), the defendant claimed that the child complainant was functionally unavailable for cross-examination because she could not remember making certain statements in her videotaped interview, which was admitted into evidence under *Whelan*. In that case, the complainant testified about the details of the various sexual assaults, but she could not remember if there had been any penile penetration. *Id*. at 638-40, 648. However, the defendant was able to conduct an extensive cross-examination about her memory, perception, and the details of her allegations. *Id*. at 654-55. Reasoning that the defendant's confrontation right was not violated because the complainant was present in court and answered questions posed by defense counsel, the Court stated "'[t]he [c]lause does not bar admission of a statement so long as the declarant is present at trial to

defend or explain it.'" *Id*. at 653 (quoting *State v. Pierre*, 277 Conn. 42, 78 (2006)(emp. added)).

In *Pierre*, the trial court's decision admitting the police statement of a witness under *Whelan* was upheld after he testified he did not remember having a discussion with the defendant's accomplices as he had claimed in his statement. *Id*. at 56. On appeal, the defendant challenged the admission of the statement on several grounds, including that it violated his state and federal rights to confrontation. *Id*. at 53. Not only did the witness in *Pierre* claim he did not remember hearing the information he described in his statement, but he also testified he never reviewed it and that he merely signed it because of police pressure. *Id*. at 79. The *Pierre* Court concluded that because the witness was present and had been subject to cross-examination, he was not functionally unavailable due to a lack of memory or unwillingness to testify as the defendant claimed. *Id*. at 84-86. Significantly, the defendant had ample opportunity to cross-examine the witness, and was able to ask questions and elicit answers about the witness's motive, the particulars about him giving the statement, and that his "own legal problems may have given him an incentive to provide police with information in exchange for the ability to negotiate a more favorable sentence." *Id*. at 85-86. The Court also agreed with the rationale of *Owens* that "the right to cross-examination does not imply a right to cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." *Id*. at 86. Consequently, even if a witness claimed memory loss, as long as he was present in court, took an oath to tell the truth and answered questions put to him by defense counsel, there was no *Crawford* violation. *Id*.

Finally, in *State v. Cameron M.*, 307 Conn. 504, 513 (2012), the Court sanctioned the admission of a forensic interview videotape of the

child complainant who testified she could not remember anything from when she was three years old, which was when the sexual abuse allegedly occurred. While she remembered being interviewed by the social worker, she did not remember the content of the interview. *Id.* On appeal, the Court rejected the defendant's claim that the video was inadmissible under *Crawford* because the complainant was functionally unavailable because of her memory loss. *Id*. at 515-16. It stated *Simpson* controlled, and that unlike in *Simpson*, the defendant elected not to cross-examine the complainant despite having the opportunity to do so. *Id*. at 516-21.

The Court also rejected the defendant's claim that the video was inadmissible because *Whelan* only applied to instances of feigned or evasive memory losses, and not "ordinary lapses such as may have been experienced by the victim herein." *Id*. at 525. It again stated that the issue was controlled by *Simpson* where the child complainant in that case testified that she could not remember the defendant abusing her, and therefore, the admission of her forensic interview under *Whelan* was proper. *Id*. at 527-28. The Court concluded that because the complainant in *Cameron M.* remembered going to the interview, but not the abuse itself or the content of the interview, the court did not abuse its discretion by admitting the video. *Id*. at 528.

Unlike in the above three cases, Jenkins had complete memory loss about the incident and the interview. He did not simply forget one detail about his alleged conversation with defendant like the complainant in *Simpson* who did not remember one detail about the sexual assaults but remembered several others. Jenkins also did not remember giving his police statement, in contrast to the witnesses in *Cameron M.* and *Pierre*. The right to confrontation is meaningless if one is considered available for cross-examination just by his mere presence and ability to answer questions unrelated to the issue at

hand. The "mere fact that a witness is called to the stand and placed under oath does not mean that the witness is necessarily available for cross-examination." *State v. Hutton*, 188 Conn. App. 481, 504 (2019).

The situation in this case is analogous to the one in *Hutton* where the witness refused to answer any questions at trial despite the court ruling that he did not have a valid fifth amendment claim. *Id.* at 491. Based on his refusal to give verbal answers to any questions, the court allowed his written and videotaped statements to the police to be admitted under *Whelan* and *Crawford*. *Id.* at 493-95.

After doing an exhaustive review of post-*Crawford* cases as well as out-of-state cases facing the same issue, the Appellate Court concluded that the admission of the statements violated the defendant's right to confrontation because despite his presence at trial, the witness was functionally unavailable. "Cross-examination 'cannot be had except by the direct and personal putting of questions *and obtaining immediate answers*.'" *Id.* at 504 (emp. orig., cit. omit). "If a witness does not provide even a single answer while on the witness stand, the defendant is completely deprived of any opportunity he might have to probe and expose infirmities in the witness' prior statement or even the reasons behind the witness' recalcitrance or lack of memory." *Id.* at 512. The court noted its holding was consistent with Rule 804 (a)(2) of the Federal Rules of Evidence which provides that a witness is unavailable if he refuses to testify about the subject matter despite a court order to do so. *Id.* Thus, the witness was unavailable because he refused to provide any information about the shooting or the circumstances surrounding his statements – the "subject matter" at hand. *Id.* at 513.

While the *Hutton* Court distinguished the recalcitrant witness situation with the situation where witnesses suffered from memory loss, it did so on the basis that with memory loss

witnesses, the jury could still judge credibility by the witness' responses to questions and his demeanor. *Id*. at 513-18. However, that is not true in the present case. Jenkins' memory loss was real and there was no way for the jury to evaluate his credibility because he could not answer any questions pertaining to the subject matter at hand. In other words, he was unable to "defend or explain" his statement as required by the confrontation clause. See *Pierre*, 277 Conn. at 78 ("[t]he [confrontation clause] does not bar admission of a statement so long as the declarant is present at trial to defend or explain it").

> If the witnesses are completely unable to provide testimony *regarding the factual matter* for which they are being called, due to the passage of time and withering memory not attributable to any action by the defendant, the defendant's ability to cross-examine the witnesses may be so compromised as to require that their prior testimony be excluded under the Confrontation Clause.

United States v. Ausby, 436 F. Supp. 3d 134, 151 n.5 (D.D.C. 2019)(Emphasis added).

In addition, it is notable that Federal Rule of Evidence 804(a)(3) considers a witness to be unavailable if he "testifies to not remembering the subject matter." Just as Rule 804(a)(2) provided support for the court's holding in *Hutton*, subsection (a)(3) similarly provides support for the conclusion that Jenkins was functionally unavailable in this case. See *State v. Bryant*, 202 Conn. 676, 694 (1987)(using definition set forth in Fed. R. Evid. 804(a) to determine unavailability of declarant as witness).

Finally, defendant's sixth amendment right was violated even though he had the opportunity to cross-examine Jenkins at the first trial and the probable cause hearing before that trial. What was admitted into evidence was not his prior testimony, it was his police statement. The jury was unaware of any prior cross-examination, and therefore, was unaware of any motivation of Jenkins to falsify his statement to the police. The "prior opportunity" rule

> exists because the opportunity to cross-examine the witness at the first trial ensures that "the substance of the constitutional protection is preserved."...When, at the second trial, the testimony includes the admissions that the defendant elicited in the first cross-examination, it gives "the trier of fact a satisfactory basis for evaluating the truth of the prior statement."

Miller v. Genovese, 994 F.3d 734, 742 (6th Cir. 2021)(cits. omit). Jenkins was unavailable at *this* trial, and defendant could not effectively challenge the validity of his statement, which had not been subject to cross-examination, or his credibility.[6]

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[6] While defendant's confrontation right might not have been violated if the testimony of Jenkins from the first trial was admitted instead of his police statement, that did not happen, and it does not negate the fact that a violation occurred. Further, before it could be admitted, the opportunity for cross-examination must have been meaningful. Here, it is unknown whether there was a meaningful opportunity to cross-examine Jenkins at the prior hearings. At least one court has held that the preliminary hearing testimony of an unavailable witness at the defendant's second trial violated his confrontation right even though defense counsel had cross-examined the witness at the preliminary

5. Defendant's constitutional right was violated under the state constitution.

Alternatively, if defendant's sixth amendment right was not violated, he asks this Court to adopt a rule under our state constitution that a witness is not considered available for cross-examination if, due to a valid medical condition, he has no memory of the incident and making an out-of-court statement about the incident. Defendant does not claim that the state constitution provides a broader confrontation right than the federal constitution. Rather, he asks this Court to provide an additional layer of protection under the state constitution to prevent the risk that a defendant will be deprived of his confrontation right in situations such as these.[7] This Court has the "'duty not only to craft remedies for actual constitutional violations, but also to craft prophylactic constitutional rules to prevent the significant risk of a

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hearing, reasoning that the focus of the cross-examination might have been different than what it would have been at the trial. *People v. Torres*, 962 N.E.2d 919, 932 (Ill. 2012)("what counsel *knows* while conducting the cross-examination may, in a given case, impact counsel's ability and opportunity to effectively cross-examine the witness at the prior hearing"). In the present case, defense counsel stated there was additional information that came to light after the first trial which he had not been able to cross-examine Jenkins on, 1T115, thus raising the question of whether his prior cross-examination of him was meaningful.

[7] Defendant's claim is limited to the situation involving a total memory loss due to some sort of physical or medical condition. It does not pertain to situations where memory loss is feigned or where the witness only remembers the incident or remembers making the statement, but not both.

constitutional violation.'" *State v. Purcell*, 331 Conn. 318, 342 (2019)(cit. omit). Because a defendant can obtain no meaningful information when a witness is devoid of memory and has no means for the jury to accurately judge credibility, such witnesses should be considered functionally unavailable for purposes of cross-examination.[8]

a. The textual approach and related Connecticut precedent.

These factors may be considered "together because analysis of the text of our constitution necessarily includes [this Court's] prior interpretations of the breadth of those constitutional provisions." *State v. Lockhart,* 298 Conn. 537, 551 (2010). The "language [of our state confrontation clause] is nearly identical to the confrontation clause in the sixth amendment," and "[t]he provisions have a shared genesis in the common law." *Id.* at 555. This Court has also "acknowledged that the principles of interpretation for applying these clauses are identical." *Id.*; *State v. Gaetano,* 96 Conn. 306, 310 (1921).

Although this Court has not interpreted our confrontation clause broader than the federal clause, *Lockhart*, 298 Conn. at 555, 458, it has not foreclosed that possibility. See *State v. Patel*, 342 Conn. 445, 465 (2022)(noting that in future cases, Court might depart "from the federal standard under appropriate circumstances"). In addition, this Court has recognized that "[c]onfrontation [c]lause considerations are especially cogent when the testimony of a witness is critical to the prosecution's case against the defendant." *State v. Lebrick,* 334 Conn. 492, 512 (2020)(int. quot. & cit. omit). Notably, our courts recognize that the confrontation clause guarantees an opportunity for *effective*

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[8] Although the *Purcell* Court suggested that the issue of whether to adopt a prophylactic rule might not require analysis under *Geisler*, defendant has nevertheless addressed the factors below.

cross-examination which "is preserved if defense counsel is permitted to expose to the jury the facts from which jurors, as the sole triers of fact and credibility, could appropriately draw inferences relating to the reliability of the witness." *State v. Baltas*, 311 Conn. 786, 799 (2014)(int. quot. & cit. omit). Our courts have also consistently found confrontation violations when there has not been an opportunity for meaningful cross-examination. See e.g. *id*.; *State v. Juan A. G.-P.*, 346 Conn. 132, 168 (2023); *State v. Rolon*, 257 Conn. 156 (2001); *State v. Santiago*, 224 Conn. 325, 331-334 (1992).

b. Federal and sister state decisions.

The relevant federal precedent has been discussed above in subsection 4. Notably, in *Owens*, Justices Brennan and Marshall dissented stating that the majority's decision "reduces the right of confrontation to a purely procedural protection, and a markedly hollow one at that." *Owens*, 484 U.S. at 565 (Brennan, J., dissenting). The dissent noted that its prior precedents construed the right of confrontation to be "'an opportunity for *effective* cross-examination,'" and not simply a "right to question live witnesses, no matter how futile that questioning might be." *Id*. at 567 (emp. orig). Rather, the constitutional admissibility of the statement "should depend on whether the memory loss so seriously impedes cross-examination that the factfinder lacks an adequate basis upon which to assess the truth of the proffered evidence." *Id*. at 570. "Because I believe the Confrontation Clause guarantees more than the right to ask questions of a live witness, no matter how dead that witness' memory proves to be, I dissent." *Id*. at 572.

One state court has ruled that admitting a prior statement when the witness testifies but has memory loss violates its state constitution. In *Goforth v. State*, 70 So.3d 174, 182 (Miss. 2011), the trial court admitted the police statement of an eyewitness who had

suffered complete memory loss due to an automobile accident and did not remember the incident, that he knew defendant, and that he gave a statement to the police. He could only acknowledge that it was his signature on the statement and "'guess'" that he had written it. *Id*. Based on footnote 9 in *Crawford*, which states that the confrontation clause does not bar the admission of a statement as long as the declarant was "'present at trial to *defend or explain it,*'" the *Goforth* Court held that mere presence was not enough. *Id*. at 186 (emp. orig.)(cit. omit). Because the witness's "total lack of memory deprived [the defendant] any opportunity to inquire about potential bias or the circumstances surrounding [the] statement," its admission violated the defendant's confrontation right under the Mississippi Constitution. *Id*. at 186-87.

The dissent in *State v. Fields*, 168 P.3d 955 (Haw. 2007) likewise interpreted footnote 9 as requiring more than mere presence at trial to satisfy the confrontation clause. In that case, the Hawaii Supreme Court held that under the state constitution, the admission of the victim's hearsay statements to a police officer was not improper even though she could not remember speaking to the officer or what she told him. *Id*. at 980. In a lengthy dissent, Justice Acoba stated:

> Addressing the underlying premise of footnote nine, it is arguable that a witness who is present to testify but cannot recall the hearsay statement in issue can, in any meaningful way, "defend it," much less "explain it."…In this case Staggs was not able to "defend" her hearsay statement or "explain it," because she did not remember it…. The question is not whether a defendant is guaranteed a "successful cross-examination,"…but whether the opportunity

> afforded to cross-examine a witness is a real one or not. Plainly, a witness who cannot remember cannot be cross-examined about what cannot be recollected,…and, hence, cannot be said to be confronted under the Hawaiʻi Constitution.

Id. at 1000 (Acoba, J., dissenting). He further remarked on the incongruity of being "unavailable" as a prosecution witness, thus allowing the statement to be admitted, while simultaneously being "available" for cross-examination based on the same memory loss that made her unavailable to the state. *Id*. at 1004.

c. The historical approach.

This Court in *State v. Torello*, 103 Conn. 511, 513 (1925) explained that our confrontation clause "did not establish a new principle in criminal procedure; it merely secured an old principle whose earlier violation in England in political prosecutions had led to the incorporation of a similar provision in every state Constitution up to this time." It stated that the right was to question witnesses face to face, and that the testimony of any witness not produced in court was prohibited. *Id*. Chief Justice Zephaniah Swift in his *Digest of the Law of Evidence* in 1810 stated, "on cross-examination '[t]he parties are to be permitted to put such questions as are calculated to draw out the truth according to the character, and conduct of witnesses.'" *State v. Harris*, 227 Conn. 751, 776 (1993)(Berdon, J., dissenting). Notably, he endorsed the policy of requiring the physical presence of witnesses at criminal trials where they would be subject to cross-examination, and if a defendant was unrepresented by counsel, it was "the duty of the court to ask any questions which they think may tend to [the defendant's] benefit." 2 Z. Swift, *A Digest of the Laws of the State of Connecticut* (Rev. 1862) p. 437. Decisions of this Court confirm that the historical purpose of our confrontation right was to preserve a

defendant's right to cross-examine accusers. See *Torello*, 103 Conn. at 520; *Gaetano*, 96 Conn. at 311-12; *Turgeon v. Woodward*, 83 Conn. 537, 540 (1910)(describing cross-examination as "the greatest ally of the truth").

d. Policy concerns.

Principles of fairness and justice dictate that when a witness has a complete memory loss, he cannot be considered available for cross-examination under our state constitution. A defendant simply cannot obtain any meaningful information from that witness, which deprives the jury of any means to judge the reliability of the information and the witness's reasons for making the statement. "It is well settled that a defendant's constitutional right to confront and cross-examine witnesses against him includes the opportunity to explore the witness' mental capacity to observe, recollect and narrate an occurrence." *State v. Morant*, 242 Conn. 666, 674 (1997). While a jury might be able to judge credibility if the witness remembers the incident or making the statement, see *Pierre*, 277 Conn. at 85, that is not true when the witness forgets both. If the right to face-to-face confrontation is to have any meaning, it must be face to face with someone who can explain his statements.

It is significant that the sixth amendment right to confrontation evolved due to the practice of using ex parte depositions against defendants without them having a prior opportunity to question the declarant.

> Prosecuting attorneys would frequently allege matters which the prisoner denied and called upon them to prove. The proof was usually given by reading depositions, confessions of accomplices, litters, and the like; and this occasioned frequent demands by the prisoner to have his

"'accusers," i.e. the witnesses against him, brought before him face to face.

California v. Green, 399 U.S. 149, 156–57 (1970)(int. quot. & cit. omit). That is similar to what happened here. The state used Jenkins' police statement against defendant – something that Jenkins could not even verify was one that he made, much less why he made it. Thus, defendant was deprived of the opportunity to show any bias or motive Jenkins might have had, which is the key for a jury to determine credibility. Surely a defendant should be protected by our state constitution in such a scenario, given that these protections were instituted to prevent this very thing from happening.

When rules threaten to extinguish the rights of our citizens, our Courts strive to protect those rights. See *State v. Purcell*, 331 Conn. 318 (2019)(creating additional layer of protection under Connecticut Constitution when defendant's request for lawyer during interrogation is ambiguous); *Connecticut Coalition for Justice in Educ. Funding, Inc. v. Rell*, 295 Conn. 240 (2010)(Connecticut's education clause guarantees right in public schools to particular quality of educational opportunities); *State v. Strickland*, 243 Conn. 339 (1997)(defendant has right of allocution during disposition phase of probation revocation hearing); *State v. Ferrell*, 191 Conn. 37 (1983)(right to counsel meaningless if defendant cannot discuss case with attorney in private). The right to confrontation should similarly be protected when a witness has total memory loss. Otherwise, it is simply a hollow shell.

6. The statement was inadmissible under ***Whelan.***

Finally, if this Court concludes there was no constitutional violation by admitting the statement, the trial court abused its discretion because defendant was functionally unavailable not only for cross-examination, but also for direct examination. The rationale of

Whelan is that such statements are admissible because the jury could observe the witness "explain the discrepancies between the earlier statements and his present testimony, or to deny that the earlier statement was made at all." *Whelan*, 200 Conn. at 750. In *Whelan*, the witness had been in an automobile accident and claimed his memory loss resulted from his being in a coma, however, he did not have total memory loss. He remembered going to the bar on the night of the incident, that someone had gotten stabbed, that the people involved were members of Hell's Angels and that they reminded him of Mutt and Jeff. *Id*. at 746. He also acknowledged that the police statement was his and that it had his signature on it, although he could not vouch for its accuracy. *Id*.

In holding that the prior statement was admissible, the Court noted that the witness "was extensively examined by both the state and defense counsel concerning the discrepancies between the prior statement and his in-court testimony." *Id*. at 755. Consequently, the jury had an adequate opportunity to observe the demeanor of the witness, hear his explanations and judge his credibility. *Id*.

The facts in *Whelan* are a far cry from the facts in this case. First, as explained above, Jenkins did not remember the incident, that he knew defendant, and that he ever gave a written statement. Unlike the witness in *Whelan*, he could not explain any discrepancies between the out-of-court statement he did not remember making and his testimony that he never gave. Second, he never acknowledged that it was his signature on the statement, and the state never asked him if it was there. Rather, Detective Gomes previously testified that Jenkins reached out to him and that he met with him and took a written statement, which he identified as state's exhibit 81 for identification. 5T25-26. There was no testimony that Jenkins was the person who signed or initialed it. Thus, not only is this case different than the facts

of *Whelan*, but the facts are also different than the other memory loss cases (*Pierre, Simpson, Cameron M.*) because in those cases the witnesses acknowledged making their statements or it was apparent the statements were their statements because they were recorded on video. The situation here simply did not fall within *Whelan,* and it was an abuse of discretion to conclude otherwise.

7. Defendant was harmed by the admission of the statement.

The admission of the statement was harmful error regardless of whether this was constitutional error or an abuse of discretion. First, the statement was an extremely important piece of evidence and most likely the strongest evidence the state had against defendant. In fact, the prosecutor relied on it at closing argument to tie defendant to the crime by pointing out what Jenkins said in the statement, and that he would have had no way of knowing those details without defendant telling him. 11T29-30, 69-70. He then ended his argument by referring to the statement again.

> He confesses in detail to Tywan Jenkins, a confession containing details that nobody else would know. He then confesses again to Danny Vazquez. He tries to solicit an alibi, he lies to police. The State has met its burden of proof beyond a reasonable doubt and we ask to find the defendant guilty. 11T76.

The prosecutor also argued there was evidence that Jenkins did not receive a benefit from the state, 11T69; however, defendant obviously could not challenge this through the cross-examination of Jenkins.

Second, the state's case was not airtight. There was evidence supporting defendant's third party culpability defense that Eddy was

the culprit, which the court instructed on. 11T100. There was evidence suggesting that Eddy was jealous of Casey's relationship with defendant. For instance, even though it was normal for defendant to hang out at Casey's apartment, Eddy told Casey to send him home that night, and he also called defendant and told him it was late and that he would see him the next day. 2T42-43. There was also evidence that he flew into a jealous rage when he saw defendant and Casey driving together in a car shortly before the murder and was upset that she had a relationship with him. 10T15-18.

In addition, Wesley Hilyard testified that when he went to Casey's apartment around the time of the murder, Eddy answered the door and had gloves and blood on his hands. 9T36-38. The next day Hilyard learned that she had died. 9T38. He was concerned after speaking with Eddy and was afraid to be around him since then. 9T44-45.

Furthermore, right before she was murdered, Casey threatened to throw out Eddy's "shit," which could have meant his drugs, which were his livelihood. 2T63, 86-89. Although he claimed he stayed overnight at Baptist's apartment, he texted Casey that he was about to come back to her apartment. 2T86. Notably, the first time Eddy called the police when Casey was missing, he used a fake name. 2T33. It was also Eddy who informed police that defendant had been at the apartment that night. 2T44-45. They wasted no time and arrested defendant just a few hours after Casey's body had been found. 3T71.

While police testified that Casey's blood was on a pair of defendant's jeans found in a duffel bag that Indira Gomes told him defendant left in her car, Indira disputed that and testified the police told her it was defendant's bag. 5T20-23, 35; 6T25. She testified she assumed it was defendant's bag although she did not see him put it in her car. 6T22-27. She also testified that Gomes became aggressive with

her during the interview when she would not say that defendant left the bag in her car, that she felt threatened, and that what was in her statement was not what she told the police. 6T30-34, 36-37.

Overall, Jenkins' statement was the strongest piece of evidence the state had against defendant, and its admission was not harmless. "A defendant's confession is 'probably the most probative and damaging evidence that can be admitted against him.'" *Arizona v. Fulminante*, 499 U.S. 279, 292 (1991); see also *State v. Culbreath*, 340 Conn. 167, 192 (2021)(confession is powerful evidence).

C. *Whelan* should not apply when a witness has total memory loss.

Because admitting a statement when a witness has total memory loss contravenes the intent of *Whelan*, defendant asks this Court to invoke its supervisory powers to create a rule that *Whelan* does not apply in such situations. Not only is such a witness unable to explain any discrepancies between his prior statement and his testimony, but when a declarant has actual memory loss and is not trying to thwart justice or feigning memory loss, there is nothing inconsistent about his statement.[9]

1. The use of this Court's supervisory powers is appropriate.

There is no debate that "[a]ppellate courts possess an inherent supervisory authority over the administration of justice." *State v. Lockhart*, 298 Conn. 537, 576 (2010); Conn. Prac. Book § 60-2. Our

[9] Defendant does not claim that the court abused its discretion on the ground that the statement was not inconsistent, as trial counsel did not make that claim below. However, this argument should be considered in determining whether an exception to *Whelan* should apply in these types of situations.

Courts have invoked their supervisory powers to address matters of utmost seriousness affecting not only the integrity of a particular trial but for the perceived fairness of the judicial system as a whole. *State v. Valedon*, 261 Conn. 381, 386 (2002). Although the use of supervisory powers is an extraordinary remedy, *State v. Hines*, 243 Conn. 796, 815 (1998), it has been invoked to "enunciate a rule that is *not constitutionally required* but that [the court] think[s] is preferable as a matter of policy." *State v. Rose*, 305 Conn. 594, 608 (2012)(int. quot. & cit. omit, emp. orig). This Court has used its supervisory authority to guide trial courts in the administrative justice of all aspects of the criminal process and there is no rule barring the use of such authority to craft a rule beyond the constitutional minimum. *Id*. at 607. Because a defendant is unable to effectively cross-examine a witness who does not remember the incident or giving a statement, policy reasons and principles of fairness dictate that the out-of-court statement should not be admitted under *Whelan*.

2. Adequate cross-examination is impossible if a witness has total memory loss.

As explained above, the rationale of *Whelan* simply does not apply when a witness cannot remember anything about the issue at hand or even giving a statement about it. In addition, the prior statement is not inconsistent because the witness has not refuted the statement at trial. Many courts recognize a distinction between a witness with a feigned lack of memory and someone with legitimate memory loss in determining whether a prior inconsistent statement is admissible.[10] See *United States v. Mornan*, 413 F.3d 372, 379 (3rd Cir.

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[10] See also *Mitchum v. State*, 345 So.3d 398, 402 (Fla. App. 2022); *Wiley v. Commonwealth,* 348 S.W.3d 570, 578 (Ky. 2010); *Commonwealth v.*

2005)(acknowledging prior case law that statement should not be admitted where memory loss is genuine and holding where memory loss was not genuine, statement was admissible as prior inconsistent statement under federal rules); *State v. Hausner*, 280 P.3d 604, 620 (Ariz. 2012)(where no evidence memory loss was feigned, improper to admit statement as prior inconsistent statement). A "trial court may admit prior inconsistent witness statements so long as 'the witness feigns a loss of memory *on the stand*.'" *State v. Slaughter*, 96 A.3d 246, 253 (N.J. 2014)(emp. orig.). When a witness has actual memory loss, there is no inconsistency between their testimony and the out-of-court statement. As one court explained:

> A witness who professes not to remember an event in an effort to avoid testifying about it in fact remembers it. He is able to testify about the event, but is unwilling to do so. Logic dictates that inconsistency may be implied in that testimony because by claiming that he does not remember an event that he does remember, the witness is denying, albeit indirectly, that the event occurred….Inconsistency may be implied from partial testimony, i.e., an omission, because it is reasonable to infer from the witness's ability to testify partially that he has the ability to testify fully but is unwilling to do so….By contrast, a witness who truly is devoid of memory of an event lacks the ability to testify fully and accurately about it, not the willingness to do so.

Trotto, 169 N.E.3d 883, 900 (Mass. 2021); *State v. Amos*, 658 N.W.2d 201, 204-06 (Minn. 2003).

> His avowal of no memory of the event is not an implied denial; rather, it is a true statement of lack of memory.

Corbett v. State, 746 A.2d 954, 963 (Md. Spec. App. 2000).

Given this logic, the parameters for allowing this type of evidence to come in under the *Whelan* exception are simply inapplicable. There is no inconsistent statement – the declarant has refuted nothing. Nor is there any possible way for the declarant to explain his prior statement, and no way for the jury to ascertain if he was telling the truth at the time the statement was made. Accordingly, there should be a rule that out-of-court statements cannot be admitted under *Whelan* in these circumstances.

D. The trial court erred in admitting the unreliable testimony of jailhouse informant Danny Vazquez.

The trial court's finding that the testimony of jailhouse informant Danny Vazquez was reliable under Gen. Stat. § 54-86p was severely flawed. Vazquez is the embodiment of an untrustworthy witness – he contacted the state after defendant's first trial when the facts of the case were publicly available, and only managed to give vague details about what defendant allegedly told him. He clearly wanted a deal – he wrote the state's attorney a letter indicating he had information about two murder cases and wanted to know how the state could help him if he helped the state. In addition, he was a serial informant and was helping the state in two other homicide cases around the time he wrote the letter, and he also worked as a confidential informant for the Department of Corrections. If there was ever a person whose testimony should be precluded from testifying under the statute, it was Vazquez.

1. Specific facts: Defendant filed a motion to exclude the testimony of Vazquez, as well as a memorandum in support, claiming that his testimony should be excluded under Gen. Stat. § 54-86p and the rules of evidence because it was unreliable.[11] CA54. The court held an evidentiary hearing on the motion and later denied it on the third day of trial. 3T2; see CA57 (court's memorandum of decision).

At the hearing, Vazquez testified he first contacted the state by sending a letter to the state's attorney's office in February 2021 (after the first trial) stating that he had information about the case. MT41-42; st. ex. 1 (letter). This was shortly after he received a sentence of fifteen years of imprisonment, suspended after 8 years, plus five years of probation after pleading guilty to impersonating a police officer, third degree burglary, third degree robbery, second degree larceny and credit card theft. MT50, 54, 82. The state contacted him on March 4, 2022, about a month before the evidentiary hearing. MT42.

Vazquez testified he knew defendant because they were in the same housing unit at Corrigan Correctional Center in February 2019. MT43. He and defendant became friends and they talked and played chess together about three times a week. MT69-70. They were together about two or three hours a day. MT48.

According to Vazquez, sometime in the late summer or fall of 2019, defendant mentioned Casey and told Vazquez, "I killed that bitch." MT44-45. Defendant did not tell him how he killed her, but he discussed the evidence against him including the blood on his shoelaces or sneakers, and that the police found blood on a mop which

[11] Defendant also claimed that Vazquez was working as a government agent and his testimony would violate defendant's constitutional and statutory rights as well as *Massiah v. United States*, 377 U.S. 201 (1964). However, that claim is not being pursued on appeal.

he had used when he tried to clean up the blood. MT45-46. Defendant thought the police had set him up because they claimed they found a cell phone hidden in a wall in a bathroom by pinging it, which defendant said was impossible because he had removed the SIM card. MT46. At the time, Vazquez did not know whose phone it was. MT46. He also testified defendant said that another person was in the apartment that night although he was not sure if it was when Casey was killed. MT47. That person was Hippolyte ("PK") who was also an inmate in the unit at the time. MT47. Defendant told Vazquez that the murder occurred around two or three a.m. MT51. He also testified that defendant continuously referred to Casey as a bitch and a prostitute. MT48.

Vazquez claimed there were no promises for his testimony but admitted he was hoping to get some time off his sentence for his cooperation. MT48-49. He was unhappy with the sentence he received in January 2021 and hired an attorney in August 2021 to file a motion for sentence modification, although he did not think it had been filed at the time he testified. MT49, 54-55. He also claimed he did not know that defendant's conviction had been overturned, and although he had seen some television coverage about defendant's case, he did not think it was before he wrote to the state. MT51-52, 60. He claimed he contacted the state because it was the right thing to do. MT56.

The 6-page letter that Vazquez wrote to the state's attorney, which the court considered when deciding the motion, 3T1, paints a different portrait of Vazquez. St. ex. 1. There, he mentioned that he knew something about defendant's case as well as another homicide case and why the victim (Anthony Williams) in that case was murdered. *Id*. He also mentioned that he was a confidential informant for the Department of Correction ("DOC"). *Id*. He proceeded to explain why he had committed the crimes he was serving a sentence for and

blamed it on his addiction to prescription drugs he was taking for mental health issues. *Id*. He admitted that what he did was wrong but that the trial judge did not have to throw the book at him. *Id*. He explained he had seen the prosecutor in the Dulos case on television who stated, "he was 'open minded' about her case and anyone who provides information." *Id*. After stating he knew nothing about that case, he wrote "[b]ut is he open minded to an inmate who has information on possibly 2 homicides?" *Id*. He ended the letter by stating "[h]ow can the State help me, if I help the State? I'm open for discussion." *Id*.

Vazquez testified that he began providing information to DOC in June 2020 about criminal activity committed by inmates in the prison. MT50, 72. He was given a PIN to report the information to DOC. MT50, 74. Vazquez claimed he did this for safety reasons, and he received no benefits other than being able to choose his own cellmate. MT73-74.

Vazquez had also provided information to the police and the state in other cases where inmates allegedly admitted killing someone. MT65. In one case he spoke to the Vernon police around January 2020. MT66-67. In another case which was pending, he gave a statement to the prosecutor and Waterbury police around November 2021. MT66-68.

During argument, defendant stated that Vazquez was unreliable because he came forward after defendant's conviction was overturned, which was July 16, 2019. 1T97-98. See *State v. Jacques*, 332 Conn. 271 (2019). At that point, the facts "about how the crime occurred and important details about the crime [were available] including information that Mr. Vazquez provided to the police and to the Court." 1T97. He argued that Vazquez only gave vague details that anyone could have discovered. 1T100-02. In addition, the DOC records showed that he and defendant were not even in the same prisons in 2019.

1T99. He also noted that the crimes Vazquez committed were crimes involving dishonesty, such as impersonating a police officer and larceny. 1T105.

In its memorandum of decision, the court listed the factors set forth in Gen. Stat. 54-86p and concluded that the state made a prima facie showing that Vazquez's testimony was reliable. CA62-63. This was for the following reasons:

1) Although Vazquez provided "rather general" information, the details were consistent with the investigation and corroborated other evidence, particularly that blood was found on defendant's sneakers, he tried to clean up blood with a mop, and that Casey's cell phone was recovered and was missing a SIM card. CA64.

2) Vazquez provided the information before any state involvement and was not cooperating pursuant to any agreement or promise and merely hoped that his sentence would be modified. *Id*. He "sent a letter asking to speak with a state representative without having first been contacted by authorities and without the lure of any promise or leniency in exchange for information." *Id*.

3) There was evidence confirming that defendant and Vazquez were both housed in G-Pod at Corrigan, "the time of year and housing unit of which the informant was quite certain." *Id*.

4) Although Vazquez's convictions were crimes involving truth and veracity, those took place at a time when he was suffering from a drug addiction. *Id*.

5) Although Vazquez spoke to the authorities on two other matters, he "has not provided any additional jailhouse testimony against other defendants." CA65.

Consequently, defendant's motion was denied.

At trial, Vazquez claimed for the first time that he met defendant in 2020, and not 2019 as he previously testified. 8T30. He stated he just suddenly remembered this and had not reviewed any DOC records to determine it. 8T30. Contrary to what he testified to at the hearing, he admitted that he filed for sentence modification prior to knowing he would be involved with defendant's trial. 8T32. He then testified about defendant's purported admissions about killing Casey.[12] 8T35-36.

2. Reviewability: This issue is preserved based on the written motion and memorandum, and the arguments made by counsel at the hearing.

3. Standard of review: The trial court's decision to admit evidence is reviewed for abuse of discretion. *State v. Armadore*, 338 Conn. 407, 453 (2021).

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[12] Before Vazquez testified, defendant renewed his motion to preclude his testimony based on his new claim that he was housed with defendant in 2020, a fact the state disclosed to defendant that morning. 8T6-8. He argued his cross-examination of Vazquez was based on the fact he originally claimed it was in 2019, and that the state had an obligation to correct this mistake. 8T9. The court denied the motion and also found there was no *Brady* violation as defendant claimed. 8T17.

4. The testimony of Vazquez was utterly unreliable and the court should not have allowed him to testify.

The trial court was wrong that the state made a prima facie showing that Vazquez's testimony was reliable. To the contrary, all the reasons the court cited in support of its decision show his testimony was unreliable. The court violated the mandatory provisions of section 54-86p(b) by admitting his testimony.

Recognizing the inherent problems with jailhouse informant testimony and the ease with which such testimony can be fabricated, our legislature enacted Gen. Stat. § 54-86p requiring the court to hold a preliminary hearing, if requested by the defendant, before a jailhouse informant can testify. Gen. Stat. § 54-86p(a). The burden is on the state to prove a prima facie showing that the testimony of the witness is reliable, and if the state does not meet this burden, the court "shall" exclude the testimony. Gen. Stat. § 54-86p(b). The statute sets forth certain factors the court may consider when determining if the testimony is reliable. These are:

> (1) The extent to which the jailhouse witness's testimony is confirmed by other evidence;
> (2) The specificity of the testimony;
> (3) The extent to which the testimony contains details known only by the perpetrator of the alleged offense;
> (4) The extent to which the details of the testimony could be obtained from a source other than the defendant; and
> (5) The circumstances under which the jailhouse witness initially provided information supporting such testimony to a sworn member of a municipal

> police department, a sworn member of the Division of State Police within the Department of Emergency Services and Public Protection or a prosecutorial official, including whether the jailhouse witness was responding to a leading question.

Gen. Stat. § 54-86p(a).[13]

Regarding the first factor, although Vazquez's testimony about the state's evidence against defendant – the blood on defendant's shoe, the mop at the crime scene and the cell phone in the bathroom wall – was accurate, that does not prove reliability because those details were readily available to anyone who had read this Court's earlier decision from the first trial. Vazquez simply repeated what was publicly available.

While the trial court gave importance to the fact that Casey's cell phone was missing a SIM card as defendant purportedly mentioned to Vazquez, CA64, that detail is not even accurate. State's exhibit 2, which the court considered as part of its ruling, indicated that Casey's cell phone had a micro SIM card inserted. During argument on the motion, the state had claimed there was no prior information about defendant removing the SIM card at the time of the first trial, and that this was new information provided by Vazquez. 1T110. The state "went back and checked and there is a report that is in evidence from the forensic lab that indicates it wasn't the SIM card that was taken out, but the SD card that was taken out and was missing from the phone." *Id*. The state remarked that the SIM

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[13] There appear to be no reported cases challenging a court's admission of jailhouse informant testimony under this statute.

card and SD card "look strikingly similar, and the accused probably mistakenly took out the SD card, not knowing the innerworkings of the cellphone." 1T110-11. While the court presumably relied on this information when making its finding, it never mentioned the fact that the SD card was missing as opposed to the SIM card.

The second factor does not support the court's conclusion at all. The state and the court, by their own admissions, agreed that Vazquez provided vague and general details. See 1T108 (state argument that defense attorney "is correct is [sic] saying that some of his facts are vague"); CA64 (court notes information provided was "rather general").

The third factor does not show the testimony was reliable for the same reason the first factor does not. Vazquez only repeated details that were available to the public. His claim that defendant removed the SIM card from the cell phone is inaccurate, and thus, he did not provide any details that were only known to the perpetrator.

The fourth factor strongly shows the testimony was not reliable. Again, defendant had already gone through a trial and there was a published decision providing the details about the mop, the blood on the shoes and that the police found a cell phone and drugs in the bathroom wall. Vazquez could have learned about these details from the media, from reading the decision, or just by talking to other inmates. Significantly, the trial court never even considered that the information was widely available to Vazquez by the time he contacted the state.

The fifth factor is the most damaging to the court's ruling. Vazquez wrote a letter to the state practically begging for a deal while indicating he had information about this case and another

case. As the letter indicates, he was unhappy about the sentence he had received about a month before writing the letter, and he ultimately hired an attorney to file a motion for sentence modification. See St. ex. 2 ("Judge Fischer threw the book at me"). He even tried to sell himself to the state not only by indicating he was an informant for DOC, but also "[f]rom what I hear a pretty good one [informant]. Want to confirm that? Ask for CT. Ocasio, CT Dumas or c/o Ayotte. I work for them!" *Id.* The manner in which he reached out and the timing shows he was motivated by something other than simply being a good citizen.

While the trial court found it significant that the state did not contact Vazquez and that there were no agreements or promises for his cooperation, that rationale is flawed. First, the state could not contact him because it had no knowledge that defendant allegedly confessed to him. Second, it ignores the reality that there does not have to be an explicit promise for an inmate to be motivated to give false information, which this Court recognized years ago. "[T]he expectation of a '[r]eward for testifying is a systemic reality'…even where the informant has not received an explicit promise of a reward." *State v. Arroyo*, 292 Conn. 558, 568 (2009)(cit. omit). "In addition, several commentators have pointed out that jailhouse informants frequently have motives to testify falsely that may have nothing to do with the expectation of receiving benefits from the government." *Id.* at 568-69.

Here, the trial court all but ignored the fact that Vazquez had an incentive because he had just received an undesirable sentence, and that he routinely provided information to both DOC and the state about other inmates. He was essentially a professional snitch, and that fact alone should render his testimony suspect. Further, while the court reasoned he "has not provided any additional jailhouse testimony

against other defendants," CA65, that is irrelevant. Vazquez testified that one of the cases was pending, and it is unknown if there was going to be a trial in the other case or if it had been resolved. Regardless, he still provided information to the state in that case, which is something the court should have seriously considered rather than downplayed.

The court also gave short shrift to the fact that Vazquez had several convictions for crimes involving dishonesty. According to the court, this history of lying was excused because it occurred during a time he was addicted to drugs. That certainly is not an exception in trials when the jury is instructed to consider a witness's convictions of crimes involving dishonesty in deciding whether to believe that witness. Furthermore, if that was a legitimate concern, then there would be a lot less people in prison. Given all these strikes again Vazquez, the court's rationale is utterly unsound.

5. The error was not harmless.

The prejudicial effect from the court's error requires that defendant's conviction be reversed. As stated above, "the state's case was not strong, as the primary evidence consisted of the testimony from two jailhouse informants who recounted inculpatory statements made by the defendant." *State v. Wilson*, 209 Conn. App. 779, 811 (2022). Vazquez was an important witness for the state who effectively corroborated Jenkins' *Whelan* statement that defendant was the killer. The state even remarked at summation how his lack of details proved he was *more* credible. 11T31. "If he was going to make up a story, he would get a lot more details. He would find out more information. But he admitted I didn't have a lot. I didn't pry. He told me he killed her, he killed that bitch, he killed that prostitute." 11T31-32. The state later assured the jury that there were no agreements with Vazquez, and he was "not getting a get out of jail free card for taking the stand, he's not." 11T73. It ended its argument by reminding the jury that

defendant confessed killing Casey to Vazquez. 11T76. The error most certainly affected the verdict, and a new trial is warranted.

Conclusion: For all the above reasons, defendant's conviction should be reversed and remanded for a new probable cause hearing or a new trial.

Respectfully submitted,
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November 6, 2023

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KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON
JEAN JACQUES	:	APRIL 7, 2022

BEFORE THE HONORABLE SHARI ANN MURPHY, JUDGE

A P P E A R A N C E S:

Representing the State of Connecticut:

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Representing the Defendant: **** ORDERING PARTY ON APPEAL**

ATTORNEY SEBASTIAN DeSANTIS
Assigned Counsel
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Also Present: Haitian-Creole Interpreter for Dft.

Recorded and Transcribed and By:

Cheryl C. Straub,
Court Recording Monitor A
New London Superior Court
70 Huntington Street
New London, CT 06320

1 discussed this in chambers. Mr. Jacques had
2 requested a hearing in probable cause. He did have
3 one before at the last trial, but since this
4 basically -- the supreme court completely overturned
5 his case, it starts from scratch and it's his right
6 to have a hearing in probable cause and he wants and
7 he does desire to have one and we're requesting the
8 court to allow him to have a hearing in probable
9 cause.
10 THE COURT: All right. Did the state wish to be
11 heard on this?
12 ATTY. BAKER: Yes, your Honor. The state's
13 position is that the accused is not entitled to an
14 additional hearing in probable cause. While the
15 trial starts from scratch, the case does not start
16 from scratch, your Honor. He did have his hearing in
17 probable cause already and the state's position is
18 he's not entitled to a second one.
19 THE COURT: In accordance with Connecticut
20 General Statutes 54-46a, the court's going to find
21 that Mr. Jacques has already had his hearing in
22 probable cause relative to the charges that were
23 brought and are pending in this particular matter.
24 Although the matter was sent back from the supreme
25 court, that was relative to one issue, not all
26 issues, the charges were not dismissed. And, in
27 addition to that, I will note that the issue that the

1 supreme court was dealing with was a motion to
2 suppress discovery. And when you're conducting a
3 hearing in probable cause, no motion to suppress or
4 for discovery is allowed in connection with those
5 hearings, so the court feels that the probable cause
6 hearing that was conducted before the Honorable Judge
7 Strackbein on January 12th, 2016, sufficiently meets
8 Mr. Jacques' concerns in this particular matter given
9 the intent of the probable cause hearing statute. So
10 that request is denied.
11 Was there anything further, Attorney DeSantis?
12 ATTY. DeSANTIS: There is actually one more
13 thing. The -- Mr. Vazquez, the witness who's going
14 to be testifying at trial, I guess a jailhouse
15 informant would be the proper term for him. It's my
16 understanding that the prosecutor and the
17 prosecutor's investigator went out to meet with him
18 and it's my understanding that they did not take any
19 notes, do a police report, or get a statement from
20 him. I think that it's -- the state has an
21 obligation when they meet with a witness, especially
22 such an important witness, they have an obligation to
23 at least do a report or a written statement. Of
24 course, a person has a right to refuse to do a
25 written statement, which often happens but that's
26 not what I've heard that happened here, but I do
27 think they need to put down in writing, formalize in

KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON
JEAN JACQUES	:	APRIL 7, 2022

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording taken in the above-referenced case, heard in Superior Court, Judicial District of New London, New London, Connecticut, before the Honorable Shari Ann Murphy, Judge, on the 7th day of April, 2022.

Dated this 10th day of January, 2023, in New London, Connecticut.

Cheryl C. Straub,
Court Recording Monitor A

1 NO: KNL-CR15-0128007-T : SUPERIOR COURT

2 STATE : JUDICIAL DISTRICT OF NEW LONDON

3

v. : AT NEW LONDON, CONNECTICUT

4

JEAN JACQUES : JANUARY 12, 2016

5

6

7 HEARING IN PROBABLE CAUSE

8

9 BEFORE THE HONORABLE HILLARY B. STRACKBEIN, JUDGE

10

11

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20
ALSO PRESENT: URVICK BOULOUPE, CREOLE INTERPRETER
21

22 ORDERED BY: ATTORNEY LAUREN WEISFELD, OCPD

23

24 Recorded By:
Veronica DiCioccio
25 Transcribed By:
Debrah Veroni
26 Official Court Reporter
70 Huntington Street
27 New London, CT 06320

1 such person. That's the language for murder.

2 Based on the Court's review of the exhibits, the

3 autopsy report, the DNA report, all the photographs,

4 and the totality of the testimony and the evidence

5 submitted during the hearing, the Court's going to

6 make the following findings: That although I

7 understand some of the valid points Attorney DeSantis

8 has made, looking at the inconsistent statements of

9 the defendant to the police and to Mr. Jenkins,

10 especially asserting that he was never in Miss

11 Chadwick's apartment, obviously he was there.

12 Miss Chadwick had texted Mr. Joseph that the

13 defendant was there; Mr. Joseph had spoken to the

14 defendant while he was there and of course his DNA

15 was there.

16 Regarding the testimony of Mr. Jenkins, he had

17 no reason to lie or set up the defendant. And

18 despite the fact that the defendant may have spoken

19 about numerous issues, the facts in this case that

20 were disclosed to Mr. Jenkins, the location of the

21 body, the attempt to clean the scene, all things that

22 were verified later, there's the inescapable fact

23 that the marijuana, crack cocaine and, most

24 importantly, Miss Chadwick's cell phone were exactly

25 where the defendant told Mr. Jenkins they were. And

26 how in the world Mr. Jenkins would make that up, that

27 information, is impossible. The items were hidden in

1 a hole in the wall of the apartment of Mr. Jacques.
2 And this lends credibility to Mr. Jenkins's
3 testimony. Therefore, it's the finding of the Court
4 that there is probable cause to believe the person
5 who committed the murder of Miss Chadwick is the
6 defendant, Jean Jacques, and the defendant intended
7 to cause the death of Miss Chadwick and in fact did
8 cause her death. That's the Court's finding.
9 Does -- Attorney DeSantis, do you wish to make
10 an offer of proof?
11 ATTY. DESANTIS: Excuse me, Your Honor?
12 THE COURT: Do you wish to make an offer of
13 proof at this time?
14 ATTY. DESANTIS: No, Your Honor.
15 THE COURT: All right then. Do you wish to
16 enter pleas then, not guilty pleas with a jury
17 election?
18 ATTY. DESANTIS: Pro forma not guilty, jury
19 election, please.
20 THE COURT: All right. Then we're going to set
21 a pretrial date at your convenience, Attorney
22 DeSantis.
23 ATTY. DESANTIS: Could we do March 1st?
24 THE COURT: That's fine. That would be not
25 guilty, jury election, March 1st for a pretrial.
26 We're going to continue -- well, I'll ask.
27 We're going to continue the sealing of the photos at

1 NO: KNL-CR15-0128007-T : SUPERIOR COURT

2 STATE : JUDICIAL DISTRICT OF NEW LONDON

3

v. : AT NEW LONDON, CONNECTICUT

4

JEAN JACQUES : JANUARY 12, 2016

5

6

7

8

9 C E R T I F I C A T I O N

10

11

12 I hereby certify the foregoing pages are a true and

13 correct transcription of the audio recording of the

14 above-referenced case, heard in Superior Court, Judicial

15 District of New London, New London, Connecticut, before the

16 Honorable Hillary B. Strackbein, Judge, on the 12th day of

17 January, 2016.

18

19

20 Dated this 27th day of January, 2016, in New London,

21 Connecticut.

22

23 Amy Anderson 9/11/23

24 Official Court Reporter

Debrah Veroni

25 Official Court Reporter

26

27

KNL-CR15-0128007-T : SUPERIOR COURT

STATE OF CONNECTICUT : JUDICIAL DISTRICT OF NEW LONDON

v. : AT NEW LONDON, CONNECTICUT

JEAN JACQUES : MAY 25, 2022

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE SHARI A. MURPHY, JUDGE

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Recorded by: Taylor Thompson

Transcribed by:
Annette DeCosta
Court Recording Monitor
70 Huntington Street
New London, CT 06320

1
2
3 T Y W A N   J E N K I N S,
4 Having been first duly sworn, was called upon as a
5 witness by the State and was examined and testified under
6 oath as follows:
7 THE WITNESS: I do.
8 THE CLERK: Please state your name and spell
9 your last name.
10 THE WITNESS: J-E-N-K-I-N-S.
11 THE CLERK: State your name.
12 THE WITNESS: T-Y-W-A-N.
13 THE COURT: All right. Mr. Jenkins, you may be
14 seated.
15 THE WITNESS: Thank you.
16 THE COURT: Thank you.
17 **DIRECT EXAMINATION BY ATTY. BAKER:**
18 Q Good afternoon, Mr. Jenkins. And you're here today
19 pursuant to a subpoena by the State's Attorney's Office?
20 A Yes.
21 Q Did you receive a subpoena by the State's Attorney's
22 Office?
23 A Yes, ma'am.
24 Q Okay. And is fair to say that you don't really want
25 to be here today?
26 A Yes, ma'am.
27 Q Okay. And do you recall -- do you know anyone by the

1 name of Jean Jacques?
2 A No, ma'am.
3 Q Do you recall giving a statement to the police in
4 2015, regrading information concerning the murder of Casey
5 Chadwick?
6 A No, ma'am.
7 Q Do you know whether you've ever been convicted of a
8 crime? Do you know if you've been convicted of a crime
9 before?
10 A Me?
11 Q Yeah. Do you know if you have?
12 A Yeah, I heard of, yes.
13 Q You heard it or do you know?
14 A I heard it.
15 Q Okay. And do you remember ever being incarcerated?
16 A Yes.
17 Q Okay. Let me ask you a question. You said you heard
18 it about your convictions. Do you suffer from memory loss?
19 A Yes.
20 Q And what is that a result of?
21 A Of a stroke I had.
22 Q And when did you have that stroke, sir?
23 A I can't recall.
24 Q Was it within the last year or two? Was it during
25 COVID, or after COVID?
26 A I can't --
27 Q You can't recall?

1 A I can't recall.
2 Q Okay.
3 A I want to -- I think about three years ago, two,
4 three years ago.
5 Q Okay. And this stroke that you have, it affects your
6 ability -- your memory?
7 A Yes, ma'am.
8 Q Okay. And your here with your wife today for that
9 reason, because she helps you?
10 A Yes, ma'am.
11 Q All right. So, you don't recall giving a statement
12 to police in 2015, regarding the murder of Casey Chadwick?
13 A No, ma'am.
14 Q And you don't remember being cellmates with Jean
15 Jacques?
16 A No, ma'am.
17 Q Okay.
18 ATTY. BAKER: Your Honor, at this time, the
19 State would ask to enter his statement to police as
20 a Full Exhibit. It was previously testified to by
21 Detective Gomes, that he took a statement from the
22 accused, witnessed his signature in front of him,
23 and he was present when the statement was given.
24 THE COURT: Okay.
25 ATTY. DESANTIS: I would object, Your Honor.
26 THE COURT: All right. The Court's going to ask
27 the jurors to please be excused from the courtroom.

1 Please leave your pads on the chair. Thank you.
2 (The jury exits the courtroom)
3 THE COURT: All right. Attorney DeSantis, the
4 grounds and basis upon which you object?
5 ATTY. DESANTIS: It's hearsay, and also, it's a
6 sixth amendment violation to a fair trial and a
7 Crawford Violation. It's not a court statement.
8 It's going for the truth of the matter and it --
9 I am unable to properly cross-examine him, which
10 violates Mr. Jacques' right to a fair trial, as
11 well as the ruling in Crawford.
12 The statement, I was not present at. I was not
13 there to cross-examine this gentleman. So all of
14 his basic rights were -- would be violated if the
15 introduction of the statement -- or if the
16 statement comes in under that basis because --
17 THE COURT: Okay.
18 ATTY. DESANTIS: -- it would be completely --
19 he's physically here, but it seems pretty apparent
20 that I would be unable to have any sort of cross-
21 examination that's worth anything, and that would
22 protect Mr. Jacques right under the sixth
23 amendment.
24 THE COURT: I'll hear from the State.
25 ATTY. BAKER: Yes, Your Honor. First, I would
26 like to correct the record. In fact, the witness
27 has been subject to cross-examine by Mr. DeSantis

1 at prior trial. He testified at the first trial,
2 was subject to cross-examination, and Mr. Jacques
3 was represented by Attorney DeSantis.
4 So, he has had an opportunity to cross-examine
5 him on a prior occasion. In addition --
6 THE COURT: Can I please clarify for the record
7 the date of that particular statement and whether
8 or not it was available for cross-examination at
9 the prior trail?
10 ATTY. BAKER: Yes. The date of the statement
11 was on -- this was a statement given to Mr. Gomes
12 on 7/23/2015.
13 THE COURT: Okay. That was previous to the
14 prior trial?
15 ATTY. BAKER: Yes, Your Honor.
16 THE COURT: Yes.
17 ATTY. BAKER: In addition, Mr. Jenkins was also
18 available at the probable cause hearing as well,
19 and testified at the probale cause hearing, as well
20 as the suppression hearing. With regard to his
21 statement coming in today, Your Honor, the law is
22 very clear about this.
23 Prior inconsistent statements are exceptions to
24 the hearsay -- are exceptions to hearsay. The
25 Whalen Rule breaks it down and is very clear on
26 this. A prior written statement -- a prior former
27 statement to police is admissible is the witness is

1 available to -- at trial. In this case, he is
2 available.
3 He's present. He's sitting in that seat.
4 Inconsistent statements can mean that the witness
5 is forgetful. It doesn't necessarily mean that
6 they just have an inconsistency in their statement.
7 The declarant, which is the -- Mr. Jenkins, must be
8 available at trial and subject to cross-
9 examination, and the opportunity to cross is all
10 that is required.
11 Whalen is very specific that memory loss -- on
12 the issue of memory loss, as long as the witness
13 who claims not to remember is making the previous
14 statement is in the witness sit, is subject to
15 cross-examination, then it falls -- clearly falls
16 under the Whalen Rule.
17 *State v Whalen* was on point with this. In that
18 particular case, the witness in that case had a
19 memory loss, just as we do in this case, and the
20 Court ruled that as long as the individual was
21 present in court and subject to cross-examination,
22 the prior statement is admissible.
23 So for that reason, I think this is the very
24 issue, which Whalen goes to the heart of, and I
25 would ask that Your Honor accept the statement into
26 evidence. I would note that we have redacted the
27 statement, by agreement with defense counsel, to

1 exclude certain statements in it that were
2 previously suppressed by the Supreme Court. So, we
3 did redact it. But I would ask that Your Honor
4 enter this as a full.
5 THE COURT: Anything further?
6 ATTY. DESANTIS: Yeah. Your Honor, I would
7 point out that it's completely irrelevant if the
8 witness was available at a later date for cross-
9 examination. The -- they're trying to introduce
10 his statement and what Crawford says, and the sixth
11 amendment says is, that he has to be available for
12 cross-examination at that time, during that time
13 period.
14 It's not that he was available sometime later to
15 be cross-examined. It's during that time period
16 when that statement was given. And so that's my
17 understanding of the law because you have to be
18 right there when that person's actually making
19 those statements, making those assertions, and
20 you're -- he has -- Mr. Jacques has counsel present
21 there to cross-examine him at that point in time,
22 not at the later date, or to be using it at a later
23 date because it's completely self-serving, because
24 the police officer and him can write down anything
25 they want without anybody stepping in to ask a few
26 questions, or point out inconsistencies, or all the
27 factors that are important under the sixth

1 amendment and Crawford.
2 This is more than memory loss. This gentleman
3 has had a physical injury. I mean, it's not like
4 he's going to remember this ever someday, or it
5 might come back to him.
6 He's just, like, forgot, you know, one day of
7 his life. You know, it's been a couple years and
8 he can't quite recall a certain fact. His whole
9 life, it looks like, has been turned upside down,
10 and he's lost basically, a whole section of his
11 life that probably will never come back.
12 So this is much different than memory loss.
13 This is brain damage. He's had significant brain
14 damage, unfortunately, and it's very sad, but it's
15 not memory loss. It's a fact that he has had a
16 physical injury and has therefore become
17 unavailable as a witness.
18 So based upon those two reasoning's, I would
19 strongly urge the Court, it would be extremely
20 prejudicial to put that statement in without any
21 ability to have any cross-examination on any of it.
22 ATTY. BAKER: Your Honor, just in response.
23 *State v Robinson*, which his 56 Conn. App. 794,
24 decided in 2000, the Court made this determination
25 already, indicating that a witness in that
26 particular case, who indicated that he had no
27 memory of giving the prior statement to police

1 because they were high at the time, under that case
2 that Supreme Court rules that the witness was
3 available for cross-examination because he was
4 present on the stand, regardless of whether he was
5 forgetful or completely did not remember giving a
6 statement.
7 In addition, *State v Hutton*, which is 188 Conn.
8 App. 481, decided in 2019, the Court decided a
9 witness who took the stand and simply refused to
10 answer any questions was not functionally
11 unavailable because he was subject to cross-
12 examination, and they admitted that statement in as
13 well.
14 So, I think the law is very, very clear on this.
15 It has been decided previously by the Supreme
16 Court, and I would ask Your Honor to enter it into
17 evidence.
18 THE COURT: Anything further, Attorney DeSantis?
19 ATTY. DESANTIS: I would just point out, it's --
20 again, there's a difference between forgetting and
21 being stoned, or drunk. There's a significant
22 difference in having a stroke or a physical injury.
23 There's a huge difference in the situation. They're
24 not analogist at all in the fact that he's
25 physically disabled is what's the difference here.
26 THE COURT: But he -- you keep siting physically
27 disabled, but he's present. He's --

1 ATTY. DESANTIS: You're right.
2 THE COURT: Mr. Jenkins is on the stand.
3 ATTY. DESANTIS: I'm sorry. Mentally.
4 Mentally.
5 THE COURT: He has answered the questions.
6 ATTY. DESANTIS: Yes.
7 THE COURT: He did accept the oath to tell the
8 truth, and he has been adequately respoinding to
9 the questions posed to the State's Attorney. He is
10 claiming a lack of memory. However, with respect
11 to the statement and being incarcerated with Mr.
12 Jacques.
13 So, so far, I've not seen a physical incapacity
14 that prevents Mr. Jenkins from sitting in the stand
15 and answering questions, whatever types of
16 questions you intend to pose to Mr. Jenkins. And I
17 think that the law is quite clear regarding the
18 interpretation of Crawford, in that there are cases
19 that are differentiated in terms of availability
20 and functional unavailable.
21 The law has differentiated between a refusal to
22 answer any questions, a complete lack of response
23 to any questions, as opposed to a lack of memory
24 regarding any of those particular questions. In
25 this particular case, all I've seen so far is a
26 lack of memory.
27 What I first want to do is cite State v Eaton,

1 State v Pierre, as well as State v Cameron, all had
2 to do with a lack of memory. So long as the
3 defendant appeared in court and took the stand, and
4 was available for cross-examination, the Court
5 concluded that the confrontation clause rights were
6 not violated,
7 So, and those included situations similar to
8 this situation where the witness claimed to have no
9 recollection of certain events. Some of them
10 including statements on point here. So, I don't
11 see a Crawford Violation.
12 I'd also like to reiterate that this witness was
13 subjected to cross-examination previously. That
14 that statement had been provided and was available
15 for purposes of inquiry and cross-examination of
16 this particular witness in a prior trial, involving
17 the same parties.
18 So, I believe the defendant has had ample
19 opportunity previously, regardless of my finding
20 here to have cross-examined the defendant regarding
21 any of the contents of that particular statement.
22 But, I do wish to highlight for the record that I'm
23 not finding the defendant functionally unavailable
24 here. I'm finding the defendant available for
25 testimony in accordance with the Supreme Court's
26 findings in three prior cases defining Crawford.
27 ATTY. DESANTIS: Can you canvass him to see if

1 he understands the oath?

2 THE COURT: You can voir dire him if you'd like

3 to voir him. I'll give you an opportunity to do

4 that before I make a ruling on the statement coming

5 in.

6 **VOIR DIRE EXAMINATION BY ATTY. DESANTIS:**

7 Q Mr. Jenkins, I'm going to ask you a couple of

8 questions, sir. Do you know what the oath is?

9 A Yes.

10 Q Okay. Can you tell us what you think it is?

11 A To tell the truth.

12 Q And what are the consequences if you fail to tell the

13 truth?

14 A I really don't know.

15 Q I'm sorry, sir, I can't hear you.

16 A I said, I really don't know.

17 Q And do you know if there are any consequences?

18 A No, I don't.

19 Q Do you know if you can get in trouble or not if you

20 don't tell the truth?

21 A Yeah. Yes.

22 Q Do you know if you can get in trouble or not if you

23 fail to comply -- or fail to follow the oath?

24 A Say that again? Say that again.

25 Q Are you aware that if you don't follow the oath, that

26 you could get in trouble?

27 A Yes.

1 ATTY. DESANTIS: All right. No further
2 questions, Your Honor.
3 THE COURT: All right. So at this point,
4 Attorney DeSantis, the Court is going to find that
5 pursuant to Whalen and Crawford, based upon the
6 testimony that's been provided here, and the answers
7 that have been provided by this witness, the
8 witness's understanding that the oath is to tell the
9 truth, and that he understands that he can get in
10 trouble if he does not tell the truth, the Court is
11 going to overrule your objection in accordance with
12 prior case law.
13 Anything further?
14 ATTY. DESANTIS: I also just wanted to add,
15 actually, Mr. Jacques just raised it -- well he did
16 sign it, but this is not a statement that was
17 actually written by Mr. Jenkins. It was -- I think
18 Mr. Gomes testified that he was the one that wrote it
19 and Jenkins signed it. I just wanted to, you know,
20 make the record clear that this isn't a statement
21 that was written by Mr. Jenkins. That Gomes typed it
22 up and gave it to Mr. Jenkins, and testified that Mr.
23 Jenkins signed it.
24 THE COURT: Does the State wish to respond to
25 that?
26 ATTY. BAKER: Your Honor, the requirement isn't
27 that he actually write the statement himself. It's

1 just -- the requirement is just a prior -- a formal
2 written police statement. He did adopt the words
3 in there. He initialed each paragraph and signed
4 it.
5 THE COURT: This Court has noted that prior
6 inconsistent statements do not necessarily have to be
7 handwritten by the offer or the writer -- or I should
8 said author. In this particular case, we had
9 testimony from Officer Gomes who authenticated that
10 particular document as being a document that was
11 written and acknowledged, and signed by this
12 particular witness.
13 It was then marked as an Exhibit for
14 Identification purposes only, and it was entered into
15 evidence for that purpose. And now, we are here. So
16 with that foundation, relevant to the authenticity of
17 the document, the Court is still in a position to
18 overrule the objection, and allow the statement to
19 come in under Whalen and Crawford. Is there anything
20 further?
21 ATTY. DESANTIS: No, Your Honor.
22 THE COURT: All right. Very well. We'll bring
23 the jury back in.
24 (The jury enters the courtroom)
25 THE COURT: All right. Would counsel please
26 stipulate to the return of all jurors?
27 ATTY. BAKER: State stipulates

1 ATTY. DESANTIS: Defense stipulates.
2 THE COURT: Thank you. Attorney Baker.
3 ATTY. BAKER: Yes, Your Honor. State would ask
4 to enter State's Exhibit number 82, the statement
5 of Tywan Jenkins, dated 7/23/2015, as a full
6 exhibit.
7 THE COURT: The Court will accept the statement
8 is as a full exhibit.
9 ATTY. BAKER: Permission to publish to the jury,
10 Your Honor?
11 ATTY. DESANTIS: Actually, Your Honor, can we
12 hold on one second? Could I just take a quick look
13 at the exhibit?
14 (Pause)
15 ATTY. DESANTIS: Could we approach, Your Honor?
16 THE COURT: Yes.
17 (Sidebar conversation)
18 THE COURT: I'm sorry, but we're going to have to
19 have the jury step out again. If you please leave
20 your notepad. We'll excuse the jury.
21 (The jury exits the courtroom)
22 THE COURT: Thank you.
23 ATTY. DESANTIS: Thank you, Your Honor.
24 THE COURT: All right. It's just easier to
25 discuss rather than sidebar. I think this probably
26 has to be addressed on the record anyway. So just
27 for purposes of the record, it appears that this

1 redacted statement is seeking additional redactions
2 on behalf of the defense. So, I'll just hear from
3 Attorney DeSantis with respect to that issue.
4 ATTY. DESANTIS: The line on page three, that
5 Jacques then took the phone and drugs from the
6 apartment and walked to 111 Broad Street in Norwich
7 is what I'm objecting to. I think that gets too
8 close to the Supreme Court's ruling on the -- and
9 then, I believe you -- that this is not redacted.
10 Could I look at the redacted statement?
11 ATTY. BAKER: You have a copy.
12 ATTY. DESANTIS: I don't have a copy on me,
13 unfortunately. Thank you. Okay. Yeah. It's just
14 that line that he took the phone and drugs from the
15 apartment and walked to 111 Broad Street in Norwich.
16 I think it gets too close to the Supreme Court ruling
17 and kind of undoes what they've done in protecting
18 his constitutional rights.
19 ATTY. BAKER: Your Honor, the Supreme Court
20 suppressed the second search of his Crossway
21 apartment, which revealed the victim's cell phone and
22 drugs hidden in the wall. That was all that was
23 suppressed. The fact that he took -- there has
24 already been testimony that the victim's cell phone
25 was missing from the apartment. That the drugs were
26 stolen from the apartment. That the accused didn't
27 have any drugs prior, and suddenly, was selling drugs

1 after.

2 There's also been testimony from Lashawda Hall

3 that indicated that the day after -- or the day that

4 they found Casey's body, he appeared at her house

5 with crack cocaine. So, I think there is enough

6 information and enough testimony out there with

7 regards to the drugs that it doesn't even come close

8 to the suppress search at the Crossway apartment.

9 THE COURT: Attorney DeSantis, how does the

10 defendant's statement about taking property become

11 part of the fruits of an unlawful search? So there's

12 nothing in there that indicates it was located. The

13 jury is not seeing the property. The property is not

14 being admitted into evidence. There has already been

15 testimony concerning the missing drugs and phone.

16 ATTY. DESANTIS: Well, it basically undoes the

17 whole decision because it really doesn't matter

18 anymore because if this comes in and the jury

19 believes it, the illegal search is a moot point, more

20 or less because it puts him in possession of the

21 drugs.

22 THE COURT: But this is your client's admission

23 regarding a statement. So the hearsay would be

24 coming in as an admission of a party through this

25 particular statement. So something that Mr. Jacques

26 stated regarding his actions.

27 This does not talk about where he hid any such

1 drugs. In fact, this doesn't even confirm that the
2 phone and the drugs that he was talking about were
3 the ones in question, or the ones found.
4 So in this particular case, the Supreme Court
5 gave a very narrow ruling, which was based on a
6 Motion to Suppress the physical evidence of an
7 illegal search. And that physical evidence was, I
8 believe, the victim's cell phone and some drugs that
9 had been found as the result of a second search at
10 Crossway.
11 And the Supreme Court's direction was pretty
12 clear in stating that that particular evidence should
13 have been suppressed. And they reversed the
14 conviction and sent it back for a retrial. So, I
15 don't see this as implicating the Supreme Court's
16 decision because there are no scientific findings or
17 anything of the such regarding any of this
18 information.
19 We know it's missing. The client -- Mr.
20 Jacques, you're telling me I haven't read the
21 statement yet, but in the statement somewhere it says
22 that he took it. Nothing is indicative that it was
23 ever found or the basis of a search discovering this
24 particular evidence or these items of evidence. So,
25 I'm just trying to understand your argument here.
26 ATTY. DESANTIS: It's not a very good argument,
27 Your Honor, but thank you for letting me put it on

1 the record.

2 THE COURT: All right. So the Court's going to

3 overrule the objection with respect to their request

4 of redaction, finding that it is not inconsistent

5 with the Supreme Court's ruling, that it does not

6 talk about the illegal search, and/or the actual

7 physical evidence, or the finding of such evidence,

8 but merely is a statement of something that is

9 contained, that appears to be a party admission, in a

10 statement of Mr. Jenkins that has just been allowed

11 into evidence. So, I'm going to keep that line in.

12 ATTY. DESANTIS: Thank you, Your Honor. Can I

13 check just one more thing real quick?

14 THE COURT: Certainly.

15 ATTY. DESANTIS: Thank you, Your Honor.

16 THE COURT: All right. You're welcome. We'll

17 bring the jury back in.

18 (The jury enters the courtroom)

19 THE COURT: Thank you. Welcome back, ladies and

20 gentlemen. All right. you may be seated. And

21 just before proceeding, would the counsel please

22 stipulate to the return of our jurors -- all

23 jurors?

24 ATTY. BAKER: State stipulates.

25 ATTY. DESANTIS: Defense stipulates.

26 THE COURT: All right.

27 ATTY. DESANTIS: Thank you for hearing me out,

* * * * *

1 Q Good afternoon, Mr. Jenkins.
2 A Good afternoon.
3 Q You - the statement that you just heard read, do you
4 have any recollection of that?
5 A No.
6 Q Do you have any recollection of Mr. Jacques telling
7 you that he killed Casey Chadwick?
8 A No.
9 Q And you've had a stroke; is that correct?
10 A Yes.
11 Q But you're able to understand the importance of
12 taking the oath; is that correct?
13 A Right.
14 Q Excuse me?
15 A I said, right. Taking the oath?
16 Q Yes. To tell the truth.
17 A Yes.
18 Q Okay. And you're able to function in your life; is
19 that accurate? Like, you can get up and walk around?
20 A Yeah.
21 Q Okay. And you're able to speak?
22 A Yes.
23 Q And I'm asking you questions right now?
24 A Yes.
25 Q And you're understanding the questions I'm asking you?
26 A Yes.
27 Q All right. And the prosecutor asked you questions as

1 well; is that correct?
2 A Yes.
3 Q And you understood her questions?
4 A Yes.
5 Q And when you're at home, do you watch TV?
6 A No.
7 Q All right. Do you have any form of entertainment?
8 A My phone.
9 Q Okay. Are you able to read?
10 A Yes.
11 Q Yet, you’re sitting here on the stand, and you're
12 able to walk on your own as well, correct?
13 A Yes.
14 Q You walked through the doors of this courtroom,
15 walked up and sat down?
16 A Yes.
17 Q Okay. And then that's when you took oath; is that
18 correct?
19 A Excuse me?
20 Q And that’s when -- and you took the oath and sat
21 down; is that correct?
22 A Yes.
23 Q And you're -- are you able to spell your name?
24 A Yes.
25 Q Now, when Mr. Jenkins -- excuse me. When you said
26 that Mr. Jacques told you that he killed Ms. Chadwick, you
27 were in jail at that time; is that correct?

1 A I don't recall that.

2 Q The statement mentions that you were in jail, doesn't

3 it?

4 A The statement?

5 Q Yes, that the prosecutor read?

6 A Yeah. From what I understand, I've been in jail 15,

7 14 times for minor --

8 Q Jail's not a pleasant place, is it?

9 A No.

10 Q And one way to get out of jail is to provide

11 information about crimes, correct?

12 A I don't know.

13 Q And if you can convince somebody that you have

14 information about a crime, that could help you --

15 ATTY. BAKER: Objection, Your Honor.

16 Q -- get out of jail?

17 THE COURT: What's the basis?

18 ATTY. BAKER: It's misleading. This line of

19 questioning is incredibly misleading.

20 ATTY. DESANTIS: Of course it's not.

21 THE COURT: I -- overruled. It's cross-

22 examination.

23 CONTINUED BY ATTY. DESANTIS:

24 Q Is that correct?

25 A Yes. Well, from what I've read, I was supposed to be

26 released from what I read, from what my wife told me. I was

27 supposed to be released in six days. My wife told me that I

1 was only there for 60 days.
2 Q In six days from when?
3 A From coming -- from getting released. I was -- she -
4 - you'd have to ask my wife.
5 Q Now, you were actually out of jail when this crime
6 occurred, weren't you?
7 A I don't know.
8 Q And you read in the newspaper with your daughter
9 about this crime?
10 A I don't recall.
11 Q And your daughter was actually friends with, or was
12 friends at that time, or at least knew -- let me withdraw
13 that question.
14 Your daughter was friends with Ms. Chadwick at that
15 time and period?
16 A I don't recall.
17 Q And you said that Mr. Jacques' handwriting was -- you
18 did not know Mr. Jacques before this, is that safe to say?
19 A I don't recall.
20 Q Okay. It's a statement, wherever it is, this is a
21 copy, you don't mention that you knew Mr. Jacques prior to
22 being in jail with him; is that correct?
23 A I don't recall. I don't' know if I knew him before
24 or --
25 Q And you said in the statement that you didn't think
26 that Mr. Jacques could write very well, do you recall that?
27 A I don't recall that.

1 Q Actually, I can (indiscernible). I'm going to put
2 the State's 82 up on the screen here, and I'm going to zoom
3 in a little bit here.
4 (State's Exhibit 82 published for the jury)
5 Q Are you able to read that from where you're sitting?
6 A No.
7 Q I may need to give you a copy, but -- I'll try it a
8 little bit more.
9 A It's all a blur.
10 Q Are you able to read that?
11 A It's all a blur. It looks like lines.
12 Q Okay. Let me do this.
13 ATTY. DESANTIS: If I can approach the witness,
14 Your Honor?
15 THE COURT: Sure.
16 CONTINUED BY ATTY. DESANTIS:
17 Q I'll hand you State's Number 82. Are you able to read
18 that?
19 A Yeah.
20 Q You don't have read the whole thing now. I'm just --
21 right now, I'm just trying to verify if you can read it.
22 A Yeah, I can read it.
23 Q You can read it?
24 A Yes.
25 Q And can you understand it?
26 A I can understand it.
27 Q Okay. Let's start with, let's see. I'll start with

1 the second paragraph. You tell the police that recently,
2 you were a cellmate of Mr. Jacques. Is that in the
3 statement?
4 A Yes. In the first.
5 Q And to focus ourselves, if you look up in right hand
6 corner, the statement is written on July 23rd, 2015. Is
7 that what it says?
8 A 7/23/15.
9 Q Okay. Do you know what that means?
10 A Yes.
11 Q What does that mean? July 23rd -- well, let me ask
12 you this. 7/23/15, and it says, date. Do you know what
13 that means?
14 A 7/23/15?
15 Q Yeah. Yes.
16 A July 23rd.
17 Q Okay. All right. And you understand -- do you
18 understand what a date is?
19 A Yes.
20 Q Okay. Like today is May 25th, 2022?
21 A I don't know. If that's today's date, yeah. I
22 normally walk around with a body camera with me. I normally
23 walk around with a body camera, and then at night, I
24 download it and see what I've done throughout the day.
25 Q Okay. And you're able to operate that?
26 A Yes. My wife operates it for me.
27 Q Now, you told -- supposedly, you told -- well, I'll

1 go back to my point. The third paragraph, you said you
2 didn't think that Mr. Jacques could write very well. Is
3 that what you told the police in the statement?
4 A I don't recall.
5 Q All right. That's what it says in statement?
6 A That's what it says in statement.
7 Q And you say -- or what's written in statement, it
8 says that you went over several different versions over
9 several different days. Does that sound accurate?
10 A I don't remember that.
11 Q At one point -- if you turn to page two. Can you
12 turn to page two for me?
13 A Yeah.
14 Q Are you okay to do that yourself?
15 A Yeah. I'm not -- I'm not crazy. You talking to me
16 like I'm crazy.
17 Q All right.
18 A I forget a lot.
19 Q Okay.
20 A But I do understand. Like, I can read a book,
21 Q Okay. All right. Thank you for telling us that.
22 A You're welcome.
23 Q Okay. Can you go down to the third paragraph and
24 take a look where it says --
25 A On page three?
26 Q On page two.
27 A Page two?

1 Q Yes.
2 A Okay.
3 Q And it starts out, I lied to Jacques and told him
4 that the police had his blood and Casey's blood. That's in
5 there. Can you read that?
6 A Yes.
7 Q Okay. So, you were lying to Mr. Jacques, or at least
8 what's written in this statement; is that correct?
9 A I don't recall any of this.
10 Q But it is in the statement?
11 A It's typed out right now. I'm reading it right now.
12 Q And you went on to tell them is that, I told him when
13 his blood drops into hers, it makes a white ring spores
14 around the drop. That's what's in the statement, right?
15 A Right. I'm reading that.
16 Q That doesn't happen, does it?
17 A I don't know.
18 Q Okay. Did you make that up?
19 A I don't even remember any of this.
20 Q And you put in the statement that I told him that my
21 girlfriend had told me police had collected several of those
22 spores, and his blood dropped at the same time Casey's blood
23 was dropped. That's in the statement, isn't it?
24 A That's in the statement.
25 Q You're able to read that?
26 A Yeah. I'm able to read that.
27 Q And your -- who's y our girlfriend at the time?

1 A My wife.
2 Q Well, it says girlfriend in the statement. Was she
3 your wife?
4 A No. I have a wife. I've been married 22 years.
5 Q So, you didn't have a girlfriend at that time?
6 A No. I had a wife.
7 Q Okay. The statement says girlfriend; is that
8 correct?
9 A I don't remember that.
10 Q Okay. But I'm not asking if you remember. I'm just
11 asking you, the statement says girlfriend, doesn't it?
12 A Yes, it says girlfriend.
13 Q I'll have you turn the page. Page three. There's a
14 -- I want to ask you a question about the top paragraph,
15 about one, two, three lines down. And it starts on the
16 right hand side with Jacques. Are you able to find that?
17 A Said he was upset that Cassie Chadwick gave those
18 drugs to her boyfriend to sell?
19 Q Yes. That's -- you're able to pick that out quite
20 nicely. Thank you. And then, I'm going to shoot on down
21 and talk about him saying that he committed the murder. I'm
22 going to go down to -- there's a small paragraph with two
23 lines, and it starts with, he then buried the knife. Do see
24 that line?
25 A Switch -- the third one?
26 Q Yes. The third one.
27 A Or the second paragraph?

1 Q It'd be the third paragraph. It's a very small
2 paragraph.
3 A Switched the knife to his other hand and continued
4 stabbing her in the head.
5 Q Why don't we go down a little further. To the next -
6 -
7 A Two (indiscernible).
8 Q Do you see where, he then buried the knife? It's on
9 where there's only two lines.
10 A Oh. Jacques then took the phone and drugs from the
11 apartment and walked to 111 Broad Street in Norwich.
12 Q And --
13 A He then buried the knife he used to stab Casey
14 Chadwick on the side of the house.
15 Q Now, are you aware that they searched that area for a
16 knife and never found a knife?
17 A No.
18 Q And, I believe, I'll have to doublecheck this, but
19 Mr. Jacque used to live at 111 Broad Street, right?
20 A I don't recall. I don't know where he used to live.
21 Q I believe that at some point, the police went to 111,
22 Broad Street. Do you recall that at all?
23 A No, I don't.
24 Q Now, if you could turn to page four and look at the
25 second paragraph. Are you able to do that okay? It starts
26 out with, Jacques had a conversation. Do you see that?
27 A Yes.

1 Q Something along the lines -- Jacques had a
2 conversation with another inmate. He told him if he doesn't
3 speak, meaning Court, will put him in the crazy house. Do
4 you know who that other inmate is?
5 A No.
6 Q Did you tell the police at that time who that other
7 inmate is?
8 A I don't recall.
9 Q And you had also said he would later throw himself
10 off the top bunk of his cell in attempts to make himself
11 look crazy. That's in there; is that correct?
12 A I don't recall.
13 Q Wouldn't that create a disturbance in a prison that
14 would attract attention of the guards?
15 A I don't know.
16 Q He also told me he was never going to speak again.
17 That's there -- in there as well, isn't it?
18 A Right.
19 Q Now, you do have a 25-year-old daughter?
20 A Yes. I have three daughters that's in their 20's.
21 Q And you, at one point in time, testified that you --
22 well, actually, I believe it's here in the statement. You
23 put in the statement that you wrote out a version dictated
24 by Mr. Jacques?
25 A I don't recall.
26 Q And that version -- and that you had mailed that to
27 your wife or girlfriend?

1 A I don't recall.
2 Q You know, that version's never been found?
3 A I don't recall.
4 Q They went to your wife or girlfriends house to look
5 for it, she didn't have it.
6 ATTY. BAKER: Objection, Your Honor. It calls
7 for a lack of personal knowledge.
8 THE COURT: Sustained.
9 CONTINUED BY ATTY. DESANTIS:
10 Q And you had criminal charges pending at that point in
11 time?
12 A I don't recall.
13 Q All right. But you were in jail?
14 A My wife punched it up on the computer.
15 Q The statement starts out, my name is Tywan Jenkins,
16 and I currently am incarcerated at the Corrigan Correctional
17 Facility; is that correct?
18 A I don't recall. All I was told, that I was called a
19 jailhouse snitch, and I can't see my grandchildren because
20 it's dangerous. And I recall from my wife that somebody
21 went to my ex-wife's house asking questions.
22 Q Well, if you make up information about people in jail
23 --
24 ATTY. BAKER: Objection, Your Honor. It's
25 argumentative.
26 THE COURT: I didn't even -- overruled.
27 CONTINUED BY ATTY. DESANTIS:

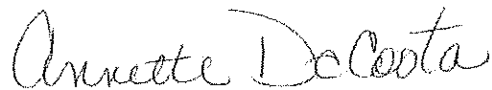
1 Q If you make up information about people in jail to
2 help yourself, people are going to be upset with you; isn't
3 that safe to say?
4 A I don't recall.
5 Q That's pretty well the definition of a snitch, isn't
6 it?
7 ATTY. BAKER: Objection, Your Honor.
8 THE COURT: Sustained.
9 Q Can I have that back, sir?
10 ATTY. DESANTIS: I have no further questions.
11 THE COURT: Okay. Counsel, anything further?
12 **REDIRECT EXAMINATION BY ATTY. BAKER:**
13 Q Does sharing information to help keep your community
14 safe make you a snitch?
15 A Huh?
16 Q Does sharing information with the police to help keep
17 your community safe, does that make you a snitch?
18 A Of course not.
19 ATTY. BAKER: Thank you. No further questions.
20 THE COURT: Are we all set with this witness?
21 ATTY. DESANTIS: Nothing further, Your Honor.
22 THE COURT: All right. You're all set, Mr.
23 Jenkins. You may exit the witness stand.
24 THE WITNESS: Thank you.
25 THE COURT: Thank you. Watch your step as
26 you're exiting.
27 THE WITNESS: Yes, ma'am.

KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON, CONNECTICUT
JEAN JACQUES	:	MAY 25, 2022

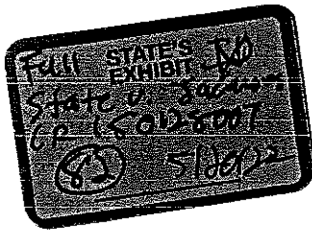
C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, Judicial District of New London, New London, Connecticut, before the Honorable Shari A. Murphy, Judge, on the 25th day of June, 2022.

Dated this 1st day of March, 2023, in New London, Connecticut.



Annette DeCosta
Court Recording Monitor



CITY OF NORWICH
CONNECTICUT
POLICE DEPARTMENT

Case Number 15-1753OF
Date 7-23-15
Time started 2:15pm
Time ended 3:20pm

Statement of Tywan Jenkins

I, Tywan Jenklins date of birth 9-12-68
of 3 Roath Street Town/City Norwich

Make the following statement, without fear, threat or promise. I have been advised that any statement(s) made herein which I do not believe to be true and which is intended to mislead a public servant in the performance of his/her official function, is a crime under C.G.S. section 53a-157.

My name is Tywan Jenkins and I currently am incarcerated at the Corrigan Correctional facility it Montville CT. I read and write the English language well and I am giving this statement to Detective Anthony Gomes and Detective Harrison Formiglio of my own feel will without threat or promise. TJ

Recently I was a cellmate of Jean Jacques. While living with Jacques, he and I had several conversations about him being charged with the murder of Casey Chadwick. At one point, Jacques asked me to help him write a statement, stating he wanted to tell the police/others his version of what happened during the time before and after Casey Chadwick was murdered. TJ

I don't think Jacques could write very well, so he asked me to help him with the statement. I wrote down in my notebook what he told me to help him. Attempts to make the statement went on over the courses of several days. TJ

In the first version of Jacques' statement he told me he went to Casey house. They were watching TV and he was dripping blood on the floor. Jacques had told me he cut his hand at work on a plate and upon arriving at Casey's, she had offered to help him bandage his hand. He said there was a knock on the door and Casey open it. A Haitian dude came in. Jacques said he came to Casey's defense. Jacques explained he had weed and Casey had crack. Jacques gave Casey the weed and Casey gave Jacques the crack. TJ

I didn't believe his first version. TJ

By affixing my signature to this statement, I acknowledge that I have read it and/or have had it read to me and it is true to the best of my knowledge and belief.

Witness__________ Signature__________

Witness #1003

Personally appeared the signer of the foregoing statement and made oath before me to the truth of the matters contained therein.

I notarized, endorse here:__________ 7-23-15

Page 1 of 4 Pages

Form #12 Rev. 10/90

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In the next version the same day he told me at 10:20 to 10:40 he was at work and washing dishes and cut his hand. He said a friend picked him up from work . His friend asked him how he cut his hand and then asked where are you going. Jacques said on a plate and he wanted to go to Spaulding Street in Norwich. He said his friend's mother called and said someone died on Spaulding. Jacques told his friend to go over there and see who died on Spaulding. Jacques stated he went to the laundry matt. His friend called back and told him I think Casey died. I asked him what he was doing at the laundry matt and Jacques said he was trying to kill the bed bugs in his clothes by drying them. He started crying and he said I did not kill this girl, Buggsy was trying to set me up. He said the police let Buggsy go. Jacques started rolling on floor and calling spirits to the cell. TJ

Jacques said lets write this again. I questioned Jacques about how he got three cuts from one plate. He said that's how I did it. I told him that don't look right. If you want me to write this statement you need to tell me the truth. TJ

I lied to Jacques and told him that the police had his blood in Casey blood. I told him when his blood drops into hers; it makes a white ring (spores) around the drop. I told him that my girlfriend told me police had collected several of those spores and his blood dropped at the same time Casey blood was dropped. Jacques put his hands on his head (facing the floor) and I took his body language to say, I'm guilty. I then used this opportunity to say to Jacques- "tell me what really happened" "did you hurt that girl. Jacques then told me a much different version of what happened which really bothered me. TJ

By affixing my signature to this statement, I acknowledge that I have read it and/or have had it read to me and it is true to the best of my knowledge and belief.

Witness ______________ Signature ______________

Witness ______________

Personally appeared the signer of the foregoing statement and made oath before me to the truth of the matters contained therein.

I notarized, endorse here: ______________ 7-23-15

Page 2 of 4 Pages

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Jacques said a friend picked him up at work and dropped him off on Spaulding Street in Norwich. He said he went inside Casey Chadwick's apartment. At some point the two had a conversation about Jacques giving Casey Chadwick drugs; he said marijuana, on a prior occasion. Jacques stated he was upset that Casey Chadwick gave those drugs to her boyfriend to sell. The conversation became heated and Casey Chadwick told Jacques to, "Get out", several times. TJ

Jacques said he, "Snapped", and grabbed her by the throat, shirt under the front of the neck, and stabbed her, "in the head." Jacques stated he cut his hand while stabbing her, causing him to switch the knife to his other hand and continued stabbing her in the head, cutting the second hand too. Jacques stated he moved the body and later put her in the closet after he killed her. Jacques stated he attempted to clean up the blood in the apartment by using a mop and bleach. Jacques stated he used the shower in Casey Chadwick's apartment to clean himself and his cloths. TJ

Jacques then took the phone and drugs from the apartment and walked to 111 Broad Street in Norwich. He then buried the knife he used to stab Casey Chadwick on the side of the house. TJ

Jacques said he wanted the cell phone because the phone had phone numbers inside it of people that would buy drugs. Jacques said he was planning on sell drugs to those people. He also mentioned calling Casey Chadwick's phone, using his cell phone, stating he wanted to make it look like he was trying to contact her, saying it will look like he didn't kill her if he was trying to call her. TJ

By affixing my signature to this statement, I acknowledge that I have read it and/or have had it read to me and it is true to the best of my knowledge and belief.

Witness ____________________ Signature ____________________

Witness #1003

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Page 3 of 4 Pages

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Time ended 3:20pm

Statement of Tywan Jenkins

I, Tywan jenkins date of birth 9-12-68
of 3 Roath Street Town/City Norwich CT

Make the following statement, without fear, threat or promise. I have been advised that any statement(s) made herein which I do not believe to be true and which is intended to mislead a public servant in the performance of his/her official function, is a crime under C.G.S. section 53a-157.

The last version of the story was told to me by Jacques after I had told him that his previous versions were not making sense. Jacques at one point put his hands on the side of his head and appeared to be upset at what he had done to Casey Chadwick, and kept saying, "I just snapped." He also said "I killed her". TJ

Jacques had a conversation with another inmate who told him if he doesn't speak they (meaning court) will put him in the crazy house. They found Jacques' homemade knife in our cell after. He would later throw himself off the top bunk of his cell in attempts to make himself look crazy. He also told me he was never going to speak again. TJ

I am giving this statement to the Detectives because what I heard Jacques say bothered me. I have a twenty five year old daughter and that could have been my daughter. I wanted to help in this case and figured maybe this was a signed to start doing good in my life. TJ

By affixing my signature to this statement, I acknowledge that I have read it and/or have had it read to me and it is true to the best of my knowledge and belief.

Witness__________ Signature__________

Witness__________

Personally appeared the signer of the foregoing statement and made oath before me to the truth of the matters contained therein.

I notarized, endorse here:__________

Page 4 of 4 Pages

Form #12 Rev. 10/90

DOCKET: KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	NEW LONDON
V.	:	AT NEW LONDON
JEAN JACQUES	:	OCTOBER 25,2022

MEMORAND OF LAW IN SUPPORT OF MOTION FOR NEW TRIAL[1]
PURSUANT TO C.P.B. §42-53[2]

The undersigned, based on errors by reason of which the defendant is constitutionally entitled to a new trial and other errors set forth that were materially injurious to him. Due to these reasons Mr. Jacques did not receive a fair trial. The juries verdict should be vacated, or reopen the evidence or direct a new judgment.

In the manner which the Court handled the issue of the suppressed evidence the Connecticut Supreme Court's ruling was essentially nullified. In fact, in hindsight, Mr. Jacques would have had a better chance of a defense if the suppressed evidence had come into evidence at the trial. This is especially true considering new evidence, which was severely restricted by the Court and is discussed below, which arose after the last trial, that gave a different perspective as to why those items were in Mr. Jacques apartment. This lack of certainty was a significant impairment in Mr. Jacques right to testify, properly cross examine

[1] The undersigned profusely apologizes for the lateness of this motion. The undersigned is cognizant that the Court and AUSA have very busy schedules and this lengthy motion sets forth a lot of factual and legal issues taking time to properly review.

[2] Sec. 42-53. Motion for New Trial;

(a) Upon motion of the defendant, the judicial authority may grant a new trial if it is required in the interests of justice. Unless the defendant's noncompliance with these rules or with other requirements of law bars his or her asserting the error, the judicial authority shall grant the motion:(1) For an error by reason of which the defendant is constitutionally entitled to a new trial; or(2) For any other error which the defendant can establish was materially injurious to him or her.(b) If the trial was by the court and without a jury, the judicial authority, with the defendant's consent and instead of granting a new trial, may vacate any judgment entered, receive additional evidence, and direct the entry of a new judgment.

witnesses and fully present defense witnesses. In essence it was impossible and may be impossible for Mr. Jacques to ever get a fair trial.

There were no proffers, no testimony or presentation of evidence outside the presence of the jury, and limited discussions set forth on the record with chambers discussions addressing the issues. There were no guidelines as to what areas of inquiry could give rise to "opening the door." The undersigned tried this case with one hand tied behind his back.

The trial, to the befuddlement and shock of defense counsel, began with the tone that the suppressed evidence ruled on by the Connecticut Supreme Court was likely going to come into evidence. The short reasoning was that since it happened, and was real, there was no reason to keep it out of trial evidence. In the undersigned's 20 plus years of practice focusing on criminal defense I have never been more suprised.[3] The undersigned's entire defense strategy was gutted, after jury selection.[4] To ask for a mistrial, after Mr. Jacques has waited for years for his trial was a difficult decision to make. The most surprising aspect of this issue, and one of the reasons for the timing of this motion, is the absence of case law addressing this issue. This is a combination of evidentiary law and constitutional law. Although a fact driven issue the concept of "opening the door" is generally fairly clear. In this case however the standard was vague with the exception that all indications that the proverbial door was slightly ajar waiting for the slightest push.

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[3] Undersigned has tried around 40 criminal jury trials to verdict (major felonies and murder) in State & Federal Courts, started evidence in around another 50 jury trials This includes trying numerous murder cases and handling capital murder and cases where the death penalty was a consideration. Tried around 100 habeas corpus trials. Has consulted as an expert for the for the standard for the effective assistance of counsel in numerous cases. Has been qualified and testified in numerous cases as an expert on the standard for effective assistance of counsel.

[4] The undersigned was trial counsel in first trial.

I. JENKINS STATEMENT IMPROPERLY ENTERED UNDER WHELAN RULE:

The Core of the reasoning behind the ruling in Whelan and it's subsequent adoption deals with witness repudiating prior hearsay statements, in part or in full, in which they have knowledge of the contents and the circumstances of the giving of the statement allow for a finding of reliability. Here there is no repudiation or denial on the part of Mr. Jenkins. There is absolutely no recollection of any of the circumstances surrounding the statement. To put it bluntly, there was "no present testimony" to be subject to cross-examination and for the jurors to consider. The Connecticut Appellate Court sets this issue forth nicely.

> Both under [*Cameron M.*], [*Rodriguez*], as well as [*Pierre*], *State* [v. *George J.*, 280 Conn. 551, 910 A.2d 931 (2006), cert. denied, 549 U.S. 1326, 127 S. Ct. 1919, 167 L. Ed. 2d 573 (2007)], and under *Crawford* and other cases cited under *Crawford*, it is obvious that as far as availability, both under *Crawford* and under *Whelan*, as long as the witness is physically present on the stand, as he is, and the jury is able to assess his demeanor, his body language, his gestures, his omissions in responding to questions, that is sufficient for cross-examination purposes and for confrontation. And in *State* [v. *Pierre*, supra, 277 Conn. 57], [our Supreme Court] noted: The cross-examination to which a recanting witness will be subjected is likely to be meaningful because the witness will be forced either to explain the discrepancies between the earlier statements and his present testimony or to deny [that] the earlier statement was made at all. If, from all [that] the jury see of the witness, they conclude that what he says now is not the truth, but what he said before, they are none the less deciding from what they see and hear of that person and in court. . . . The jury can, therefore, determine whether to believe the present testimony, the prior statement, or neither. . . . Quite simply, when the declarant is in court, under oath, and subject to cross-examination before the [fact finder] concerning both his out-of-court and in-court statements, the usual dangers of hearsay are largely nonexistent. [Internal quotation marks omitted.]
> State v. Hutton, 188 Conn. App. 481, 494-95, 205 A.3d 637 (2019)

State v. Hutton 188 Conn. App, 481, 494 (2019). Considering there was no recantation or discrepancies there was no effective way to cross. Mr. Jenkins responses were generally "I don't know." A person who constantly responds "I don't know" and it is extremely likely it is true, they are functionally unavailable.

Mr. Jenkins statement, a statement created for the use in a criminal investigation and court, was a statement given where he was not subject to cross examination. The use of this statement, especially where there were numerous other statements where he testified in court, violated the U.S. Const. 6th Amendment, Crawford, Connecticut's Constitution and Connecticut's adoption of Crawford.

Mr. Jenkins suffered from a physical disability, a stroke, not "memory loss.[5]" No evidence was presented at trial by a medical professional or documentation as to his condition except for Mr. Jenkins claim of having a stroke and it's impact on his ability to function and his memory. On the surface it can appear that memory loss falls under the Whelan exception. However, a closer view, and an opportunity to review and research this issue the memory loss is more nuanced.

All of the cases the undersigned was able to locate under Whelan dealing with memory do not involve physical impairments and relate to sexual assault cases involving minors.[6] Many cases involved **tender years exception** §8-10. Generally the testimony involved:

1. Young victims;

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[5] No motions or written notice was given as to the nature of his condition was presented, no hearings outside of the presence of the jury, nor any reports detailing his condition and his recollection. In many of these the government filed motions notifying the Court and defense counsel of their intent to use this . . . . It was relayed to the undersigned by the government that he remembered nothing, and according to the case law that would make him an unavailable witness.

[6] See State v. Cameron M 307 Conn. 504 (2012) (fn 18 & fn19 give an extensive list); State v. Simpson 286 Conn 634 (2008); State v. Arroyo, 284 Conn. 597 (2007)

2. years had gone by since the incident;
3. incidents of severe traumatic events;
4. when they were even younger, often under 5 years old;
5. the complete incident, with an exception or two, was not forgotten, with recollections of many of the details, such as people, locations, etc.;
6. recollections of some of the details of the statement or video which nearly always involved a forensic interview that was considered medical treatment exception to hearsay; and,
7. nearly all some recollection and details of the information contained in the statement either from being present or involved or receiving first hand

information. (See State v. Cameron M. 307 Conn. 504, 513 fn.12&13 (2012)) (V's memory was refreshed causing her to recall the interview taking place, the room and items in the room, remembered contact who the defendant was, hugging and kissing him, he was nice and didn't harm her, expert testimony about how difficult it is for a 3 year old to remember events as a six year old unless discussed or are triggered by events during puberty). There are numerous examples of where there is not a complete loss of memory of the events but parts of what occurred were forgotten.

In contrast Mr. Jenkins is a man in his early 50's (born 1968), who had given a written sworn statement, testified at a hearing in probable cause, testified at a motion to suppress, testified at a previous trial, was not involved in the incident but only allegedly heard Mr. Jacques discussing the incident does not have a memory loss. He did not know who Mr. Jacques was at the trial. Even though he was incarcerated with Mr. Jacques and testified against him with Mr. Jacques at least twice, maybe three times if he testified at the motion hearings. Mr. Jenkins had no

knowledge not only of giving the statement, but more importantly no knowledge as to the details contained in the statement. The law sets forth he does not have to have actual knowledge of the crime, but he does need to have knowledge what he claims to have known relating to the crime, such as here what Mr. Jacques told him. Mr. Jenkins no longer has personal knowledge of the contents of the statement. The reliability of the statement is extremely suspect. There is nothing to corroborate what Mr. Jenkins claims Mr. Jacques told him and the contents of the statement were a significant issue at the first trial and second trial.

This attempt to squeeze this situation into the Whelan rule caught the undersigned completely off guard making it extremely difficult to properly dispute. And to compound the issue was that Mr. Jenkins was intertwined with the suppressed evidence and with him on the stand recovering from a stroke causing significant brain damage there was no telling what he was going to say on cross potentially "opening the door" irrevocably prejudicing the defense or causing a mistrial.[7]

The blanket use of "memory loss" no matter the underlying circumstances completely nullifies Crawford and other rules of evidence to the severe detriment of the party for whom it is used against. It is a way for the government to circumvent confrontational rights and due process rights by allowing the introduction of a statement created for litigation, or prosecution purposes where there is no cross examination. Mr. Jenkins other statements, trial testimony, are subject to thorough cross examination which the jury could view and consider.

[7] The undersigned's investigators attempted to meet with Mr. Jenkins and were denied contact and even if meeting with him there is no way to predict what he would say.

The Whelan rule, codified in §8-5 is a rule of evidence that is unique to Connecticut. It is a rule that often comes in conflict with the U.S. Constitution, Crawford, the Connecticut Constitution and the adoption by Connecticut Courts of Crawford. The Connecticut Courts are able to increase the protections set forth in Crawford under the Court's authority to set forth and interpret the Connecticut Rules of Evidence and applicability of the Connecticut Constitution.

The understanding of the undersigned was that due J.S. 1's condition he was an "unavailable witness" which is the usual scenario when a witness has a physical impairment. Considering what was relayed by the government this was a reasonable conclusion. The undersigned's investigator attempted to meet with him without success. The issues that arise are evidentiary and constitutional. The Constitutional issues are the sixth amendment and issues raised in Crawford. There is also the ethical obligation of the government to seek justice, which is not always winning. To manipulate the situation to a point where a statement is introduced into evidence that is completely one sided and uncrossable, confrontable. While numerous previous testimony exist with cross-examination. **(REDACTED)**

FILED

MAY 10 2022

SUPERIOR COURT-NEW LONDON
JUDICIAL DISTRICT AT NEW LONDON

DOCKET: KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	NEW LONDON
V.	:	AT NEW LONDON
JEAN JACQUES	:	May 10, 2022

DEFENDANT'S MEMORANDUM OF LAW #5(A)[1]

DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF MOTION #5(A) FILED MAY 9TH, 2021
TO EXCLUDE JAILHOUSE INFORMANT'S
DANNY VAZQUEZ'S TESTIMONY FROM THE JURY

Pursuant to the Sixth, Eight and Fourteenth Amendments to the United States Constitution, Article § 8 of the Connecticut Constitution, C.P.B. § 41-12, C.G.S. §§ 54-86p, 54-86o, 54-86a, the Fifth, Sixth and Fourteenth Amendments as well as the pertinent parts of the Connecticut Constitution, Messiah v. U.S., 377 U.S. 201, 205 (1964) (It is a violation of a defendant's sixth amendment right to counsel for an individual acting as an agent for the government to 'deliberately elicit incriminating statements from the accused.). There are two broad reasons for the Court to suppress the testimony and/or any statements of Mr. Vazquez at

[1] Defendant's motion #1 sets forth in more detail the underlying factual history of this case for reference. There was also an evidentiary hearing held on April 7th & April 8th in reference to two motions and witnesses relating to jailhouse informants Mr. Velzquez & Mr. Jenkins. The government did not obtain a sworn written statement from Mr. Vazquez.

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trial being:

1. Mr. Vazquez was working as a government agent therefore failing to abide by Mr. Jacques Constitutional and statutory rights; and,
2. Mr. Vazquez's testimony is neither reliable or admissible pursuant to the standards set forth in § C.G.S. 54-86p as well as other factors normally considered under the Connecticut rules of evidence.

A memorandum of law setting forth in more detail is being filed with the motion.

FACTS

The most consistent issue and problematic issues is that according to Mr. Vazquez this conversation, or conversations with Mr. Jacques, took place when they were in different facilities. Mr. Vazquez testifies, under oath, on numerous occasions that this conversation took place in late summer and/or early fall of 2019. It even appears that he claims, though his testimony is rather vague that they worked together for a period of time at Corrigan. This conversation took place at Corrigan to which Mr. Vazquez testified to on several occasions. The decision release date July 16, 2019.

According to the DOC records provided by the state Mr. Jacques was transferred to from Corrigan on July 21, 2016. From there he was transferred to Walker then Cheshire until 2/25/2021 when he was transferred to Corrigan.

Mr. Vazquez, according to DOC records entered Corrigan on 12/4/2017

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until 11/16/2018 until he was transferred to Cheshire until 11/21/2018 when he was transferred to Corrigan until 4/18/22 when he was transferred to Cheshire on 4/18/22.

The bottom line is that they were not in the same facility during the time period Mr. Vazquez claimed that Mr. Jacques made these admissions. Mr. Vazquez is also inconsistent within his own testimony. For example on page 44-45 he states "we are tier men who get to stay out later." Going on to say "that's how I kinda, got acquainted with him" Then later under cross he states he did not work with Mr. Jacques. It's inconsistent and confusing.

The information provided by Mr. Vazquez is vague and all of it is either part of the arrest warrant, public knowledge, came out at the HPC, public knowledge, the trial public knowledge, the trial, public knowledge or the Supreme Court decision, again public knowledge.

Also the time of the information is suspect. He first gets information when the cases is overturned where the facts, facts set forth by Mr. Vazquez are part of the decision. Then he reaches out to the states attorney without any response. Then as trial approaches he tries again, this time with more luck. And the basis for his cooperation. Can one really believe he is doing this just to do the right thing. If so he would have been more aggressive in obtaining real information such as

something that could aid the investigation. He provided nothing that added to the resolution of the case.

The statements allegedly made by Mr. Jacques can be broken down as below:

1. "talking about his case and he explained to me how he was in jail for the murder…he had admitted to telling me that he murdered her. "I killed that bitch"; p. 45
2. The omissions, what he did not tell how murdered her and other key details;
3. Lack of specifics;
4. "He explained to me how they and found some blood on his shoelace or sneakers, I believe. He mentioned he had tried to clean up some blood with a mop….police set him up due to the fact that he had what, I'm assuming is the victim's cell phone.; p. 46
5. "He said that he had put the cell phone in a wall in a bathroom and that the police said they located it by pinging a location of the phone, and told me that was impossible for them toping the location of the phone because he had removed the SIM card" (Note the cell phone was not located by "pinging.";

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6. Mr. Jacques told him that someone else was "there that night" a Roussel Hyppolyte;
7. Referred to her as a bitch and a prostitute (inconsistent with what told police) and what does that have to do with the murder?;
8. Done previous time for a murder which is public information;

LAW

The Factors to be considered under 54-86p are

> In any criminal prosecution of a defendant for a violation of *section 53a-54a, 53a-54b, 53a-54c, 53a- 54d, 53a-70, 53a-70a* or *53a-70c*, upon a motion of the defendant before the start of a trial on any such offense, the court shall conduct a hearing at which hearsay or secondary evidence shall be admissible to determine whether any jailhouse witness's testimony is reliable and admissible. The court shall make a prima facie determination concerning the reliability of such testimony after evaluation of the evidence submitted at the hearing and the information or material disclosed pursuant to subdivisions (1) to (5), inclusive, of subsection (a) of section 54-860, and may consider the following factors:
> **(1)** The extent to which the jailhouse witness's testimony is confirmed by other evidence;
>
> **(2)** The specificity of the testimony;
>
> **(3)** The extent to which the testimony contains details known only by the perpetrator of the alleged offense;
> **(4)** The extent to which the details of the testimony could be obtained from a source other than the defendant; and

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(5) The circumstances under which the jailhouse witness initially provided information supporting such testimony to a sworn member of a municipal police department, a sworn member of the Division of State Police within the Department of Emergency Services and Public Protection or a prosecutorial official, including whether the jailhouse witness was responding to a leading question.

(b) If the prosecutorial official fails to make a prima facie showing that the jailhouse witness's testimony is reliable, the court shall not allow the testimony to be admitted.

(c) For the purposes of this section, "jailhouse witness" means jailhouse witness, as defined in section 54- 860.

The undersigned requests making additions to this motion as the trial proceeds and will object again prior to his testimony as the evidence, and it's source comes to light. It is important to remember that this is a retrial so most of the evidence has come to public view.

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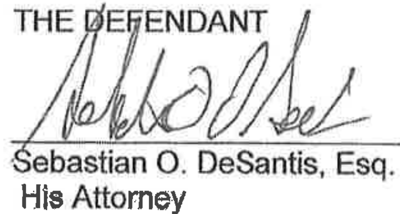
WHEREFORE, the undersigned requests that the Court not allow Constitutionally tainted testimony of Mr. Velazquez setting forth admissions allegedly made by Mr. Jacques and unreliable pursuant to the statutory guidelines and Connecticut Rules of evidence as well as prejudicial.

THE DEFENDANT

By 

Sebastian O. DeSantis, Esq.
His Attorney

ORDER

The above motion having been heard it is hereby ordered: GRANTED / DENIED.

____
JUDGE / CLERK:

____
Date

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CERTIFICATION

I hereby certify that the following has been sent via facsimile on May 10h, 2022 to all the following parties of record.

Christa Baker
Ass. State's Attorney
70 Huntington Street
New London, CT 06320
FAX: 860-442-3019
Email: christa.baker@ct.gov

Sebastian O. DeSantis

KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON
JEAN JACQUES	:	APRIL 7, 2022

BEFORE THE HONORABLE SHARI ANN MURPHY, JUDGE

A P P E A R A N C E S:

Representing the State of Connecticut:

ATTORNEY CHRISTA BAKER
ATTORNEY MARISSA GOLDBERG
Office of the State's Attorney
70 Huntington Street
New London, Connecticut 06320

Representing the Defendant: **** ORDERING PARTY ON APPEAL**

ATTORNEY SEBASTIAN DeSANTIS
Assigned Counsel
300 State Street
Suite 320
New London, Connecticut 06320

Also Present: Haitian-Creole Interpreter for Dft.

Recorded and Transcribed and By:

Cheryl C. Straub,
Court Recording Monitor A
New London Superior Court
70 Huntington Street
New London, CT 06320

1 D A N N Y   V A Z Q U E Z ,
2 being called as a witness by the state, takes the
3 stand and, after being duly sworn, testifies upon his
4 oath as follows:
5 THE COURT: All right. Sir, you may be seated.
6 Thank you.
7 **DIRECT EXAMINATION BY ATTORNEY BAKER**
8 Q Good afternoon, Mr. Vazquez.
9 A Good afternoon.
10 Q I'm just going to ask you to keep your voice up.
11 These mics don't amplify, they just record and I get in
12 trouble all the time for walking around the courtroom and --
13 A Okay.
14 Q -- disobeying the rules.
15 Mr. Vazquez, you were asked to come here today.
16 Well, you were transported here today by the state; is that
17 correct?
18 A Yes, ma'am.
19 Q Okay. And you've met me before.
20 A Yes, I have.
21 Q And you've met Inspector Hurley seated in the front
22 bench.
23 A Yes, I have.
24 Q Okay. And do you recall when you met with us?
25 A To the best of my knowledge, I believe it was about
26 March 4th.
27 Q Okay. And you're here today as a result of

1 contacting the state; isn't that correct?
2 A That is correct.
3 Q And how did you contact the state?
4 A Via letter.
5 Q Okay. And I'm going to hand you --
6 ATTY. BAKER: Your Honor, if I may have this
7 pre-marked --
8 THE COURT: Certainly.
9 ATTY. BAKER: -- for identification purposes.
10 And, for the record, it is I believe seven pages.
11 THE COURT: Okay.
12 ATTY. BAKER: If I may have a moment to show
13 defense counsel.
14 THE COURT: Could you please just let the court
15 know what it was pre-marked.
16 ATTY. BAKER: Yes, your Honor. It was pre-
17 marked as State's Exhibit 1.
18 THE COURT: Thank you.
19 ATTY. BAKER: Your Honor, may I approach the
20 witness?
21 THE COURT: Of course. Thank you.
22 ATTY. BAKER CONTINUING:
23 Q Handing you what's been marked for identification
24 purposes as State's Exhibit 1, do you recognize that, sir?
25 A Yes, ma'am.
26 Q And how do you recognize that?
27 A This is my handwriting. It is a letter that I wrote

1 to the State's Attorney's Office.
2 Q Okay. And you indicated that you wrote that letter.
3 A Yes, ma'am.
4 Q And how do you know you wrote that letter?
5 A It's in my handwriting and I recall writing this
6 letter.
7 ATTY. BAKER: Okay. State would enter it as
8 full if there's no objection.
9 ATTY. DeSANTIS: No objection just for the
10 purposes of this hearing.
11 THE COURT: Okay. Court will note. Thank you.
12 We'll accept it as a full for purposes of this
13 hearing. Thank you.
14 ATTY. BAKER CONTINUING:
15 Q And do you recall when that letter was written? I
16 know I just took it away from you but --
17 A Sometime in February of 2021.
18 Q Okay. And approximately when were you contacted by
19 the State's Attorney's Office?
20 A By your office I was not contacted until most
21 recently March 4th I believe was the date.
22 Q Okay. And did you write that letter on your own free
23 will?
24 A I did.
25 Q Did anyone ask you to write it?
26 A No, ma'am.
27 Q And did you ever speak with anyone from either the

1 police department or the State's Attorney's Office with
2 regard to this case prior to writing that letter?
3 A No, ma'am.
4 Q And do you know an individual by the name of Jean
5 Jacques?
6 A I do.
7 Q And do you recognize him in court today?
8 A If you could just step aside, please.
9 Q Yeah, sorry.
10 A Yes, I do.
11 Q And can you identify him for the record.
12 A Yes. He's sitting between two gentlemen in an orange
13 jumpsuit wearing a mask.
14 THE COURT: All right. Court will note for the
15 record that the witness identified Mr. Jacques.
16 ATTY. BAKER CONTINUING:
17 Q And how do you know Mr. Jacques?
18 A We were in the same housing unit at the Corrigan
19 Correctional Facility in 2019.
20 Q Okay. And do you recall approximately how long you
21 were in the same unit?
22 A I don't recall exactly but I would guess around a
23 four month period -- four to five months.
24 Q And during that period of time when you were in the
25 same housing unit, did you ever have any contact with Mr.
26 Jacques?
27 A Multiple times.

1 Q Okay. And did you ever have any conversations with
2 him?
3 A Multiple times.
4 Q At any point during those conversations, did he ever
5 mention an individual by the name of Casey Chadwick?
6 A Yes, he did.
7 Q Okay. Could you please tell us approximately when
8 that was; exact date isn't necessary.
9 A I want to say late summer/early fall of 2019.
10 Q Okay. And did you ask about Ms. Chadwick?
11 A No. He voluntarily spoke to me regarding Ms.
12 Chadwick.
13 Q And prior to that conversation, did you know what he
14 was currently in prison for?
15 A I had heard that he was in for murder but I didn't
16 know specifics or details.
17 Q Okay. And prior to Mr. Jacques speaking to you about
18 Casey Chadwick, did you ever hear that name before?
19 A I had not.
20 Q Okay. And what -- are you from the Norwich area?
21 A I am from the Windham area.
22 Q Okay. In that conversation about Casey Chadwick, can
23 you please tell us what the defendant said.
24 A So we used to play chess together on multiple
25 occasions and we would talk. I was what's called a tier man
26 in the unit, so we're workers and we clean and sometimes
27 we're out a little longer than other inmates. So we run

1 favors for each other while the other inmates are behind the
2 door and stuff, so that's how I kinda got acquainted with
3 him. And, you know, we were talking about his case and he
4 explained to me how he was in jail for the murder. He told
5 me -- he had admittedly -- he had admitted to telling me
6 that he murdered her.
7 Q Okay.
8 A He called her an explicit --
9 Q Okay. When you say he admitted to murdering her, did
10 he say -- tell you he killed Casey Chadwick?
11 A He did not say it in that form.
12 Q What way did he say it?
13 A Am I allowed to use an explicit word?
14 Q You are.
15 A He said, I killed that bitch.
16 Q Okay. And when he said "that bitch", how did you
17 know he was referring to Casey?
18 A Because she was the only one we had spoken about him
19 killing.
20 Q Okay. And did he tell you how he killed her?
21 A He did not.
22 Q Okay. Did he tell you anything else about the
23 allegations against him?
24 A About the allegations against him? He told -- we had
25 discussed kind of what they had against him -- what the
26 state had against him as far as proof. He had explained to
27 me how they had found some blood on his shoelaces or

1 sneakers, I believe. He mentioned that he had tried to
2 clean up some blood with a mop and that they had blood on a
3 mop. He also mentioned to me that the police set him up due
4 to the fact that he had what I'm assuming is the victim's
5 cell phone.
6 Q So I'm going to ask that you not to assume. Just
7 tell me what he said --
8 A Okay.
9 Q -- with regards to --
10 A Okay.
11 Q So he said he thought the police had set him up.
12 A Yeah, that's correct.
13 Q Okay.
14 A He said that he had put the cell phone in a wall in a
15 bathroom and that the police said they located it by pinging
16 a location of the phone, and told me that was impossible for
17 them to ping the location of the phone because he had
18 removed the SIM card.
19 Q Okay. And when he said, The phone, did he give a
20 description of the phone?
21 A He did not.
22 Q Okay. And did you know what phone he was talking
23 about at the time?
24 A I did not.
25 Q Okay. And you indicated that he stated he cleaned up
26 some blood and they found blood on a mop. Did he tell you
27 where the blood was located or give you details about that?

1 A He did not.
2 Q Okay. And with regards to the killing of Casey
3 Chadwick, did he tell you whether or not he was alone or
4 with anybody else?
5 A He told me that someone else was there that night.
6 He didn't mention any involvement of the other person but he
7 did say that there was another person there that night.
8 Q And when you say "there that night" do you mean there
9 when he killed Casey or are you unsure?
10 A I'm not sure if he was there at the time of the
11 killing.
12 Q Okay. And who was this individual he claimed was
13 there?
14 A An individual who was also incarcerated with us in
15 the same unit in 2019; goes by the name of P.K. I believe
16 it's just the letters P and K. And all I know is that his
17 last name is Hippolyte. I don't know his first name.
18 Q Okay. And could you describe this individual that
19 goes by the name P.K.
20 A Yes. I believe he's African-American/Haitian male.
21 He's bald. He's stocky, he's not skinny. He speaks with a
22 thick accent.
23 Q Okay. And do you know where P.K was from?
24 A I believe he was from Norwich.
25 Q And with regards to the killing of Casey Chadwick,
26 did the defendant tell you anything else?
27 A He just continuously referred to her as a bitch and a

1 prostitute.

2 Q Okay. And how often were you around the defendant in

3 jail?

4 A Maybe two to three hours a day.

5 Q Okay. And during your interactions with him, did he

6 commonly refer to women as bitches and prostitutes?

7 A The only time I heard him refer to a woman as a

8 prostitute was about Casey Chadwick, but he always referred

9 to female staff, CO's, counselors, nurses as bitches.

10 Q And did the accused give you any other information

11 about any other crimes he had committed?

12 A He had mentioned at one point to the best of my

13 knowledge either that he had done time previously for a

14 murder or that he had murdered someone previously. That

15 this was not his first time.

16 Q Okay. And you're currently serving a sentence.

17 A Yes, ma'am, I am.

18 Q And what was your sentence that you received?

19 A My sentence was 15 years, suspended after eight to

20 serve.

21 Q Okay. And did you -- did you -- do you have any

22 currently -- do you have any pending cases currently? Any

23 open cases?

24 A No, ma'am, I do not.

25 Q Okay. And were any promises made to you in exchange

26 for your testimony today?

27 A No, ma'am. No promises were made.

1 Q Are you hoping to receive anything as a result of
2 your testimony?
3 A Yes.
4 Q Okay. And what would that be?
5 A Maybe a little time off of my sentence for my
6 cooperation.
7 Q Okay. And have you filed for that yet? I know you
8 are represented by an attorney.
9 A I do have an attorney representing me on a sentence
10 modification. But I'd also like to make it known that I
11 didn't even know what a sentence modification was prior to
12 sending you the letter or I wasn't even eligible for one
13 because I wasn't sentenced when I sent that letter.
14 Q Okay. And why did you send the letter?
15 A Because it was the right thing to do.
16 Q Okay. And have you previously testified in any other
17 cases against any other individuals?
18 A I testified in 2015 in a motor vehicle accident case.
19 Q Okay. And did you testify as an informant or just as
20 a part of a case?
21 A Just as a witness for the plaintiff in the automobile
22 accident, yes.
23 Q Okay. Have you testified as an informant before?
24 A I have not.
25 Q Okay. Have you given information to either the
26 Department of Corrections or prosecutors or police about any
27 other cases?

1 A Yes, I have.
2 Q Okay. And do you have a special status within the
3 Department of Corrections?
4 A Yes, I do.
5 Q And what is that status?
6 A I'm a source of information for the Department of
7 Corrections.
8 Q And what does that mean; do you know?
9 A That means that I report drug activity, weapons,
10 things like that to the Department of Corrections.
11 Q Okay. And do you work with the state police or just
12 corrections for that?
13 A Just corrections for that.
14 Q Okay. And do they give you like a specific like
15 number or identity for that?
16 A Yes. I have a PIN where I contact them at any time
17 that I need to report something that's of *[sic]* urgent
18 matter.
19 Q Okay. And what are you -- what charges are you
20 currently serving a sentence for?
21 A I'm serving a sentence for multiple charges,
22 including impersonating a police officer, robbery in the
23 third degree, burglary in the third degree. I believe
24 there's a credit card theft and I want to say there's one
25 more -- a larceny second degree.
26 Q Okay. And prior to these convictions, had you ever
27 been convicted of a crime before?

1 A No, ma'am.
2 ATTY. BAKER: If I may have one moment.
3 ATTY. BAKER CONTINUING:
4 Q And with regard to the defendant, Mr. Jean Jacques,
5 is he known by any other names to the best of your
6 knowledge?
7 A He goes by the name Zo *[phonetic]*.
8 Q Okay. And I did mention that tour attorney was here.
9 ATTY. BAKER: She is present in the courtroom,
10 for the record, your Honor. I just wanted to make a
11 note of that.
12 THE COURT: All right. You see your attorney
13 present in the courtroom?
14 THE WITNESS: Yes, I do.
15 THE COURT: All right. Thank you.
16 ATTY. BAKER CONTINUING:
17 Q With regards to the killing of Casey Chadwick, did
18 the accused tell you a time?
19 A To the best of my knowledge, I believe it had
20 happened sometime around two to 3 a.m.
21 Q Okay. And was that information given to you by the
22 defendant?
23 A Yes, it was.
24 Q Okay. And what type -- do you have access to media
25 coverage or newspapers while in prison?
26 A I don't have access to newspapers. I do have a
27 television where I can watch the news.

1 Q Okay. Did you -- have you seen any coverage on the
2 news about Mr. Jacques' case?
3 A Bits and pieces, yes.
4 Q Okay. And had you seen any coverage prior to writing
5 that letter to the State's Attorney's Office?
6 A Not that I can recall.
7 ATTY. BAKER: I have no further questions, your
8 Honor.
9 THE COURT: Okay. Attorney DeSantis, any cross
10 of this particular witness?
11 ATTY. DeSANTIS: Yes.
12 THE COURT: All right.
13 ATTY. DeSANTIS: Yes, your Honor. Thank you.
14 THE COURT: Whenever you're ready.
15 ATTY. DeSANTIS: Thank you.
16 THE COURT: You're welcome.
17 **CROSS-EXAMINATION BY ATTORNEY DeSANTIS**
18 Q So when you wrote the letter, you hadn't filed for a
19 sentence modification yet.
20 A That is correct, sir.
21 Q When you wrote the letter, were you aware what a
22 sentence modification was?
23 A No, I was not.
24 Q When did you become aware of what a sentence
25 modification is?
26 A Shortly prior to my actual conviction which, when I
27 was sentenced, I was sentenced in January of 2021 and so I

1 had just learned about it just by fellow inmates though, not
2 anything -- I hadn't contacted an attorney or anybody.
3 Q I'm -- you lost me there a little bit so I'm going to
4 back over this. When were you sentenced again?
5 A January -- to the best of my knowledge, January of
6 2021.
7 Q And when did you become aware of what a sentence
8 modification was?
9 A Right around the time I got sentenced, either a
10 little prior or after.
11 Q January 20th of 2021.
12 A Right. I believe I got sentenced January 18th.
13 Q And when did you send the letter, State's Exhibit 1?
14 A Sometime in February I believe.
15 Q Of what year?
16 A 2021.
17 Q Okay. So when you sent the letter -- so in January
18 2021 you were aware of what a sentence modification was.
19 A Can I just say something quickly?
20 Q Go ahead.
21 A That was a second letter that I had sent. I had sent
22 a letter prior to the letter that you're talking about now.
23 So I understand where I said that I didn't know anything
24 about the modification prior to the letter but I had sent a
25 letter prior to the one that I was just shown.
26 Q So the letter that you sent --
27 ATTY. DeSANTIS: Why don't we -- Can I approach

1 the clerk, your Honor, and I can take the exhibit
2 just for a minute. Thank you.
3 ATTY. DeSANTIS CONTINUING:
4 Q I just want to --- if you can take a -- I've just
5 handed you something. What is that?
6 A This is the letter that I wrote.
7 Q Okay. Yeah.
8 A Yes.
9 Q And it's marked as State's Exhibit 1.
10 A Yes, sir.
11 Q At the time you wrote that letter, did you know what
12 a sentence modification was?
13 A Yes, sir, I did.
14 Q Okay. And it's safe to say you were not happy with
15 the sentence you received?
16 A Yes.
17 Q Okay. And what was that sentence again?
18 A It was 15 years, suspended after eight.
19 Q And just so we're clear, was there any probation or
20 special parole?
21 A Yes. Five years probation.
22 Q Okay. And just so the record's clear, can you lay
23 out to us what that means.
24 A That means I was sentenced -- to my understanding, I
25 was sentenced to 15 years, I had to serve eight out of that
26 15 with five probation and I think if I violate that
27 probation, I have to do whatever time is hanging. I'm

1 assuming. I'm not sure exactly how the time between the
2 eight years and the 15, that gap, I'm not sure how that
3 would fall into place if I got in trouble again.
4 Q At the time of -- in February of 2021, how much more
5 time did you have to serve on your sentence?
6 A My end of sentence is in 2025, so four years.
7 Q Now, this is the first time you've been to jail; is
8 that correct?
9 A That is correct, sir.
10 Q And how long were you -- let me withdraw that
11 question.
12 What date did you file the sentence modification?
13 A I don't know. I don't think the modification's been
14 filed yet but I hired the Law Offices of Pat Brown in August
15 of 2021.
16 Q And they're hired specifically for the sentence
17 modification.
18 A Correct.
19 Q Any idea on when that's going to be filed?
20 A I don't. To the best of my knowledge, I'm still
21 waiting for some letters from family and friends for that
22 modification.
23 Q And a sentence modification has to be approved by a
24 prosecutor before it can go in the *[sic]* judge; is that
25 correct?
26 A From what I understand, that is correct.
27 Q So you'd have to get -- and it's supposed to be the

1 original prosecutor who handled the case; is that your
2 understanding?
3 A I was not aware of that but I wouldn't dispute that
4 with you if you say that's how it goes.
5 Q And if the prosecutor does not agree on the sentence
6 modification, that's the end of it; is that your
7 understanding?
8 A Yes, that is.
9 Q So it's safe to say you want to look good in the eyes
10 of the prosecutor.
11 A If by telling the truth is looking good then yes.
12 Q Now, tell us again, why did you come forward with
13 this information?
14 A Because I felt it was the right thing to do.
15 Q And tell us again when the -- this information --
16 excuse me. Let me withdraw that question.
17 Tell me again -- tell us again when you received this
18 information.
19 A To the best of my knowledge, it was late summer of
20 2019 to early-to-mid-fall of 2019.
21 Q And it was actually March of 2022 when you disclosed
22 this to the prosecutor and the investigator.
23 A That I disclosed what, sir?
24 Q Excuse me, sir?
25 A That I disclosed what, sir?
26 Q The information that you say Mr. Jacques gave to you.
27 A All right. That's wasn't when I -- I mean, I think I

* * * * *

1 or the fall of 2019.
2 A Well, I can tell you that it was late summer/early
3 fall. I can't tell you exact month, date, or time but I can
4 tell you around the time that I spent time with him in G-pod
5 at the Corrigan Correctional Center. That I know. That's
6 the only time I spent time around Mr. Jacques.
7 Q Now, are you aware that was also close to around the
8 time that Mr. Jacques' conviction was overturned?
9 A What was close or around the time?
10 Q That you were having this conversation with Mr.
11 Jacques.
12 A No, I was not aware that his conviction was being
13 overturned.
14 Q All right. You weren't aware that on July 16th,
15 2019, the Connecticut Supreme Court released the decision
16 overturning Mr. Jacques' conviction.
17 A I was not.
18 Q Were you aware at any time that Mr. Jacques' murder
19 conviction had been overturned?
20 A Yes. I heard it from a fellow Haitian inmate who
21 knows Mr. Jacques.
22 Q And who is that inmate?
23 A I believe his name is Oles or spelt O-l-e-s is his
24 first name, and his last name is Jean-Baptiste.
25 Q And tell us more about that conversation, like when
26 did it occur?
27 A I don't recall exactly what time when it occurred.

1 Q Did it occur before or after the conversation with
2 Mr. Jacques when you say he confessed?
3 A That was a long time after.
4 Q Now, it's safe to say that most of the inmates, if
5 not all in that jail, don't want to be in jail, correct?
6 A That's a fair statement.
7 Q And a lot of the inmates are filing appeals to try to
8 overturn their sentences.
9 A Is that a question?
10 Q Yes. Is that correct?
11 A I'm not sure what any other inmate is doing, sir.
12 Q For example, you filed a -- you're in the process of
13 filing a sentence modification right now; is that correct?
14 A Yes, sir, that is correct.
15 Q And you're trying to overturn your sentence.
16 ATTY. BAKER: Objection, your Honor.
17 THE COURT: Ground?
18 ATTY. DeSANTIS: Well, I'll rephrase that. I'll
19 withdraw that question.
20 ATTY. DeSANTIS CONTINUING:
21 Q You're trying to shorten your sentence; is that safe
22 to say?
23 A I've done over 50 percent of it but, yeah. With the
24 infor -- I'm doing this because it's the right thing to do.
25 I haven't been made any promises. No one has said if you do
26 this, you're gonna get this, so I -- for all I know, I'm
27 doing this because it's the right thing to do and that is

1 all.

2 Q Well, and I think I confused that sentence. You're

3 filing the sentence modification to try to get a shorter

4 sentence.

5 A That's correct.

6 Q And, I mean, it's a pretty big deal if somebody who's

7 serving a long sentence gets that sentence overturned; isn't

8 that safe to say?

9 A Absolutely.

10 Q And inmates discuss it, don't they?

11 A Discuss what?

12 Q When somebody's sentence gets overturned, they talk

13 about it.

14 A That's a fair statement.

15 Q And they want to -- a lot of times they want to know

16 how they were able to do it; is that correct?

17 A That's a fair statement.

18 Q So that would be news that inmates are discussing

19 amongst themselves.

20 A Yes.

21 Q And you said you were working with Mr. Jacques --

22 around what time? What was the time frame you were working

23 with Mr. Jacques.

24 A I was not -- I've never worked with Mr. Jacques. I

25 don't understand. What do you mean by working?

26 Q Okay. I thought you said something about you were in

27 the same duty involved in cleaning or something along those

1 lines.

2 A Right. I was a worker. Mr. Jacques was not.

3 Q Okay. So you never had a job where you worked with

4 Mr. Jacques.

5 A That's correct.

6 Q Tell me about the contact you had with Mr. Jacques.

7 When did it start?

8 A Again, I would say late summer/early fall of 2019.

9 He had a Georgetown Law Book I believe that he had purchased

10 or someone had sent him and he asked me if I could sell it

11 for him in the unit and he asked me to get $50 for it.

12 Q And I apologize. I was writing down. What was the

13 date when you first started talking to Mr. Jacques?

14 A It was in late summer or early fall of 2019. I don't

15 have an exact date for you.

16 Q And was it after July of 2019 that you were talking

17 with Mr. Jacques?

18 A Again, I don't know an exact date, sir. All I can

19 say for a time frame is late summer to early fall. To the

20 best of my knowledge it's all I can remember right now.

21 Q And were you aware of why Mr. Jacques was in prison;

22 what the charges were?

23 A After discussing it with him, yes.

24 Q Okay. What was your understanding of the charges?

25 A That he was accused of murdering Casey Chadwick.

26 Q Did he ever mention -- did he ever talk about being

27 sentenced for that murder?

1 A I do not recall that.
2 Q Did you ever have any knowledge from him or anybody
3 else that at one point he was sentenced to 60 years in
4 prison for the murder?
5 A I did not. Corrigan is a county facility where
6 unsentenced inmates are housed, so I assumed that he wasn't
7 sentenced. But I didn't know when he had gotten sentenced
8 until I heard that his sentence was overturned. I didn't
9 know that he had been sentenced.
10 Q So as far as you knew, he was an unsentenced inmate
11 awaiting *[sic]* for his trial?
12 A I didn't know if he was going to trial or not but,
13 yes, I understood he was -- from my understanding, he was an
14 unsentenced inmate.
15 Q He was awaiting *[sic]* for a disposition of his case.
16 A Fair, yes.
17 Q And you didn't have any knowledge as to when that
18 disposition -- let me withdraw that question.
19 Did you have any idea of when his case was going to
20 be disposed of?
21 A Not at all.
22 Q When did you decide that it was the right thing to do
23 to provide this information?
24 A Again, I had initially sent a letter to the state's
25 attorney so at that time -- I don't remember exact date on
26 that letter -- I'm going to guess it was not long after he
27 told me the information, but I don't know an exact date.

1 Q So you sent a letter to the state's attorney. And do
2 you have a copy of that letter?
3 A I do not, sir.
4 Q And you got no response from that letter; is that
5 correct?
6 A That's correct, sir.
7 Q And you were trying to provide them with information
8 that you had regarding a -- that could -- that could help
9 solve a murder; is that safe to say?
10 A Yes, sir.
11 Q And you put that in that letter.
12 A I don't recall exactly what that letter said so I
13 don't want to say I did, but I'm sure I told them I had
14 information regarding the case and I don't know about any
15 details in that letter though.
16 Q But you wanted to put enough in there so that you
17 would get a response.
18 A Right. But I didn't give any details at all. I just
19 said I had information. I recall that. And then not long
20 after I got a little nervous about doing it and I actually
21 wrote back and told them to forget it.
22 Q Now, you mentioned that you've heard other people say
23 that they had killed people; is that correct?
24 A That is correct.
25 Q All right. And did you provide the prosecutor with
26 information regarding those -- regarding that information?
27 A What prosecutor are you speaking about?

1 Q Any.
2 A Yes.
3 Q Okay. And did they come out and talk to you?
4 A I went out and spoke to them.
5 Q And how many times did that happen?
6 A Three times.
7 Q And did you give written statements on any of those
8 times?
9 A Two of them. And I don't know if it makes a
10 difference but one of those was a manslaughter. It wasn't a
11 homicide case.
12 Q To your knowledge, was that used in the prosecution
13 of anybody?
14 A I know one case is pending and I don't know what
15 happened with the one that I said was a manslaughter, not a
16 homicide.
17 Q Now, is this information that you hope will help with
18 your sentence modification?
19 A I'm willing to take any help that would help me with
20 the sentence modification but, like I said before, nothing
21 has been promised to me from anyone.
22 Q Did you talk to the state police at all regarding any
23 of these three cases?
24 A No. I spoke to the Vernon, Connecticut Police
25 Department, spoke to a detective regarding the manslaughter
26 case, and then the other case is a case in Waterbury. I
27 spoke to the state's attorney there and I did speak to

1 Waterbury police detectives and gave a statement.
2 Q And the third time, what happened with that one; do
3 you know?
4 A Which one is that?
5 Q Because you said you went in three times.
6 A Correct. So one was the manslaughter; that was the
7 first one.
8 Q Okay.
9 A This one is the second one. The third one is a
10 homicide out of Waterbury that is still pending.
11 Q So there's two cases out of Waterbury?
12 A No, just one, sir.
13 Q Okay. Again, I was writing and I must've missed
14 something because you said there was a case out of Vernon.
15 Where's -- now there's a case out of Waterbury. Where is
16 that third --
17 A The first case? The first case where I gave
18 information, that was the Vernon, Connecticut case, okay.
19 This case here is the second one. And the third one is the
20 Waterbury case.
21 Q Oh, I see. So when you say three, it's inclusive of
22 this case.
23 A That is correct, yes.
24 Q Okay. The time -- the Vernon case, around what time
25 period did you contact them?
26 A That was around January of 2020.
27 Q And the Waterbury one, around what time period was

1 that?
2 A That was November of 2021.
3 Q Did you -- when you met with the state's attorney and
4 the investigator back in I think it's March, did you let
5 them know about those other two cases?
6 A I did. To the best of my knowledge I did.
7 Q Now I want to jump back a little bit. You mentioned
8 something at Corrigan as being for inmates held on -- or not
9 inmates but people who are held on bond. You're a sentenced
10 inmate right now; is that correct?
11 A That is correct, sir.
12 Q So there are sentenced inmates that are held at
13 Corrigan.
14 A What I should have said was the majority are
15 unsentenced. There are plenty of sentenced inmates there,
16 yes.
17 Q Okay. But when you said that -- all right. So
18 you're just wrong about them all being held there on bond.
19 A Yeah. I apologize if it came out that way. I should
20 have said there were sentenced inmates, including me.
21 Q Now back to Mr. Jacques a little bit. How did you
22 guys start talking again?
23 A Like I said, he asked me to sell a Georgetown law
24 book for him that he had either purchased or was sent in to
25 him by someone and he was trying to sell it for $50. And
26 due to the fact that I was a tier man, which gives me a
27 little more out-of-cell time, I kinda get to talk to inmates

1 that are behind the door a little bit. I had the
2 opportunity to ask multiple inmates if they were interested
3 in purchasing the book from him.
4 Q After that, did you start hanging out with him or
5 talking with him or --
6 A On occasion, yes.
7 Q And now you said you also had a job where you were
8 cleaning; is that correct?
9 A Yeah. It's called a tier man job, yes. You clean
10 the unit after recreation time. You sweep the floors, you
11 mop, you clean the showers, wipe tables down, take out the
12 trash.
13 Q Do you do that alone or you do that with any other
14 inmate?
15 A I do that with other inmates, usually around three to
16 four workers per shift.
17 Q Did you ever do it with Mr. Jacques?
18 A No. He never worked with me, sir.
19 Q And in your pod, how many people are in that G-pod?
20 A When it's a full house, it holds approximately 96
21 inmates.
22 Q And how much time approximately do you think you
23 spent with Mr. Jacques back around the summer and fall of
24 2019?
25 A Like I said, we played chess and we talked. We would
26 sit at the table. I wouldn't say that it was an everyday,
27 every rec period type of thing but it was on occasion.

1 Q You -- it's safe to say that you guys were not close
2 friends; is that safe to say?
3 A We were friends. I mean, I don't know how close it
4 was but we were friends.
5 Q And how often would you guys play chess?
6 A On occasion. Again, it wasn't everyday thing. It
7 wasn't an every recreation occurrence. If I had to guess,
8 maybe three times a week for 30 minutes -- 40 minutes at a
9 time.
10 Q And were there times when you would hang out with him
11 and other people?
12 A Yes, that is correct.
13 Q And who would those other people be?
14 A Other inmates. Are you asking for specific names?
15 Q Yeah. Yes.
16 A One that I do remember, his name was Germane Ogrinc,
17 O-g-r-i-n-c. He was -- he went by the name of Main
18 *[phonetic]* and it would usually be him around me and Mr.
19 Jacques.
20 Q When -- anybody else that you could think of?
21 A Not off the top of my head. I do recall Main
22 spending a lot of time around the table when I was playing
23 chess with him.
24 Q Now the -- I believe you said -- well, where did --
25 this conversation where he supposedly told you he did the
26 murder, where did this occur?
27 A At a table, one of maybe five, in the dayroom during

1 recreation time.

2 Q And that -- those -- what are they called again,

3 recreation rooms?

4 A It's just a dayroom. It's just -- it's in the unit.

5 It's just tables out so basically you're outside your cell.

6 It's just an open area with tables and where the phones are

7 and stuff. It's our recreation area.

8 Q And there's about five tables there, right?

9 A Approximately, yes.

10 Q And each table sits about four or five people?

11 A Four.

12 Q Four. And the chairs are attached to the tables; is

13 that correct?

14 A That's correct.

15 Q Were those seats usually filled up?

16 A Not always.

17 Q And when they released people out into that -- into

18 those rooms, would they release everybody at the same time?

19 A Not all 96 inmates. The unit is divided by two

20 tiers. There's an upstairs and a downstairs. The

21 downstairs has approximately 22 cells, the upstairs has

22 about 26 cells. So it's one tier at a time. So

23 approximately 44 inmates at a time. I'm going based off

24 lower tier numbers.

25 Q And to your knowledge, did anybody else hear this

26 conversation between you and Mr. Jacques?

27 A Not to my knowledge, sir.

1 Q Did you discuss this with any of the other inmates?
2 A No, I did not.
3 Q Did you discuss this with anybody at the Department
4 of Corrections?
5 A No. At that time I didn't have anyone to contact
6 there which is why instead of going through the Department
7 of Corrections I directly wrote the state.
8 Q And you're a source -- what is it? Source of
9 information; is that what it's called?
10 A That's correct.
11 Q When did you become -- when did you get that status?
12 A I want to say June of 2020.
13 Q And what do you have to do to get that status?
14 A Provide information. Provide credible information.
15 Q And I'm going to back up a little bit. You were a
16 tier man before that; is that correct?
17 A I'm still a tier man, sir.
18 Q Okay. What do you have to do to become a tier man?
19 A You have to ask a counselor for a job.
20 Q And is that it? I mean, you just ask for jobs and
21 you're a tier man?
22 A That's correct. Sometimes there's a waiting list.
23 They put you on the list and, as people discharge or
24 transfer to other facilities, job openings become available.
25 Q Now, this source of information, do you have to --
26 when you give information, do you have to put something in
27 writing?

1 A I don't have to.
2 Q Other than -- well, are there any benefits that come
3 with being a source of information?
4 A No, sir. Nothing is promised. I'm not paid extra
5 money or anything like that. Maybe I get to pick who I live
6 with as a cellmate but that's as far as it goes.
7 Q Why did you become a source of information?
8 A Something I chose to do.
9 Q Why did you choose to do it?
10 A For my safety and the safety of other people.
11 Q How would that impact your safety?
12 A If other inmates have weapons or drugs or anything of
13 that nature and so happen -- you know, they get intoxicated
14 and they decide that they want to go on a rampage and start
15 cutting other people, that benefits my safety 100 percent.
16 Q So you weren't expecting any benefit from being a
17 source of information.
18 A No. Not at all. There's nothing promised. There's
19 no -- there's -- you know, nobody said, If you do this,
20 you're gonna get this. There's nothing.
21 Q And just so I'm clear, did you receive any benefit
22 from being a source of information?
23 A From who?
24 Q From the Department of Corrections.
25 A I received no benefits. And, again, they can be
26 pretty accommodating but if I receive anything from doing
27 that, is maybe I get to pick my cellmate. I get to pick

1 someone who I feel comfortable living with, but that's not
2 even a condition of being an SOI, oh, yeah, you get to live
3 with whoever you want. No. It's just something that they
4 allow.
5 Q Was that something that you planned on including in
6 your sentence modification?
7 A Yes.
8 Q There's also some risks that can be -- that can come
9 with being a source of information; is that correct?
10 A Absolutely.
11 Q Because people could think that you're I guess what's
12 referred to as a snitch and you could get -- you could get
13 hurt; is that correct?
14 A That's correct.
15 Q The PIN -- you said you had a PIN that you would use
16 to call in information.
17 A That's correct.
18 Q Was that done through the pay phones?
19 A That was done through the unit phones, yes. Through
20 the inmate phones, yes.
21 Q And did you use those phones for personal use as
22 well?
23 A Yes. To contact my family, yeah.
24 Q During this time period, did you ever have any
25 conversations on the phone regarding Mr. Jacques?
26 A No, I did not.
27 Q Did you ever -- just to be clear, ever ask anybody to

1 with two counts of impersonating a police officer?
2 A I was charged with two but I was only convicted of
3 one, sir.
4 Q They dropped one of the charges.
5 A Correct.
6 Q And it was part of a deal to have you plead guilty to
7 the offer made by the state.
8 A Correct.
9 Q But there were two separate incidents where you
10 impersonated a police officer.
11 A Allegedly. One I was convicted of. The other was
12 dismissed, like I said.
13 Q Are you saying you didn't do it?
14 A The one I did not plead guilty to, I'm saying I did
15 not do that.
16 Q And you actually went on kind of a little bit of a
17 spree during that time period; is that safe to say?
18 A That is safe to say.
19 Q And it was because of drugs; is that correct?
20 A That is correct.
21 Q And you were doing things -- you impersonated a
22 police officer in order to obtain drugs; is that correct?
23 A I impersonated a police officer to obtain drugs from
24 someone I knew, which would go to show like my state of
25 mind, that I was out of control on drugs -- spiraling out of
26 control, yes.
27 Q So you lied to them.

KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON
JEAN JACQUES	:	APRIL 7, 2022

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording taken in the above-referenced case, heard in Superior Court, Judicial District of New London, New London, Connecticut, before the Honorable Shari Ann Murphy, Judge, on the 7th day of April, 2022.

Dated this 10th day of January, 2023, in New London, Connecticut.

Cheryl C. Straub,
Court Recording Monitor A

NO: KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON, CONNECTICUT
JEAN JACQUES	:	MAY 16, 2022

TRANSCRIPT OF PROCEEDING

BEFORE THE HONORABLE SHARI A. MURPHY, JUDGE AND JURY

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1 second, Your Honor, I just wanted to have the statute
2 at hand.
3 THE COURT: Okay.
4 ATTY. DESANTIS: And for some reason it's
5 eluding me. Just give me like two minutes and if I
6 can't find it, I can't it; it's not the end of the
7 world.
8 THE COURT: Okay.
9 ATTY. DESANTIS: It's not too complicated.
10 And --
11 ATTY. BAKER: Attorney DeSantis?
12 ATTY. DESANTIS: Thank you.
13 ATTY. BAKER: Is that the one you want?
14 ATTY. DESANTIS: Thanks. I owe you.
15 Well, Your Honor, there were two key motions
16 that I filed. First, orally, and then in writing, as
17 you're aware. I'll start with Mr. Vazquez, who
18 appeared most recently out of the blue.
19 I think the biggest issue with him is -- well --
20 his credibility. And I think the number one problem
21 with his credibility is he testifies on numerous
22 occasions, under oath, both on direct and on cross,
23 that information was received from him from Mr.
24 Jacques, and his testimony is confusing as well, and
25 I tried to clarify it because at one point, he says
26 or makes it appear like he's not only at Corrigan
27 with Mr. Jacques in late summer and early fall of

1 2019, which, coincidently, is around the time of when
2 Mr. Jacques conviction was overturned. I believe it
3 was July of 2019 when it was overturned. July -- tt
4 might be July 17th or something along those lines.
5 THE DEFENDANT: July 16th.
6 ATTY. DESANTIS: July 16th. Thank you, Mr.
7 Jacques.
8 July 16th when his Appellate Court -- or the
9 Supreme Court issued the decision to overturn Mr.
10 Jacques case. And then at that time, Mr. Vazquez
11 comes forward with information. And I would point
12 out that these cases, Supreme Court cases, are public
13 information, they do have a set of facts set forth
14 within them about how the crime occurred and
15 important details about the crime, including
16 information that Mr. Vazquez provided to the police
17 and to the Court.
18 And these are one of the factors, and I would
19 suggest to the Court, actually, probably the main
20 factor is if the person has information that's not
21 available or new information that leads the police to
22 further investigation that aids the case and aids the
23 police in obtaining more evidence against the person
24 who supposedly confessed to them, and that did not
25 occur here. The information that Mr. Vazquez
26 provided was all public information.
27 Office Gomes testified on the stand -- actually,

1 I'm getting a little lost. I'm going to back up just
2 a little bit.
3 Vazquez testified that Mr. Jacques was working
4 with him on the tier at Corrigan around this
5 timeframe and it gave him the opportunity to have
6 more time with Mr. Jacques. Let's see. It's on page
7 44 of the date of his testimony. He's -- it's
8 confusing, and maybe he misspoke, but it sounds like
9 he's saying what he's meaning to say, as well.
10 And he says, I was what's called a tier-man in
11 the unit, so we're workers and we clean and sometimes
12 we're out a little longer than other inmates. So we
13 run favors for each other while other inmates are
14 behind the door and stuff. So that's how I kind of
15 got acquainted with him. So you might be able to say
16 that -- when he says we, we're referring -- he's
17 referring to tier-man, but the problem there is that
18 that wouldn't give him what he's saying he -- you
19 know, he had, which was a little longer time with Mr.
20 Jacques, so supposedly Mr. Jacques had time alone to
21 confess or make an admission to him and get
22 acquainted with him.
23 Because I don't understand how being a -- not
24 being a tier -- Mr. Jacques not being a tier-man
25 would do any of that that he claims is that little
26 extra that gave him the opportunity. And he later
27 does go on, I think, I believe it's in the cross-

1 examination, and say that they weren't working
2 together, which is inconsistent testimony or he could
3 be lying.
4 And so I would like the Court to think about
5 that regarding his credibility, that he's saying what
6 he needs to say in order to get what he wants and --
7 that he had murdered Ms. Chadwick. And so I wanted
8 the Court to think about that, and the timing, and
9 also the inconvenient fact that Mr. Jacques and Mr.
10 Vazquez were not in Corrigan together at that time
11 period.
12 If you look at the Department of Correction
13 records, Mr. Jacques, who is a sentenced inmate, was
14 being held at Cheshire, where they generally hold
15 sentenced inmates, with some exceptions, and Mr.
16 Vazquez was being held at Corrigan. Although he was
17 a sentenced inmate as well, it looks like he was
18 being held there because of his work that he was
19 doing. But they were not together in the time period
20 of 2019 that they claim they were together.
21 If you look at the records, they were together
22 at Corrigan for a few months, but it was a very
23 limited amount of time and it was, I believe,
24 February of 2020 or 2021. Here, I'll look at the
25 Department of Corrections movement. Mr. Vazquez was
26 moved to Corrigan on November 21st of 2018 until
27 April 18th of 2022. Mr. Jacques, according to DOC

1 records, was moved to -- he was at Corrigan on June
2 6th, 2016, and he was moved to MacDougall-Walker on
3 July 21st, 2016. Then August 5th, 2016, moved to
4 Cheshire. And the next time he went back to Corrigan
5 was on February 25th, 2020.
6 Now, Mr. Vazquez testified several times that
7 these conversations took place in the summer -- late
8 summer, early fall of 2019, and that's just
9 impossible because they were not together physically.
10 And either Mr. Vazquez is a liar, or he just can't
11 get it right. Either one is a reason to keep him off
12 the stand. If he can't remember enough about the
13 dates, which are clearly wrong, then he is, I would
14 say, per se reliable, or if he's lying about the
15 dates, then he, again, is unreliable.
16 The next step is to take a look at the evidence
17 that he actually provided. They were very vague.
18 The details were vague about how they came about, how
19 they occurred, the gist of the conversation, all the
20 indicia of what one looks for when one's telling the
21 truth. And he says that they were playing chess
22 together or something along those lines, but he
23 doesn't set forth anything in detail about what he
24 allegedly heard from Mr. Jacques that Mr. Jacques
25 did.
26 It's very vague, which is very conveient,
27 because if you get it wrong, it gives you the

1 opportunity to move around, to have motion in your
2 story if it doesn't pan out. And the information he
3 provided, Officer Gomes got on the stand and
4 testified that that was not public information,
5 however, he also testified that the warrants were
6 sealed, which they weren't.
7 At least the arrest warrant was not sealed, and
8 we could have the clerk come in -- over and testify,
9 but anybody can go to that clerk's office, make a
10 copy of it, and call Mr. Vazquez with that
11 information, and give it to him. They can also look
12 in the newspaper and the news.
13 There was -- there were numerous court hearings
14 that happened prior to Mr. Jacques -- before 2019.
15 There was a hearing in probable cause where numerous
16 witnesses testified, and they testified to the
17 information that Mr. Vazquez provided. There was
18 also motions to suppress, where information was put
19 out on the record. Again, in an open courtroom, as
20 was the hearing in probable cause was in an open
21 courtroom where people testified about what happened.
22 And then there was the actual trial itself,
23 which was, again, held in an open courtroom, open to
24 the public. So it was available to anybody. In
25 fact, he might -- he could've seen it in the news
26 himself or had a friend who provided that information
27 to him over the telephone or through the mail.

1 But -- and then you look at the information that
2 was actually provided, and he says -- Mr. Vazquez
3 says, on page 45, I'm talking about his case, and he
4 explained to me how he was in jail for the murder,
5 which was actually true, he was in jail for the
6 murder. And you know, this part, he admitted to
7 telling me that he murdered her, quote, I killed that
8 bitch.
9 That lacks any kind of detail. Doesn't even say
10 how, doesn't say when or why, it doesn't give
11 anything that would provide anybody with any
12 information that anybody wouldn't know already by
13 looking at open news sources. There's no details, a
14 complete lack of specifics. He goes on to say that
15 Mr. Jacques supposedly said they found some blood on
16 his shoelace or sneakers, I believe. He mentioned he
17 had tried to clean up some blood with the mop and
18 that the police set him up -- what he had -- what I'm
19 assuming is the victim's cellphone. The big word in
20 that sentence is assuming, which of course, again,
21 gives Mr. Vazquez room to maneuver if he's confronted
22 with these lies.
23 Also, supposedly, Mr. Jacques said that the
24 cellphone was put in the wall in the bathroom and
25 that the police located it by pinging and something
26 on about that's impossible because removal of the SIM
27 card. That's just plain wrong. The police did not

1 find the phone by pinging it, although, they tried to
2 ping it. They supposedly found it through another
3 source, Mr. Jenkins.
4 Also, Mr. Jacques said that there was somebody
5 there that night, Roussell Hypolite. There's been no
6 evidence presented, and Detective Gomes was here, he
7 was the lead detective, and I heard no evidence that
8 they approached Mr. Hypolite and talked to him and
9 asked him if he was there that night or if he had any
10 information relating to this murder.
11 You would think if they believed this guy, that
12 this guy was a reliable source, that they would want
13 to talk to Mr. Hypolite to see what he had to say,
14 because if you look at his report that he gave to the
15 police, it's pretty vague. He is one of the people
16 that did find the body, but beyond that, there's no
17 real information about where he was that night or
18 that morning. It does have some information that he
19 was with Mr. Joseph during -- later on in the
20 afternoon. However, again, nothing that is of any
21 substance.
22 And then this other stuff, this gratuitous stuff
23 referred to her as a bitch and a prostitute, which is
24 inconsistent with that he told the police. If you
25 listen to his statement, he actually told the police
26 that he was friends with her. And -- though, this
27 was -- it was rather contentious at trial, but he had

1 always maintained that they had had a friendship.
2 And we heard testimony today, I believe it was today,
3 we -- about how -- no, I apologize.
4 I was just reading Mr. Joseph's transcript in
5 preparation of his case, but Mr. Joseph testified
6 that at trial and at the hearing in probable cause,
7 that Mr. Jacques was a friend who would come over and
8 visit Ms. Chadwick's apartment and they would get
9 high, and they would hangout, and they would joke
10 around, which is completely inconsistent with that
11 Mr. Vazquez claims that Mr. Jacques told him.
12 And then -- and then why? Why? What motive
13 does Mr. Jacques have to tell a near stranger to
14 confess, especially after his experience with Mr.
15 Jenkins who testified at his trial as a jailhouse
16 informant. And it was prior to when the statute was
17 written, but he'd already been burned on this issue.
18 Why -- why would he confess to Mr. Vazquez? And it's
19 not like they're close friend or -- testifying -- or
20 confessing to him just sinks his case. Why not just
21 plead guilty and get 60 years and spend the rest of
22 your life in prison?
23 It doesn't make any sense that he would do this
24 and tell this to Mr. Vazques. And Mr. Vazquez, a man
25 who sits up here on the stand and says he's just
26 doing the right thing, trying to turn his life
27 around, and things along those lines; I don't believe

1 him for a heartbeat. He's desperate to get any help
2 he can get.
3 He got caught really seriously in Rockville. He
4 got caught in a place -- not Rockville, it was
5 Danielson. He got caught impersonating a police
6 officer. Lying. And if you look at his other cases,
7 he was, you know, they involve deceitfulness, such
8 as, I believe they were larceny or burglary or things
9 along those lines. But the impersonating a police
10 officer I think is the doozy of the ones.
11 And Attorney Baker, as requested, was gracious
12 enough to contact other departments, and there was
13 another police department that at one point was
14 actually considering charging Mr. Vazquez with
15 impersonating a police officer. So I think that Mr.
16 Vazquez is the person that the statute was written
17 for. He's the perfect example.
18 And the problem with these jailhouse informants
19 and jailhouse snitches, and I believe this might be
20 in my previous motion, is that jurors are for some
21 reason inclined to believe them. I think it's the
22 underdog story. They want to believe that this
23 person is turning their life around and trying to
24 help people out. And psychological studies have been
25 done that jurors are easily taken in by these groups
26 of people that are very convincing, and they're con
27 artists, and they're desperate; they'll do anything

1 to get out of prison.

2 And he really got -- he got whacked with a heavy

3 sentence, and he's desperate to do anything in order

4 to get out of having to pay the penalty for what he

5 did, and in a heartbeat, he would bring, you know, he

6 would throw Mr. Jacques under the bus, walk over him,

7 whatever it takes, and that's exactly what's

8 happening here.

9 And because the risk that our legislators have

10 seen psychologically of jurors believing these types

11 of people, they've enacted this statute to prevent it

12 from coming in front of a jury. And so on that

13 basis, I would ask that he not even be allowed to be

14 in front of a jury, that the chances of Mr. Vazquez

15 actually being prosecuted is extremely slim.

16 They may not use him again, he may have burned

17 his bridges, but I -- that's one of the things that

18 jurors -- that came into play is that jurors presumed

19 or thought and actually a couple of jurors even said

20 it on the stand here, is they presume that, you know,

21 if somebody lied under oath on the stand about

22 something like this, that they would be prosecuted

23 for perjury or something along those lines, and that

24 rarely happens.

25 And a good example of that is the Innocence

26 Project, where they've hit nearly 3,000 people, and a

27 good portion of them involve jailhouse informants who

1 lie, and very few of those people were ever charged
2 with any crimes because they just -- the police are
3 too busy, they don't want to do it, I don't know what
4 reason, but jurors are under the mistaken assumption
5 that they would be prosecuted for lying, and in
6 reality, there's really no ramifications.
7 So that's my argument for Mr. Vazquez. I don't
8 know if you wanted me to move to Mr. Jenkins or let
9 the State respond.
10 THE COURT: We'll hear the State on this
11 particular motion so we can keep a clear record.
12 ATTY. BAKER: Yes, Your Honor.
13 Section 54-86p is a statute that the legislature
14 has set out regarding the admissibility and
15 reliability of jailhouse informants. The Court -- it
16 requires the Court to make a prima facie
17 determination concerning the reliability of such
18 testimony at the evaluation of evidence that's
19 submitted during the during the hearing in which we
20 previously had.
21 The Court may consider the following factors:
22 the extent to which the jailhouse witness is evidence
23 as confirmed by other -- testimony is confirmed by
24 other evidence; the specificity of the testimony; the
25 extent to which the testimony contains details known
26 only to the perpetrator of the alleged offenses; the
27 extent to which the details of the testimony could be

1 obtained from a source other than the defendant; and
2 the circumstances under which the jailhouse witness
3 initially provided information supporting such
4 testimony to a sworn member of a municipal police
5 department or State Police or a prosecutorial
6 official.
7 With regards to the first, the extent to which a
8 jailhouse testimony is confirmed by other evidence, I
9 would note that the jailhouse informant, Danny
10 Vazquez, Attorney DeSantis is correct is saying that
11 some of his facts are vague. I apologize, I'm trying
12 to get this cough drop down. They are vague, but I
13 would submit that that only enhances the credibility
14 of his testimony. If he went out and pulled a
15 transcript or looked at a court document or a warrant
16 or got information regarding the case, I imagine his
17 details would be much more specific with regards to
18 the confession that the accused gave to him.
19 Mr. Vazquez, and this is -- I believe Attorney
20 DeSantis is mistaken in interpreting the testimony
21 given by Danny Vazquez. Danny Vazquez indicated he
22 knew the accused because he used to play chess with
23 him. He was very specific, in fact, where they would
24 play. He indicated they would play chess in the
25 visiting area. I believe he went on to be very
26 specific about who would be present, including
27 indicating an individual by the name of Germaine

1 Ongreck (phonetic) who was often there when he spoke
2 with the accused.
3 He indicated exactly how many pods the G-pod
4 held; how many inmates were in the G-pod. With
5 regards to the timing, he did indicate in his
6 testimony that he believed it was late summer/early
7 fall of 2019. On page 57 of his -- the transcript of
8 his testimony, when questioned, going back to 2019,
9 Attorney DeSantis said, you seem rather vague. He
10 admitted that that was a long time ago; he wasn't
11 exactly sure of the period of time, but he remembers
12 what cell he lived in and the times that -- the
13 season of the year.
14 Looking back at the correction's record, as
15 stated by Attorney DeSantis and it's submitted to the
16 Court, he in fact was in the G-pod with the accused
17 in the summer of 2020. Time period is correct, the
18 location within Corrigan is correct, he just had the
19 year wrong. In addition, with regards to details
20 about the case, he indicated that while playing chess
21 is how he got to know the accused, and that he was a
22 worker, a tier-man on the unit, and was able to be
23 out longer than other individuals.
24 The accused tried to sell him a book; that's how
25 he initially met him. They subsequently began
26 playing chess. He said the accused admitted to
27 killing Casey, did refer to her as a bitch, a

1 prostitute, did admit to him that they found blood on
2 his shoelaces and on his shoe, and blood on a mop in
3 the -- within the apartment. All of this is true and
4 has been corroborated.
5 In addition, he indicated that there was -- a
6 white cellphone was taken. He wasn't sure whose cell
7 phone it was, just that he thought it might have been
8 the victim's; he was assuming, but he didn't know for
9 sure, just that a white cellphone was taken; it was
10 placed in the wall of a bathroom. The accused had
11 indicated that the police were trying to set him up
12 because it was impossible for them to ping the
13 cellphone because he had taken the SIM card out.
14 This was information that we did not have prior.
15 This was new information to us. So we went back and
16 checked and there is a report that is in evidence
17 from the forensic lab that indicates it wasn't the
18 SIM card that was taken out, but the SD card that was
19 taken out and was missing from the phone. This is,
20 again, is information that we didn't know. This is
21 information the police didn't know. This is
22 information that wasn't even brought out at the first
23 trial.
24 So that is new information and has been
25 corroborated by the forensic report. I would submit
26 that the SD card and the SIM card look strikingly
27 similar, and the accused probably mistakenly took out

1 the SD card, not knowing the innerworkings of the
2 cellphone.
3 In addition, the defense counsel questions the
4 motive behind this; a motive isn't a factor in this,
5 just the circumstances in which the initial testimony
6 was provided. This is not a witness that the State
7 sought out, this is not a witness that the police
8 sought out, this is a witness that came to us. In
9 fact, came to us via a letter that was given almost a
10 year ago and wasn't acted upon until it was happened
11 upon by myself when I received the case and asked by
12 Attorney Hurley to follow up.
13 The informant never spoke with the police; he
14 never gave information to the police. The police
15 never talked to him and asked him to get information.
16 This is just information that was given to us by the
17 informant who testified he was doing this to atone
18 for some of the things that he has done wrong in his
19 life. I think his credibility is for Your Honor to
20 judge and if Your Honor allows the testimony for the
21 jury to judge, I would submit that it's not my job,
22 nor is it Attorney DeSantis's job, to sit here and
23 say whether or not we believe him. That is for Your
24 Honor to decide.
25 Mr. Velez (sic), again, his information was
26 corroborated with regards to his movement in the
27 jail. There was some information that he indicated

1 that there was a PK present. He didn't say -- when
2 asked if he was present at the time of the murder, he
3 said he didn't know, he just knows that there was a
4 PK. Subsequent, an investigation revealed that PK is
5 in fact the street name for Roussell Hypolite.
6 Roussell Hypolite was present; he was there with
7 Jean Joseph when Casey's body was found. That is not
8 information, again, that he would have known. That
9 is not information that was given during the course
10 of the trial. More certainly, the State didn't even
11 know who PK was in relation to Roussell Hypolite.
12 So for that reason, I think there is
13 corroborating information. It is confirmed by other
14 evidence. The specificity of the testimony; he's
15 very specific on certain details, not so specific on
16 others, which I, again, would submit to the Court
17 that that actually enhances his credibility.
18 As far as to why the accused would talk, I don't
19 -- I -- that cannot be answered. People do things
20 that aren't always in their best interests. If all
21 accuseds were the -- were rocket scientists, we would
22 not be here, Your Honor. I can't attest to why the
23 accused has decided to open his mouth on a number of
24 occasions to other individuals, that is for the
25 accused to know and only the accused to know.
26 So I would submit that, Your Honor, that the
27 State has met its burden with regards to this

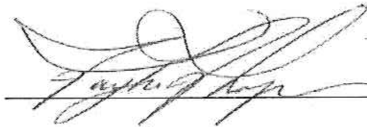
1 informant, that we have made a prima facie showing
2 that this witness is in fact reliable with regards to
3 his testimony, and we would ask the Court to allow
4 him to testify.
5 THE COURT: All right. Thank you.
6 Attorney DeSantis, is there anything else you
7 wanted to say?
8 ATTY. DESANTIS: I -- I would just point out,
9 just a couple of minor things. There was never any
10 blood found on a shoelace. I remember the SD card
11 and SIM card being a big issue at trial. I remember
12 being up with Attorney Smith tearing apart that phone
13 and trying to find out what that card was -- the card
14 was that was in that phone because there was an issue
15 about this 5457 number versus a 5454 number. And
16 that was an issue that had come up.
17 And Hypolite, of course, was mentioned many
18 times at the trial because he -- there was testimony
19 that Mr. Joseph was with Mr. Hypolite. Mr. Hypolite
20 was part of Mr. Joseph's alibi during the day,
21 driving him around all over the place.
22 So I'll leave it at that. We could go back and
23 forth forever, but -- back and forth forever on those
24 issues, but I'll leave it at that. Thank you.
25 THE COURT: All right. And the State has the
26 burden of proof relative to the initial finding of
27 reliability. So anything further from the State at

NO: KNL-CR15-0128007-T	:	SUPERIOR COURT
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF NEW LONDON
v.	:	AT NEW LONDON, CONNECTICUT
JEAN JACQUES	:	MAY 16, 2022

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, Judicial District of New London, New London, Connecticut, before the Honorable Shari A. Murphy, Judge, on the 16th day of May, 2022.

Dated this 7th day of October, 2022 in New London, Connecticut.



Taylor Thompson

Court Recording Monitor

(Excuse the paper it's all I have)

(1)

2-24-21

State's Attorney,

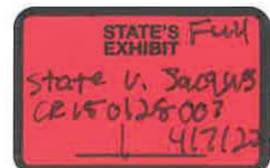
I was watching the news on Tuesday Feb 23rd 2021 - Fox 61 to be exact at 4:00pm.

Regarding the Homicide of Anthony Williams in July of 2020. I am incarcerated since December 2017. I spent months with Anthony in the same "unit" - F-pod Corrigan CC.

I had his cellmate move in with me because he and Anthony were not getting along!

I don't think I have a smoking gun for you. I know a couple things regarding Anthony. I know what I "heard" happened and why he may have been murdered.

Anthony had a cellmate who may be connected to the "Casey Chadwick" Homicide as well. I wrote New Londons States Attorney regarding the "Casey Chadwick" case, I did get cold feet and write them back saying I was not interested in talking to anyone. I guess they just respected my wishes?!



(2)

That information I got from many Conversations with "Jean Jaques" accused murderer of "Chadwick"

Here is my hesitation:

I have Morals, I have a Conciounce (SP)!

I have a heart!

I wish I had better wording but:

What's in it for me?

Lets say:

I provide information that's helpful but doesn't majorly impact these cases, now I'm a SNITCH, my name is on paperwork in not ONE but TWO murder cases, And I face possibly having to testify!

What do I get? A thank you?

I made some bad decisions, I Impersonated a cop, I robbed an old lady (I know, piece of shit) I burglarized my best friends house, I lied, I stole, I messed up. I had Zero prior Convictions

(3)

I had great jobs.
- Security at Backus + windham Hospitals
- Admin Asst at New perceptions
- Client Supervisor at Perception house
working with people who just got released from jail / Addicts.
- Chef at Uconn
- Security at Lebanon Pines
- Maintenance Technician with keys to 400 Apartments - Never used my Master keys to burglarized an apartment

Because when I had these jobs I Wasn't addicted to drugs!

I Was Enrolled in Therapy when I Commited these crimes. The prescriptions I received at these Mental health Services made me addicted. All Prescribed to "help" me!

90 - 2 mg Xanax bars a month
2 - 8mg Suboxone Strips a day
1 - 30 mg adderall a day

By the Same DOCTOR! I didn't start to do the insanities I did until I received that Cocktail! Did I abuse them? Yes!

Back

But I didn't put myself on those Prescriptions →

(9)

My "Doctor" did and those cocktails made me Black out!! The doctor knew I Was being arrested left and right so did my therapist why didn't they think it Could have been the meds? No, I was just a Crazy addict!

Enough of my rambling - You must think I'm Some Crazy Mental health Patient - Some Crazy Inmate who has nothing better to do then to Write all this to the State's Attorney. I am bipolar, I have PTSD, Deppression, Anxiety, But Im not Crazy! I was Evaluated by a Forensic Psychologist for my "Defense" and he Couldn't "help me" I didn't qualify for "Whiting".

I am a "CI" for DOC! From what I hear a pretty good one - Want to Confirm that? Ask for LT. Ocasio, LT Dumas or C/O Ayotte. I work for them!

Please don't think I'm an asshole (Excuse Language) I tell it how it is. I'm a good man Who did some bad things and I hate myself for robbing an old lady! I Was High on my legally prescribed Cocktail.

(5)

Judge Fischer threw the Book at me -
Deservingly - what I did was wrong.

But He didn't have to! What I need is
help not jail!

No - not a JRI that's not realistic
for what I did. But why not 5 years
and some Counseling / therapy? Or 6 years?
I had NO priors - I got 15, suspended after 8 to
serve 5 years probation. I'm not a Career
Criminal, I was a productive member of
Society! I messed up in a year and a half time.

So I saw the head State's Attorney on the news
or Dateline about the "Dulos" Case and he said
he was "open minded" about her case and
anyone who provides information. I know nothing
about the "Dulos" case, But is he open minded
to an inmate who has information on possibly 2
Homicides? Are these cases as important as
the Dulos Case?

Again I doubt I have a smoking gun,
but It might be a big piece, I don't know!

(6)

I am in no way, Shape, or form

Taunting you! I'm not that stupid!

Nor Would I put myserf in a position to "Perjer" mySelf.

The last thing I want is more time!

How Can the State help me, if I help the State?

I'm open for discussion.

Sorry for the rambling, I was expressing myself.

RespectFully,

Danny Vazquez

#423203

Corrigan CC

2/16/89

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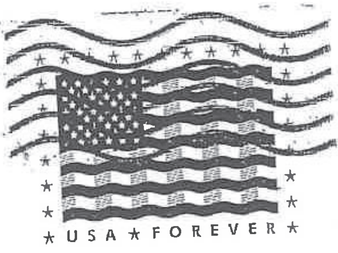

Legal correspondence

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1 Courthouse Square
Norwich, CT 06360

06360-575599

CELL PHONE WORKSHEET/NOTES **Initials:** IA

Laboratory Case #: DSS-15-002745	**Submission #: 029**	**Examiner: Arpin**

Cell Phone Information:

Make: Samsung	Model: Galaxy SIII SCH-I535
SIM Card: ☒ Yes ☐ No	Data Card: ☐ Yes ☒ No

Notes:

02-26-2016

Submission 029 (#24 Bag with "Verizon cell phone") was transferred directly into my custody from evidence receiving. The chain of custody was updated within LIMS. No evidence of tampering is present, the seals are intact.

The outside of the submission was photographed on all angles and the evidence barcode initialed. The bag was opened in a new location and the contents were removed. Inside is one (1) Samsung smart phone.

The phone was photographed on all angles, with the back cover/battery on and with it off. The inside of the phone was labeled with the lab case number, the sub-item number (S29_MP1), and my initials. Note that the front of the phone has previously been labeled by the other examiners in the lab.

Inserted into the phone was found one (1) micro SIM card. This was removed and photographed on all angles. A small envelope was labeled with the lab case number, the sub-item number (S29_SC1), and my initials. Once completed, the card will be placed into here instead of the phone.

No SD card was found inserted into the appropriate slot.

The specifications for the phone were found online and included in the case jacket.

S29_MP1 is a Samsung Galaxy SIII SCH-I535 (IMI: 990002060253141).

S29_SC1 is a Verizon 4G LTE micro SIM card (ICCID: 89148000000793231987).

S2_MP1 with the SIM removed was placed into a faraday box (DPS# 40977) along with the appropriate cable and the box was sealed shut. The phone was plugged in and left to charge the battery.

For the examination, a CelleBrite UFED Touch App. 4.5.0.307 (sn: 5912464) was utilized.

A file system extraction was performed on S29_SC1 and saved directly to an external USB (previously cleaned) hard drive. Once completed, it was transferred to the work product. It is noted that there is a PIN lock on the SIM card so only the unprotected data was extracted.

The SIM was placed into a secured locker while the phone is being examined.

Laboratory Case #: DSS-15-002745	**Submission #: 029**	**Examiner: Arpin**

Once charged completed, a password bypass physical extraction was performed on S29_MP1 using the appropriate cables. There is a pattern lock on the phone. Once completed, the results were transferred to the work product.

The phone was powered off and removed from the faraday box. The entire submission was repackaged, sealed, initialed, and dated. The chain of custody was updated within LIMS and the submission was placed back into evidence storage.

02-29-2016

Using my forensic machine [Mac Pro Desktop (DPS# 39964)] and the installed software UFED Physical Analyzer 4.5.1.14, the extractions were reviewed for their content. Because no specific information was provided about the case details, a complete extraction report in UFDR format is being provided for review by the submitting agency.

It has been determined that this phone is associated with the name 'Casey Chadwick' upon reviewing chat logs and user accounts.

An Attachment Disk was generated.

A draft report was generated.

The findings were entered and milestone updated within LIMS.

The case was turned in for technical review.

Sec. 54-45a. Record of grand jury proceedings. Transcripts. (a) In any grand jury proceeding ordered pursuant to the provisions of section 54-45, the official stenographer of the Superior Court or his assistant shall make a record of the proceedings excluding the deliberations, which shall be confidential and filed with the court. Access to the transcript shall be available only to the prosecutorial official or any person accused of crime as a result of the grand jury investigation or the accused person's attorney. The prosecutorial official or the person accused of a crime as a result of such grand jury investigation or the accused person's attorney may obtain a copy of the transcript by paying for it.

(b) The transcript of such proceedings may not be used as evidence in any proceeding against the accused except for the purpose of impeaching a witness, attacking the credibility of a witness or proving inconsistent statements of a witness. The transcript may also be used as evidence in a prosecution for perjury committed by a witness while giving such testimony.

Sec. 54-46a. Probable cause hearing for persons charged with crimes punishable by death, life imprisonment without possibility of release or life imprisonment. (a) No person charged by the state, who has not been indicted by a grand jury prior to May 26, 1983, shall be put to plea or held to trial for any crime punishable by death, life imprisonment without the possibility of release or life imprisonment unless the court at a preliminary hearing determines there is probable cause to believe that the offense charged has been committed and that the accused person has committed it. The accused person may knowingly and voluntarily waive such preliminary hearing to determine probable cause.

(b) Unless waived by the accused person or extended by the court for good cause shown, such preliminary hearing shall be conducted within sixty days of the filing of the complaint or information in Superior Court. The court shall be confined to the rules of evidence, except that written reports of expert witnesses shall be admissible in evidence and matters involving chain of custody shall be exempt from such rules. No motion to suppress or for discovery shall be allowed in connection with such hearing. The accused person shall have the right to counsel and may attend and, either individually or by counsel, participate in such hearing, present argument to the court, cross-examine witnesses against him and obtain a transcript of the proceedings at his own expense. At the close of the prosecution's case, if the court

finds that, based on the evidence presented by the prosecution, probable cause exists, the accused person may make a specific offer of proof, including the names of witnesses who would testify or produce the evidence offered. The court shall not allow the accused person to present such evidence unless the court determines that such evidence would be sufficient to rebut the finding of probable cause.
(c) If, from the evidence presented pursuant to subsection (b) of this section, it appears to the court that there is probable cause to believe that the accused person has committed the offense charged, the court shall so find and approve the continuance of the accused person's prosecution for that offense. A determination by the court that there is not probable cause to require the accused person to be put to trial for the offense charged shall not operate to prevent a subsequent prosecution of such accused person for the same offense.

Sec. 54-86p. Hearing re reliability and admissibility of jailhouse witness testimony in criminal prosecutions. (a) In any criminal prosecution of a defendant for a violation of section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-70, 53a-70a or 53a-70c, upon a motion of the defendant before the start of a trial on any such offense, the court shall conduct a hearing at which hearsay or secondary evidence shall be admissible to determine whether any jailhouse witness's testimony is reliable and admissible. The court shall make a prima facie determination concerning the reliability of such testimony after evaluation of the evidence submitted at the hearing and the information or material disclosed pursuant to subdivisions (1) to (5), inclusive, of subsection (a) of section 54-86o, and may consider the following factors:

(1) The extent to which the jailhouse witness's testimony is confirmed by other evidence;

(2) The specificity of the testimony;

(3) The extent to which the testimony contains details known only by the perpetrator of the alleged offense;

(4) The extent to which the details of the testimony could be obtained from a source other than the defendant; and

(5) The circumstances under which the jailhouse witness initially provided information supporting such testimony to a sworn member of a municipal police department, a sworn member of the Division of State Police within the Department

of Emergency Services and Public Protection or a prosecutorial official, including whether the jailhouse witness was responding to a leading question.

(b) If the prosecutorial official fails to make a prima facie showing that the jailhouse witness's testimony is reliable, the court shall not allow the testimony to be admitted.

(c) For the purposes of this section, “jailhouse witness” means jailhouse witness, as defined in section 54-86o.

U.S. Const. amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Conn. Const. art. 1, § 8

In all criminal prosecutions, the accused shall have a right to be heard by himself and by counsel; to be informed of the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process to obtain witnesses in his behalf; to be released on bail upon sufficient security, except in capital offenses, where the proof is evident or the presumption great; and in all prosecutions by indictment or information, to a speedy, public trial by an impartial jury. No person shall be compelled to give evidence against himself, nor be deprived of life, liberty or property without due process of law, nor shall excessive bail be required nor excessive fines imposed. No person shall be held to answer for any crime, punishable by death or life imprisonment, unless on a presentment or an indictment of a grand jury, except in the armed forces, or in the militia when in actual service in time of war or public danger.

Connecticut Code of Evidence

Sec. 8-5. Hearsay Exceptions: Declarant Must Be Available

The following are not excluded by the hearsay rule, provided the declarant is available for crossexamination at trial:

(1) Prior inconsistent statement. A prior inconsistent statement of a witness, provided (A) the statement is in writing or otherwise recorded by audiotape, videotape or some other equally reliable medium, (B) the writing or recording is duly authenticated as that of the witness, and (C) the witness has personal knowledge of the contents of the statement.

(2) Identification of a person. The identification of a person made by a declarant prior to trial where the identification is reliable.

Federal Rules of Evidence

Rule 804. Hearsay Exceptions; Declarant Unavailable

(a) Criteria for Being Unavailable. A declarant is considered to be unavailable as a witness if the declarant:

(1) is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;

(2) refuses to testify about the subject matter despite a court order to do so;

(3) testifies to not remembering the subject matter;

(4) cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or

(5) is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:

(A) the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or

(B) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

Connecticut Practice Book

Sec. 42-31. Poll of Jury after Verdict

After a verdict has been returned and before the jury has been discharged, the jury shall be polled at the request of any party or upon the judicial authority's own motion. The poll shall be conducted by the clerk of the court by asking each juror individually whether the verdict announced is such juror's verdict. If upon the poll there is not unanimous concurrence, the jury may be directed to retire for further deliberations or it may be discharged.

Sec. 60-2. Supervision of Procedure

The supervision and control of the proceedings shall be in the court having appellate jurisdiction from the time the appellate matter is filed, or earlier, if appropriate, and, except as otherwise provided in these rules, any motion the purpose of which is to complete or perfect the record of the proceedings below for presentation on appeal shall be made to the court in which the appeal is pending. The court may, on its own motion or upon motion of any party, modify or vacate any order made by the trial court, or a judge thereof, in relation to the prosecution of an appeal. It may also, for example, on its own motion or upon motion of any party: (1) order a judge to take any action necessary to complete the trial court record for the proper presentation of the appeal; (2) consider any matter in the record of the proceedings below necessary for the review of the issues presented by any appeal, regardless of whether the matter has been included in any party appendix; (3) order improper matter stricken from a brief or appendix; (4) order a stay of any proceedings ancillary to a case on appeal; (5) order that a party for good cause shown may file a late appeal, petition for certification, brief or any other document unless the court lacks jurisdiction to allow the late filing; (6) order that a hearing be held to determine whether it has jurisdiction over a pending matter; (7) order an appeal to be dismissed unless the appellant complies with specific orders of the trial court, submits to the process of the trial court, or is purged of contempt of the trial court; (8) remand any pending matter to the trial court for the resolution of factual issues where necessary; or (9) correct technical or other minor mistakes in a published opinion which do not affect the rescript.

CERTIFICATION OF SERVICE AND FORMAT

Pursuant to Conn. Practice Book sections 62-7 and 67-2A(g), defendant hereby certifies that:

1) The brief has been redacted and does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order, or case law;

2) A copy of the brief was sent electronically to: Timothy Costello, S.A.S.A., Juris No. 401795, Office of the Chief State's Attorney, 300 Corporate Place, Rocky Hill, CT 06067, tel. no. (860) 258-5807, fax (860) 258-5828, email: dcj.ocsa.appellate@ct.gov; and a copy of the brief was mailed to the defendant;

3) The brief filed with the appellate clerk is a true copy of the brief that was submitted electronically;

4) The brief complies with all provisions of Practice Book § 67-2A;

5) The word count of this brief is 15197 words (1874 words are devoted to the state constitutional claim);

6) Defendant's request for an additional 2,000 words for the state constitutional claim was granted on November 1, 2023;

7) The electronic brief is filed in compliance with the guidelines.

By: *Pamela S. Nagy*

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