STATE OF MAINE
KENNEBEC, ss.

SUPREME JUDICIAL COURT
Sitting as the Law Court
Docket No. Ken-24-563

STATE OF MAINE,
Appellee,

v.

DONTE JOHNSON,
Appellant.

ON APPEAL FROM THE KENNEBEC COUNTY UNIFIED CRIMINAL DOCKET

BRIEF OF APPELLEE STATE OF MAINE

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II. DID THE TRIAL COURT ABUSE ITS DISCRETION WHEN IT IMPOSED DISCOVERY SANCTIONS ON THE STATE, INCLUDING EXCLUSION OF PHYSICAL EVIDENCE AND EYE-WITNESS TESTIMONY BUT DID NOT DISMISS ALL CHARGES WITH PREJUDICE?

III. DID THE SENTENCING COURT COMMIT OBVIOUS ERROR BY REFERENCING THE QUANITY OF DRUGS TRAFFICKED WHILE SETTING THE MAXIMUM SENTENCE?

PROCEDURAL HISTORY

On June 7, 2021, the Defendant had his initial appearance on a six-count felony complaint alleging two counts of Aggravated Trafficking in Scheduled Drugs (class A), Unlawful Trafficking in Scheduled Drugs (class B), Refusing to Submit to Arrest or Detention (class E), Criminal Forfeiture, and Failure to Give Correct Name. (class E). (Appendix Page 4.) The Defendant was ordered held on $75,000 cash bail which was posted on June 11. (A. 4).

On August 20, 2021, the Defendant was indicted on the above charges as well as an additional count of Criminal Forfeiture. (A. 6). The Defendant pled not guilty on September 27, 2021. (A. 6).

On January 11, 2023, a hearing on the Defendant's motion to dismiss and motion to suppress was held before Justice William Stokes. (A. 9). The court denied the motion on June 5, 2023. (A. 9).

On July 25, 2023, the Defendant filed a motion for discovery which was heard on August 29, 2023. (A. 10). The basis of the motion was to request disciplinary records for Officer Sabastian Guptill. The motion was granted on August 30, 2023, but did not appear to be docketed until September 20, 2023 (A. 10).

Initial Counsel for the Defendant filed a motion to withdraw on October 16, 2023, and on November 2, 2023 replacement counsel was appointed. (A. 11).

On March 1, 2024, the Defendant filed a motion for discovery sanctions. (A. 12). A hearing was held on May 3, 2024 (A. 13). At the hearing, Augusta Police Department Deputy Chief Jesse Brann testified that Augusta PD had received the discovery order on September 27, 2023. (Motion for Discovery Sanctions Transcript, page 14). Deputy Chief Brann testified that the order was sent to the City of Augusta attorney and approval to upload the records came in around January 1st, 2024. (MFD 17.) At that time, the officer in charge of uploading the ordered material was not included on the email and so that officer did not know to upload the ordered material to Sharefile. (MFD 17). On March 1, the District Attorney's Officer asked about the status of the ordered material and at that time APD realized the materials had not been released. (MFD 18).

The motion for discovery sanctions was granted on June 27, 2024. (A. 13).

Jury Selection was held on August 8, 2024, and a two-day jury trial was conducted on August 29, 30, 2024. (A. 13, 14). The jury found the Defendant guilty of Counts 1,2,3,4 and not guilty of Count 6. (A. 14).

Sentencing was continued to November 26, 2024. (A. 15). At that time, the sentencing court ordered the Defendant to be incarcerated for 9 years, all but 7 years suspended, with 3 years of probation, along with the mandatory $400 fine. (A. 15).

FACTS OF THE CASE

On the night of June 4, 2021, Augusta Police Officer Sabastian Guptill was monitoring vehicle traffic in the area of Boothby Street when a Chevy Tracker caught his attention. (Motion to Suppress Transcript, page 13). Officer Guptill found it suspicious that the vehicle had pulled onto Boothby Street and then left approximately 30 seconds later. (MTS 13). Officer Guptill also observed that the vehicle did not have any plate lights and so he began following the vehicle, ultimately conducting a traffic stop on Bridge Street. (MTS 13, 14).

Officer Guptill illuminated the vehicle with his spotlight and upon approaching the vehicle observed there were three occupants in the back seat not wearing seatbelts. (MTS 14,15).

Officer Guptill testified that upon looking in the back seat he observed a male later identified as the Defendant. (MTS 16). The Defendant had a black hood tied up under his chin so that his nose, eyes, and a couple braids were sticking down. (MTS 16, 17). Officer Guptill also noted that the Defendant's nose was particularly large. (MTS 16). Officer Guptill observed that the Defendant was wearing a light blue or light purple backpack and also found it suspicious the way the Defendant was sitting with his knees and chest turned away towards the door. (MTS 16).

Upon asking for the occupants identification, Officer Guptill heard the rear door open and observed the Defendant sprint away (MTS 18). Officer Guptill chased after the Defendant but after losing multiple pieces of equipment including his radio, Officer Guptill discontinued the chase for officer safety. (MTS 20). Officer Guptill reviewed a still photo from his cruiser camera and observed that the Defendant had a white shirt underneath the black hooded

sweatshirt, a grey lanyard in his pocket, and was wearing white sock and white sneakers. (MTS 29).

A K-9 track was conducted but the Defendant was not located. During the track, a large amount of narcotics, cash, and a cell phone were located (MTS 30-32).

Believing that the Defendant may return for his lost narcotics and cash, Officer Guptill began surveillance of Boothby Street with binoculars. (MTS 36, 37). The next morning, Officer Guptill observed the Defendant wearing "the same exact clothes and outfit that he was the night before" minus the sweatshirt. (MTS 39). Officer Guptill also observed that the Defendant had dreadlock hair similar to the male the night before and the Defendant was also a black male. (MTS 40).

Officer Guptill observed the male cross Boothby Street and after "a minute or so" Officer Guptill observed a vehicle leaving. (MTS 40). Using his binoculars, Officer Guptill was able to see that there was a passenger in the front seat and that the seat was reclined back. (MTS 41). Even with the seat back, Officer Guptill was able to see the passenger had black, curly hair and he could also see black skin on the forehead. (MTS 41).

After observing the vehicle traveling 33 miles per hour in a 25 mile per hour zone and believing that the suspect who had fled the traffic stop the night before was inside the vehicle, Officer Guptill initiated a motor vehicle stop. (MTS 44).

Officer Guptill testified that there was no question in his mind that the passenger in the car was the suspect who had fled the night before. (MTS 46). Further, Officer Guptill testified that he was able to observe that the Defendant was wearing similar clothing to the night before, but that they now had mud and grass stains on them. On the floor of the vehicle Officer Guptill located the light blue backpack from the night before, part of the grey lanyard he had observed, and the black sweatshirt. (MTS 47.)

After being found guilty of two counts of Aggravated Trafficking in Scheduled Drugs, Unlawful Trafficking in Scheduled Drugs, and Refusing to Submit to Arrest, sentencing was conducted on November 26, 2024. After hearing arguments from both sides, the Trial Court (Justice Daniel Mitchell) set the basic term of imprisonment at 12 years. (Sentencing Hearing page 57).

When determining the maximum sentence, the sentencing court began with the mitigating factors, noting that the Defendant

had no adult criminal history, had not committed any crimes or bail violations in three years, is raising two children, one of whom is disabled, and that the Defendant had accepted responsibility. (Sentencing Transcript 58). While discussing the aggravating factors, the sentencing court stated "As far as aggravating factors go, the Court believes that the large amount of fentanyl and cocaine in this case seized from Mr. Johnson at the time of his arrest are aggravating factors." (ST 59). The sentencing court went on to articulate that other aggravating factors were that the Defendant fled from law enforcement, he had a prior juvenile adjudication for possession of a firearm, and he was "engaged in the sale of highly dangerous narcotics for pecuniary gain." (ST 59).

After weighing both the aggravating and mitigating factors, the sentencing court reduced the basic sentence by three years to a maximum sentence of 9 years. (ST 59, 60).

ARGUMENT

I. THE SUPPRESSION COURT PROPERLY FOUND THAT OFFICER GUPTILL HAD REASONABLE ARTICULABLE SUSPICION FOR THE JUNE 5, 2021 TRAFFIC STOP.

"The Constitution requires only the presence of a reasonable and articulable suspicion to make an investigatory stop of a vehicle." *State v. Rideout*, 2000 ME 194 ¶ 6, 761 A.2d 288. In certain situations, "police actions taken during the detention exceed what is necessary to dispel the suspicion that justified the stop, the detention may amount to an 'arrest' and is lawful only if it is supported by probable cause." *State v. Langlois*, 2005 ME 3, ¶ 8, 863 A.2d 913. The analysis is "fact sensitive, and there is no bright line that distinguishes an investigative detention from an arrest." *Florida v. Royer*, 460 U.S. 491, 506, 103 S.Ct. 1319, 75 L.Ed.2d 229 (1983).

In this case, Officer Guptill had reasonable articulable suspicion to effectuate the June 5 traffic stop. Officer Guptill had observed the vehicle containing the Defendant traveling 33 miles per hour in a 25 mile per hour zone. Additionally, Officer Guptill had observed the Defendant wearing the "exact same clothes" minus the sweatshirt from the night before. Officer Guptill testified that he believed the passenger was the same person as the suspect who had fled the night before, leaving behind a significant amount of narcotics and cash.

The Petitioner asserts that the use of a "felony stop" catapulted the seizure from a lawful investigative detention to an illegal arrest, but that contention fails for multiple reasons. First, the police actions did not "exceed what is necessary to dispel the suspicion that justified the stop." Within moments of seizing the Defendant, Officer Guptill observed that the Defendant was not only wearing the clothes from the night before but they were covered in mud and grass stains, the Defendant was in possession of the light purple/light blue backpack, and the black sweatshirt was on the floorboard. At that moment, within seconds of beginning the investigatory stop, Officer Guptill confirmed his suspicion and the Defendant was taken into custody.

Second, while it is true that Augusta Police officers approached with weapons drawn and ordered the Defendant out of the vehicle those facts alone do not create a "de facto arrest." This Court has previously found that ordering a suspect out of a car at gunpoint does not exceed the bounds of an investigatory stop. *See State v. Storey*, 713 A.2d, 331 (finding that an officer was properly conducting an investigatory stop after having drawn his firearm while approaching the defendant.) Similarly, this Court has found that ordering a

defendant to lie face down on the ground at gunpoint also does not exceed the scope of an investigatory stop. *State v. Langlois*, 2005 ME 3, ¶ 10, 863 A.2d 913. In this case, Officer Guptill was conducting an investigatory stop on a vehicle with multiple occupants, one being a suspect who had fled a previous traffic stop and was suspected of being involved in large-scale drug trafficking. Approaching with weapons drawn did not exceed what was necessary to safely conduct the investigatory stop.

Petitioner also contends that the presence of three patrol vehicles and their position around his vehicle created a "de facto arrest." In *State v. Donatelli*, this Court approved the use of four police vehicles and five police officers in stopping a car containing two individuals and noted "[o]f particular concern here, [petitioner] was not traveling alone and was suspected of transporting illegal drugs." 2010 ME 43, ¶ 15, 995 A.2d 238, 242. Given those concerns, the State argues that having three officers present was reasonable. Regarding the fact that the vehicle was blocked from leaving, that fact alone does not elevate this investigatory stop to a "de facto arrest." It cannot be lost on this court that the suspect had fled from a traffic stop merely hours before. The act of blocking in the suspect vehicle

with multiple police cruisers was well within the permissible bounds of an investigatory stop.

Officer Guptill had reasonable articulable suspicion to stop the vehicle containing the Petitioner. The manner in which the vehicle was stopped was well within the bounds of what is reasonable given the multiple occupants, involvement in drug trafficking, and previous escape by the suspect.

II. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN IT IMPOSED DISCOVERY SANCTIONS ON THE STATE, INCLUDING EXCLUSION OF PHYSICAL EVIDENCE AND EYE-WITNESS TESTIMONY BUT DID NOT DISMISS ALL CHARGES WITH PREJUDICE.

This Court "afford[s] the trial court substantial deference in overseeing the parties' discovery, and review its decisions on alleged discovery violations only for an abuse of discretion. *State v. Graham*, 2010 ME 60, ¶ 10, 998 A.2d 339. This Court will also review a trial court's imposition of sanctions for abuse of discretion. *State v. Hassan*, 2018 ME 22, ¶ 11, 179 A.3d 898. Discovery sanctions "should be tailored to the individual circumstances of each case, with a focus on fairness and justice. We will vacate a trial court's choice of sanction only if it fails to remedy the violation to such an extent

that the defendant is deprived of a fair trial." *State v. Pelletier*, 2023 ME 74, ¶¶ 33 , 306 A.3d 614.

In this case, the State does not deny that a discovery violation occurred or that a sanction was appropriate. While the order requiring production of disciplinary records for Officer Guptill did not provide a deadline, the State agrees that the amount of time that elapsed before production was unacceptable. That said, the State contends that the trial court's sanction of excluding an eye witness along with physical evidence was sufficiently tailored to the circumstances of the case for two reasons.

First, the State argues that it is important to consider the subject of the discovery sanction. The ordered materials related to Officer Guptill's disciplinary records. At the start of trial, the Defendant attempted to convince the trial court that the disciplinary records should be admissible for cross examination of Officer Guptill. Ultimately, the trial court did not allow the disciplinary records to be admitted or referenced during the trial.

Second, as was established at the motion for sanctions hearing, this was an inadvertent discovery violation that the State promptly resolved after defense counsel's inquiry. When the Defendant's new

attorney asked about the status of the ordered materials, the State reached out to Augusta PD and the materials were uploaded the next day. During his testimony at the sanctions hearing, Deputy Chief Brann testified that when the attorney for the city signed off on the materials the officer in charge of uploading documents to Sharefile was not included on the email chain and so he did not know to upload the documents. Obviously, that does not absolve the State of its discovery violation, but it is important to note that the delay in providing the records was inadvertent and the documents were uploaded the day after defense counsel brought the issue to light.

The trial court's decision to exclude an eye witness as well as the cell phone the Defendant had at the time of his arrest was a significant sanction, especially considering the facts of this case. Identification of the suspect was the key issue to the case. By excluding a witness who would have been able to identify the Defendant, the trial court imposed a significant sanction against the State. The State believes that the harm caused to the Defendant, not having inadmissible disciplinary reprimands for approximately 5 months, was sufficiently remedied by excluding an eye witness along with physical evidence seized from the Defendant during his arrest.

The trial court's remedy had the necessary focus on fairness and justice, and in no way was the Defendant deprived of a fair trial.

III. THE TRIAL COURT DID NOT COMMIT OBVIOUS ERROR WHEN IT REFERENCED THE QUANTITY OF SEIZED NARCOTICS DURING THE SECOND STEP OF THE HEWEY ANALYSIS.

The petitioner did not raise any objections to the sentencing court, and so this Court will review for obvious error. *See State v. Commeau*, 2004 ME 78, ¶ 19, 852 A.2d 70. An error is obvious "when there is (1) an error, (2) that is plain, and (3) that effects substantial rights. If these conditions are met, we must also conclude that (4) the error seriously affects the fairness and integrity or public reputation of judicial proceedings before we vacate a judgment on the basis of the error." *State v. Nichols*, 2013 ME 71, ¶ 23, 72 A.3d 503.

The State concedes that the sentencing court's singular reference to the quantity of fentanyl and cocaine during the second step of the *Hewey* analysis was plain error. The amount of fentanyl and cocaine seized was properly considered by the court when it set the basic sentence at 12 years. The sentencing court should not have remarked on the quantity of narcotics during the second step.

The State contends that the Petitioner's claim fails on the third prong because there is no evidence that the error in fact effected petitioner's substantial rights. Obviously, sentencing involves petitioner's substantial rights, but the way in which this error occurred did not have an effect on those rights. The sentencing court clearly put significant weight behind the quantity of narcotics when setting the basic sentence. In fact, in setting the 12 year basic sentence, the only case facts referenced by the sentencing court were the quantity of narcotics and the fact that they were packaged in a way that led the court to find this was connected to a supply chain of narcotics. While it is true that the sentencing court again referenced the quantity of narcotics during the aggravating and mitigating factors, the sentencing court reduced the basic sentence down to 9 years. It is important to note that the court did reference appropriate aggravating factors including that he fled from police and was not located until the next day, he had a prior juvenile adjudication for illegal possession of a firearm, and he was "engaged in the sale of highly dangerous narcotics for pecuniary gain." The sentencing court found the mitigating factors to be that the Petitioner had no adult criminal history, had not committed any criminal

offences while on bail for three years, was raising two children including one with physical and mental disabilities, and had appeared at every court appearance. Those factors, essentially living a law abiding life, were significant enough to reduce the basic sentence by three years. It is clear that the court greatly emphasized the quantity when setting the basic sentence, but did not give it any weight as an aggravating factor.

The State contends that Petitioner's claim fails on the fourth prong because the error did not "seriously affect the fairness and integrity or public reputation of judicial proceedings." Again, upon reviewing the aggravating and mitigating factors, the sentencing court reduced the basic sentence by three years, leading to a maximum sentence of 9 years. The mitigating factors present, living a law abiding life, were weighed so significantly by the sentencing court that they not only neutralized the aggravating factors of the Petitioner fleeing, his prior juvenile firearm adjudication, and his involvement in the sale of narcotics, but also reduced the basic sentence by 3 years. It is clear that the sentencing court's single sentence referencing the quantity of narcotics did not have any impact on the maximum sentence, let alone enough of an impact for

this Court to find that it "seriously affected the fairness and integrity or public reputation of judicial proceedings."

The sentencing court's reference to the quantity of narcotics was in error, but it did not effect Petitioner's substantial rights and it did not "seriously affect the fairness and integrity or public reputation of judicial proceedings."

Conclusion

Therefore, the State asks this Court to affirm the rulings of the trial court.

July 28, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Tyler J. LeClair, Attorney for the Appellee, State of Maine, certify that I have this day caused two copies of the foregoing "Brief of the Appellee" to be served upon the Appellant by depositing said copies in the United States Mail, postage prepaid, addressed to Rory McNamara, Drake Law LLC, P.O. Box 143, York, ME 03909.

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