Supreme Judicial Court sitting as the Law Court
Law Court Docket number ARO-25-177

State of Maine v. Jayme Schnackenberg

Appeal from Unified Criminal Docket in
Aroostook County

Reply Brief for Appellant

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Argument

I. Expansion on Factual Statements made by the State in its Statement of the Facts.

Mr. Schnackenberg provides further factual development on a statement made by the State in its Statement of the Facts. The State has asserted that "The Deputy Chief Medical Examiner observed blunt force trauma **consistent with a punch to the face** and concluded that Kim died of multiple gunshot wounds to the head. (Tr.T. Vol. 3 at 125,-128, [sic] 131-133, 136, 137.)". See Red Brief at 12 (emphasis added). Mr. Schnackenberg points out that the questioning of the medical examiner established that

> Q. But could you just go and point on this diagram and explain what the notations, particularly on the right side, and then also whatever the top left notation is in reference to?
>
> A. Okay. This is some bruising was noted around the right eye, and that can just be from fracturing the skull. Um, when you have bleeding through skull fractures, it can travel along, um, muscle and look like bruising. So, it could either be if something hit her eye or it's just from the blood being present inside of the skull. . . ."
> (Tr. T. (vol. 3) at 136).

As such, the medical examiner's testimony also presented evidence that suggested the bruising around the right eye may have been from the fracturing of the skull. (Tr. T. (vol. 3) at 136).

II. The trial court's rulings to exclude Ms. Hardy's toxicology results and report from evidence were in error and in violation of Mr. Schnackenberg's Due Process rights.

The State has argued that "[t]he defense complains that it did not get everything it wanted with the stipulation that Kim Hardy in fact had methamphetamine in her system." (Red Brief at 19). The information that Mr. Schnackenberg sought to admit through the toxicology information was important to his defense and claim of self defense. This is not a minor issue and had serious bearing on the trajectory and presentation of his case and defense.

The State has also asserted that "[t]he results from toxicology tests were not known to Schnackenberg and therefore were not relevant to his claim of self-defense." (Red Brief at 20). The United States District Court for the Northern District of California has held similarly to Mr. Schnackenberg's assertion, finding that

> the toxicology report shows H.W. had a blood alcohol content level of 0.155% at the time of his autopsy. The government moves to exclude this evidence as irrelevant. The Court DENIES the motion, finding that evidence that H.W. was intoxicated is relevant to Butler's claim of self-defense. See Harris v. Cotton, 365 F.3d 552, 556-57 (7th Cir. 2004)(granting habeas petition on account of ineffective assistance to defendant convicted of murder who claimed self-defense where counsel failed to obtain victim's toxicology report because 'the victim's behavior is extremely relevant,' '[c]ommon sense tells us that an individual under the influence of cocaine and alcohol may look and act in a strange manner,' notwithstanding 'that there is little or no evidence which goes to show that [the defendant] knew that [the victim] was under the influence of cocaine and alcohol.').

United States v. Butler, No. 23-cr-00449-SI-1,
2025 U.S. Dist. LEXIS 34946, 12-13 (N.D. Cal. Feb. 26, 2025).

The State has further asserted that the toxicology report was not admissible because it was excludable under Maine Rule of Evidence 404(b). (Red Brief at 19-20). Mr. Schnackenberg responds in two parts. First, the information does pertain to the issue of Mr. Schnackenberg's self defense claim. The information has bearing on his perception of Ms. Hardy's condition at the time because he was aware of the fact that she was under the influence of methamphetamines and the report simply corroborates and supports that knowledge. See Blue Brief 29-30. Secondly, as Mr. Schnackenberg also asserted in his primary brief:

> Moreover, this Court has recognized that "In Holmes the [Supreme] Court indicated that, to protect the accused's opportunity to present a complete defense, there may be instances where evidence must be admitted even if it would normally be excluded pursuant to the applicable evidence rules and common law formulations. . ." State v. Mitchell, 2010 ME 73, ¶ 32, 4 A.3d 478, 486 (Me. 2010)(citation omitted). And when an unfair balance is created when, "[t]he application of court-created evidentiary rules will run afoul of this right if it 'infringe[s] upon a weighty interest of the accused and [is] arbitrary or disproportionate to the purposes [the rules] are designed to serve.'" Id.
> See Blue Brief at 31-32.

The State has additionally stated that: "Indeed, Schnackenberg admitted that he too had been ingesting methamphetamine and contended that the drugs made him "pretty chill and relaxed." (Tr.T. Vol. 4 at 207.)". (Red Brief at 20). Mr. Schnackenberg asserts that this is further reason to have admitted the evidence

about Ms. Hardy's drug consumption and the potentially aggressive effects that the drugs in her system may have had.

"The Sixth Amendment's Confrontation Clause guarantees a criminal defendant the right to confront the witnesses against him." Smith v. Arizona, 602 U.S. 779, 783, 144 S. Ct. 1785, 1791, 219 L. Ed. 2d 420, 426 (2024). The State has argued that "[a] party 'cannot introduce an absent laboratory analyst's testimonial out-of-court statements to prove the results of forensic testing.' Smith v. Arizona, 602 U.S. 779, 783 (2024), citing Melendez-Diaz v. Massachusetts, 557 U.S. 305, 307, 329 (2009)."[1] (Red Brief at 20-21). The Sixth Amendment addresses a constitutional right of a defendant- not the State. Cases based on the Confrontation Clause should not be held to equally apply to the State and should have no bearing on Mr. Schnackenberg's argument here.

The State has argued that "Finally, Schnackenberg waived his objection by failing to offer the report into evidence after generating the claim of self-defense through his testimony." (Red Brief at 21). The argument was raised to the trial court and there was a definitive decision issued by the court on there record for review. (Tr. T. (vol. 3) at 138-140, 141-144). Either way, if additional action was required by Mr. Schnackenberg, obvious error review should be applicable

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[1] Smith v. Arizona, 602 U.S. 779, 783, 144 S. Ct. 1785, 1791, 219 L. Ed. 2d 420, 426 (2024) (emphasis added) states that "**So a prosecutor** cannot introduce an absent laboratory analyst's testimonial out-of-court statements to prove the results of forensic testing. See Melendez-Diaz v. Massachusetts, 557 U. S. 305, 307, 329, 129 S. Ct. 2527, 174 L. Ed. 2d 314 (2009).

because, given the stipulation, it is clear that Mr. Schnackenberg sought admission of the information pertaining to Ms. Hardy's drug consumption and the effects of such drugs.[2]

III. The jury's instructions were prejudicial and in error.

The State has asserted that "[t]he final instructions appear to do exactly what Schnackenberg had requested." Red Brief at 14. Mr. Schnackenberg does not believe that the trial court altered the jury instructions to address his concerns. As written, the instructions fail to include the duty to retreat sufficiently and in a way where the jury would know to apply it to the dwelling home exception. When addressing the duty to retreat the court stated:

> Applying the law to this case, if the State proves beyond a reasonable doubt at least one of the following four things, one, that Mr. Schnackenberg, with the intent to cause physical harm to another, provoked Miss Hardy to use unlawful deadly force against anyone; or, two, that Jayme Schnackenberg did not actually believe that Kimberly Hardy was about to use unlawful deadly force against him; or, three, that Mr. Schnackenberg did not actually believe that his use of deadly force was necessary to defend himself against Miss Hardy; or, **four,**

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[2] "Ordinarily, as M.R.Crim.P. 51 provides, proper preservation of an objection for appeal requires that counsel make known to the court the action he wants the court to take or his objection to the action of the court and the grounds for his objection. See 3 H. Glassman, Maine Practice, Rules of Criminal Procedure § 51.2, at 424-26 (1967 and Supp. 1975 at 175-76). Careful observation of this rule allows the trial justice to correct errors and reduce prejudice, thus serving the interests of promptness and accuracy in the administration of justice. Without specification of the grounds for objection or a request for a curative instruction on the record, an appellate court may conclude that counsel made a tactical decision to waive his objection. The objection was not properly preserved. Of course, M.R.Crim.P. 52(b) permits this Court to note obvious errors or defects affecting substantial rights although they were not properly brought to the attention of the trial court. See 3 H. Glassman, supra, § 52.3, at 430." State v. Vigue, 420 A.2d 242, 247 (Me. 1980).

> **that Mr. Schnackenberg was the initial aggressor in his own dwelling and he failed to retreat from the encounter with Miss Hardy despite the fact he knew that he could do so with complete safety, then the State has met its burden of proving beyond a reasonable doubt the absence of self defense, and you should find Mr. Schnackenberg is guilty of either intentional or knowing murder or recklessly -- pardon me, reckless or criminally negligent manslaughter, depending on** which of these crimes you found on the basis of the instructions that I earlier gave to you relative to murder and the lesser-included crime of manslaughter. (Tr. T. (vol. 5) at 94-95)(emphasis added).[3]

Conclusion

For the above-reasons, the Appellant again requests that this Court vacate Mr. Schnackenberg's conviction.

Dated: November 6, 2025

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[3] The dwelling home exception is addressed prior to this portion of the instruction where the trial court says: "I will now explain the law relative to the use of deadly force and self-defense. Maine law provides that a person is justified in using deadly force upon another person when the person reasonably believes it necessary and reasonably believes that such person -- such other person is about to use unlawful deadly force against the person or a third person. However, a person is not justified in using deadly force against another if, with the intent to cause physical harm to another, the person provokes such other person to use unlawful deadly force against anyone, or the person knows that the person can with complete safety retreat from the encounter, **except that the person is not required to retreat if that person is in the person's dwelling place and was not the initial aggressor."** (Tr. T. (vol. 5) at 94-95)(emphasis added).

Certificate of Service

I, Jeremy Pratt, Esquire, hereby certify that on this date I sent by electronic mail one copy of the foregoing Brief of Appellant, later to be followed by one printed copy, via the U. S. Postal service, to Leanne Robbin, Esq., Office of the Attorney General, 6 State House Station, Augusta, ME 04333.

Dated: November 6, 2025 _____/s/ Jeremy Pratt_____
Jeremy Pratt, Esquire