

**Supreme Judicial Court Sitting as the Law Court  
Law Court Docket Number HAN-25-333**

**Appeal from the Unified Criminal Docket  
Hancock County**

**STATE OF MAINE V. JESSE PELLETIER**

**BRIEF FOR APPELLEE**

Toff Toffolon, Esq.  
Bar No. 3349  
For: State of Maine  
70 State Street  
Ellsworth, ME 04605  
(207) 667-4621  
Toff.toffolon@maineprosecutors.com

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## SUMMARY OF ARGUMENT

- I. Ms. Cornell's testimony fell within the present sense impression exception to the hearsay exclusion rule or within other exceptions mentioned by the trial court. She had sufficient personal knowledge about the matters at bar to testify, and Maine Rules of Evidence 401 and 403 did not mandate exclusion of the conversation overheard by Ms. Cornell.
  
- II. The admission of Ms. Cornell's testimony neither resulted in "obvious error" as articulated in *State v. Dolloff*, nor was consideration of that testimony the sole and necessary basis upon which the verdict was determined.

## ARGUMENT 1

There is an overarching premise which the appellant must establish to carry its assertion that the admission of Ms. Cornell's testimony was error. That premise is that her testimony was not temporally related to the sexual assault. The State understands the phrase "temporally related" to refer to how events are connected by their order and timing.

First, the State argues that the appellant's citations to federal cases such as *Vasquez v. Lopez-Rosario*, 134 F.3d (1 Cir. 1998) at page twenty-four of its brief are of little use in analyzing the issue before this Court, for they are decisions rendered in civil matters implicating an entirely different burden of proof. Federal precedent is of little use in an area of state criminal law where the Law Court has issued a robust series of opinions.

But if this Court finds value in those opinions, it is instructive to note that the federal test advanced by the appellant is that the offering party put forth NO FACTS regarding the temporal relationship. In this case Ms. Cornell offered the following information which tied her testimony in order and timing to the sexual assault of which Mr. Pelletier was found guilty. Those facts include two phases consisting of general information and

information specific to the sexual assault. With respect to general information, Ms.

Cornell testified that:

- She knew the victim and the defendant
- That she had hosted a party which they both attended during the time alleged in the indictment
- That based on her personal observations, [redacted] victim and Mr. Pelletier were only talking during the party (relative to the issue of consent)

(T-50, 51)

With respect to specific information as regards the order and timing of the assault, Ms.

Cornell testified that:

- She went to bed that night around midnight or 1 a.m.
- She could hear that the victim and the defendant were together in the same room and that room was “right outside” the bedroom where Ms. Cornell was located.
- She could hear Jesse (Pelletier) trying to flirt with [redacted] victim.
- And the next overheard event was [redacted] victi telling Jesse that nothing was going to happen and that she had a boyfriend, which she repeated at least three times.
- Then she heard [redacted] victim tell Mr. Pelletier, “no”.
- She was so concerned about the interaction which she was overhearing that she texted the victim during the event to inquire whether she wanted to put some distance between herself and Mr. Pelletier.

(T-52-53, 64)

Had this been a jury trial, the panel would have been instructed on the use of logic, common sense and inference, and the trial court applied those same considerations to

reach the obvious conclusion that the conversation as perceived by Ms. Cornell related to the victim's efforts to resist the sexual advances of Mr. Pelletier.

And the appellant would have this Court consider Ms. Cornell's testimony in a vacuum despite the strong correlation between the events recited in that testimony and the events described by [REDACTED] victim. The trial court noted this linkage at page 56 of the transcript when, during consideration of the defense objection, it stated, "Well we've also heard evidence that she's (referring to the victim) in the middle of this event and those are words she's using to protest against it."

In addition to qualifying as a present sense impression, the trial judge observed that Ms. Cornell's statements could have fallen under the "existing mental or physical condition" exception, or as an "excited utterance", or as rehabilitation of a witness. Appellant's brief at page 16, MRE 803(1), 801(d)(B)(ii). The appellants fails to address these exceptions in any way. The State does recognize that the trial court conducted some of these discussions in the context of the admission of text messages (T-58 to 62), and that it seems to have rejected an excited utterance exception. However, the State will offer argument, leaving it to this Court to decide whether the argument is relevant:

**Present Sense Impression (MRE 803(1)):** The State has explored the application of this exception above, and again it asserts that consideration of [redacted] 'victim' 's testimony in conjunction with that of Ms. Cornell, and other witnesses offered in the case-in chief demonstrates that Ms. Cornell was indeed "describing or explaining an event while she was perceiving it...(paraphrase)". This conclusion is not only supported by her detailed recitation of the conversation which she heard, but more significantly, by the fact that she affirmatively took action in the form of sending the victim a text as a response to her concern that her friend was involved in a situation to which she was objecting, a situation with obvious sexual overtones.

**Excited Utterance (MRE 803(2)):** The State understands that the trial court mentioned this exception as possibly applicable, but then rejected it. However, the State contends that it could legitimately form the basis for admission of Ms. Cornell's testimony, when one considers it along with the description of the assaults offered by [redacted] 'victim' , and the observation of injuries consistent with a traumatic event as described by Ms. Martin. As described in the rule, the statement must be contemporaneously made in reaction to a

“startling event or condition”. **victim**’s testimony supports the fact that Ms.

Cornell’s perceptions occurred during such an event in part as follows:

- She was scared and frightened. (T-17)
- She could not get out from underneath Mr. Pelletier (T-17)
- She asked him to please stop and said that she really didn’t want this. (T-1)
- Despite being told multiple times that she was not okay with what was going on, Mr. Pelletier remained on top of her. (T-18)
- She was **in shock**, and she could not believe this was happening to her. (T-19)
- He was inserting his fist into her vagina and it was extremely painful (T-20)
- **She had never had somebody hurt her that much physically before.** (T-20)

Interspersed with her testimony as set forth above, **victim** stated repeatedly that she told Mr. Pelletier “no” and to stop.

So, all of the above demonstrates that **victim** was in the midst of a startling event and under the stress of excitement, or as she described it, shock, when Ms. Cornell overheard her statements.

Nurse Martin’s testimony also supports the fact that those perceptions occurred during the the startling and significant assault event, in that:

- **victim** told the nurse that it felt like someone had punched her in the vagina. (T-86)
- **victim** told the nurse that when she was lying on the couch, she thought that Mr. Pelletier tried pulling her hair or he hit her head on the corner of the couch a couple of times. (T-87)

- Of great importance was the nurse's testimony that [victim] said that **she told him to stop.** (T-87). That statement directly connects to Ms. Cornell's testimony that she heard [victim] tell Mr. Pelletier, "no".
- The nurse also described physical injuries, for example, multiple tears and a sharp force injury. (T-90). These injuries are common sense consistent with a traumatic (startling) event.
- Again, at T-90 and 100, the nurse described the condition of the tissue surrounding [victim]'s vagina as red and abraded, swollen and very abnormal, with significant swelling and pain (T-90,91). All of these injuries are consistent with a startling and unwanted sexual attack.
- In addition to the oral testimony of the SANE nurse, photographs of the injuries were introduced, from which the trial court could conclude that the extent and nature of the injuries was the result of unwanted, forceful and sudden action. (T-96)
- Finally, on this point, the nurse testified that in addition to saying "no", the victim raised her arms and the nurse documented that she sustained a bruise to her right forearm. (T-96, Trial Exhibit 5)

**Then Existing Mental, Emotional, or Physical Condition (MRE 803(3):** Ms. Cornell's

testimony about [victim]'s statements falls squarely within a description of her "then existing state of mind", as she tried to dissuade Mr. Pelletier from continuing his unwanted sexual assault upon her. Her repeated cries of "no" and her multiple entreaties to stop are a clear indication of her "emotional state" and "mental feeling", as both terms are explicitly mentioned in the rule.

**Rehabilitation of Witness (MRE 801(d)(B)(ii):** The trial court observed that this exception

might apply if the State "(does) it through [victim] to use that (exception)". (T-61) The State believes the court's comment to refer to a recall of [victim] in rebuttal. But the State

argues that Ms. Cornell's testimony was attacked through cross examination as set forth on pages 63 and 64 of the transcript, and that even though [redacted] victim was not recalled, the testimony of subsequent witnesses Franklin Jennings and nurse Katie Martin can be considered as rebuttal of the defense attempt to discredit Ms. Cornell. While the prior "statement" being discussed related to the introduction of text messages which were excluded, the exception could also have covered the introduction of Ms. Cornell's prior oral statements as disclosed in discovery, which were admitted as discussed above. Her information was corroborated in a sense by Detective Jennings, and by the nurse, and the State argues that the order in which the statements were introduced during trial is irrelevant to the concept of rehabilitation, especially in a bench trial.

The same overarching theme of temporal connectivity is broached when the appellant argues that Ms. Cornell lacked personal knowledge, MRE 602, and that MRE 401 and 403 operate to exclude her testimony. Hence, the State will discuss each of those assertions:

**Lack of Personal Knowledge:** As detailed elsewhere, Ms. Cornell evinced personal knowledge concerning the time that [redacted] victim and Mr. Pelletier occupied the living room, which was adjacent to her bedroom, and the time that she expressed concern via

text message to the victim, occurring directly after she had heard her friend tell Mr. Pelletier to desist his advances.

**Rule 602:** As the rule states, a witness's personal knowledge may be demonstrated by her testimony alone. In this case however, proof of Ms. Cornell's personal knowledge does not rest with only her. The appellant consistently attempts to focus the reviewing court solely on that testimony, while ignoring the dovetailing and overlap between that testimony, the statements of [redacted] victim and the SANE nurse as detailed elsewhere, and the admissions of the defendant himself.

**Rule 401:** Given the low threshold for determining what evidence is relevant, it is hard to accept the appellant's argument that Ms. Cornell's testimony of the victim's protestations, overheard during a sexual assault as independently described by [redacted] victim, and corroborated by injuries observed and photographed by a SANE nurse, is not the type of evidence which "has any tendency to make a fact more or less probable", said fact being "of consequence in determining the action." MRE 401(a) and (b)

**Rule 403:** It is also rather inconceivable that Ms. Cornell's corroboration of the much more graphic testimony of the victim and the SANE nurse would raise any of the concerns which

this rule was designed to avoid, especially since the fact-finder was an experienced trial judge, not a lay jury.

## ARGUMENT II

In order to reverse the judge's verdict, this Court would have to determine that "there is no competent evidence to support the findings. *State v. Taylor*, 2011 ME 111. The evidence considered by Justice Stewart was sufficient to sustain his verdict without consideration of Ms. Cornell's corroborating testimony. Had this been a jury trial, the panel would have been instructed (paraphrase), that "the testimony of a single witness is sufficient to allow you to find the defendant guilty". The trial court had the detailed testimony of the victim (reference some of the statements set forth in the excited utterance discussion above), coupled with injuries consistent with a sexual assault as observed and documented by the SANE nurse, AND admissions of the defendant as outlined in the appellant's brief at page 13, footnote 12, and page 14. As conceded at page 18 of the brief, the judge relied primarily on [REDACTED] victim's testimony, and he observed that Ms. Cornell's testimony was corroborative.

## CONCLUSION

As noted at page 28 of the appellant's brief, the test for obvious error is fourfold. As to the first three factors, for the reasons stated above, there is no error, much less plain error, which affected Mr. Pelletier's substantial rights.

As to the fourth factor, any argument that Justice Stewart's consideration of Ms. Cornell's testimony "seriously affected the fairness and integrity or public reputation of judicial proceedings must fail in light of his full consideration of objections, his receipt of a vast amount of evidence supporting his verdict, and his detailed findings. Indeed, the judge made scant reference to Ms. Cornell in both the factual findings and the discussion section of his order. In an eleven page ruling, Justice Stewart devoted only three sentences to Ms. Cornell's testimony (Appendix, Pages 2 and 9).

WHEREFORE the State asks this Court to deny the appeal and uphold the verdict.

Date: December 31, 2025

/ss/ Toff Toffolon

Toff Toffolon  
Attorney for the State  
70 State Street  
Ellsworth, ME 04605  
(207) 667-4621  
Bar No. 3349

**CERTIFICATE OF SERVICE**

On the date shown below, I sent one copy of this brief by electronic mail, later to be followed by two printed copies, to Jeremy Pratt, Esq. at PO Box 335, Camden, ME 04843.

Date: December 31, 2025

/ss/ Toff Toffolon

Toff Toffolon  
Attorney for the State  
70 State Street  
Ellsworth, ME 04605  
(207) 667-4621  
Bar No. 3349