

THE SUPREME JUDICIAL COURT OF THE STATE OF MAINE
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. Ken-23-455

STATE OF MAINE
Appellee

v.

JARAE LIPSCOMBE
Appellant

ON APPEAL from the Kennebec County
Unified Criminal Docket

APPENDIX

Rory A. McNamara # 5609
DRAKE LAW LLC
P.O. Box 143
York, ME 03909
(207) 475-7810

ATTORNEY FOR DEFENDANT-APPELLANT

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CERTIFICATE OF SERVICE

I hereby certify that I caused eight copies of this Appendix to be filed at this Court by sending them via U.S. Mail to the Clerk of this Court. I further certify that I caused one copy to be served on opposing counsel via U.S. Mail at the address listed in the Board of Bar Overseers’ database.

/s/ Rory A. McNamara, #5609
DRAKE LAW LLC
P.O. Box 143
York, ME 03909

STATE OF MAINE
v.
JARAE LIPSCOMBE

CRIMINAL DOCKET
KENNEBEC, ss.
Docket No KENCDCR-2021-20533

DOCKET RECORD

DOB: [REDACTED]/1996
Attorney: RORY MCNAMARA
DRAKE LAW LLC
PO BOX 143
YORK ME 03909
APPOINTED 01/17/2023

State's Attorney: MAEGHAN MALONEY

Filing Document: CRIMINAL COMPLAINT
Filing Date: 10/05/2021

Major Case Type: FELONY (CLASS A,B,C)

Charge(s)

1 HINDERING APPREHENSION OR PROSECUTION 06/06/2020 WATERVILLE
Seq 9022 17-A 753 (1-B) (B) (1) Class B
BIRMINGHAM / MSP

Docket Events:

10/05/2021 FILING DOCUMENT - CRIMINAL COMPLAINT FILED ON 10/05/2021

10/05/2021 WARRANT - ON AFFIDAVIT REQUESTED ON 10/05/2021

10/05/2021 WARRANT - ON AFFIDAVIT ORDERED ON 10/05/2021

10/05/2021 WARRANT - ON AFFIDAVIT ISSUED ON 10/05/2021

10/05/2021 WARRANT - ON AFFIDAVIT MODIFY ACKNOWLEDGED ON 10/05/2021 at 02:04 p.m.

10/10/2021 WARRANT - ON AFFIDAVIT EXECUTED BY AGENCY ON 10/10/2021 at 04:37 p.m.

10/12/2021 MOTION - MOTION TO AMEND COMPLAINT FILED BY STATE ON 10/12/2021

10/13/2021 Charge(s): 1
TRANSFER - UCD CS FILE TRANS TO RESP CRT TRANSFERRED ON 10/13/2021

AUGSC

10/13/2021 Charge(s): 1
TRANSFER - UCD CS FILE TRANS TO RESP CRT RECVD BY COURT ON 10/13/2021

AUGSC

10/13/2021 MOTION - MOTION TO AMEND COMPLAINT GRANTED ON 10/12/2021
WILLIAM STOKES , JUSTICE
COPY TO PARTIES/COUNSEL

10/13/2021 Charge(s): 1
HEARING - INITIAL APPEARANCE SCHEDULED FOR 10/12/2021 at 01:00 p.m. in Room No. 2

NOTICE TO PARTIES/COUNSEL

10/13/2021 Charge(s): 1
HEARING - INITIAL APPEARANCE HELD ON 10/12/2021
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WILLIAM STOKES , JUSTICE
Defendant Present in Court

10/13/2021 Charge(s): 1
PLEA - NO ANSWER ENTERED BY DEFENDANT ON 10/12/2021
WILLIAM STOKES , JUSTICE
10/13/2021 BAIL BOND - \$100,000.00 CASH BAIL BOND SET BY COURT ON 10/12/2021
WILLIAM STOKES , JUSTICE
Defendant Present in Court

NO DIRECT OR INDIRECT CONTACT WITH OHISHA HENDERSON (■■■■/1975), PENNY EASTLAND
(■■■■/1979), JASHAWN LIPSCOMBE (■■■■/1999), ALEXIS KOUTSIKOS (■■■■/1994), CECELIA LOPEZ
(■■■■/2002), SADIE DAVIS (■■■■/1988) AND NOT TO ENTER ANY RESIDENCE, PLACE OF EMPLOYMENT

SUBJECT TO BE REVIEWED

10/13/2021 BAIL BOND - CASH BAIL BOND AMENDED ON 10/13/2021
WILLIAM STOKES , JUSTICE
ADD PLACE OF EDUCATION TO THE NO CONTACT CONDITIONS
10/13/2021 BAIL BOND - CASH BAIL BOND COND RELEASE ISSUED ON 10/12/2021
WILLIAM STOKES , JUSTICE
10/18/2021 TRIAL - DOCKET CALL SCHEDULED FOR 06/06/2022 at 08:30 a.m. in Room No. 3
10/26/2021 Party(s): JARAE LIPSCOMBE
ATTORNEY - APPOINTED ORDERED ON 10/12/2021

Attorney: MATTHEW MORGAN

10/26/2021 ORDER - ORDER APPOINTING COUNSEL ENTERED ON 10/12/2021
WILLIAM STOKES , JUSTICE
02/01/2022 MOTION - MOTION TO SUPPRESS STATEMENT FILED BY DEFENDANT ON 01/31/2022

02/02/2022 Charge(s): 1
HEARING - MOTION TO SUPPRESS STATEMENT SCHEDULED FOR 03/10/2022 at 08:30 a.m. in Room No. 1
NOTICE TO PARTIES/COUNSEL

02/02/2022 Charge(s): 1
HEARING - MOTION TO SUPPRESS STATEMENT NOTICE SENT ELECTRONICALLY ON 02/02/2022

02/16/2022 OTHER FILING - OTHER DOCUMENT FILED ON 02/14/2022

LETTER FROM COUNSEL THROUGH DEFENDANT WITHDRAWING THE MOTION TO SUPPRESS
02/16/2022 MOTION - MOTION TO SUPPRESS STATEMENT WITHDRAWN ON 02/14/2022

02/16/2022 Charge(s): 1
HEARING - MOTION TO SUPPRESS STATEMENT NOT HELD ON 02/14/2022

COUNSEL WITHDREW MOTION TO SUPPRESS

03/02/2022 Charge(s): 1
SUPPLEMENTAL FILING - INDICTMENT FILED ON 02/24/2022

03/02/2022 Charge(s): 1
HEARING - ARRAIGNMENT SCHEDULED FOR 04/21/2022 at 08:30 a.m. in Room No. 1

03/02/2022 Charge(s): 1
HEARING - ARRAIGNMENT NOTICE SENT ELECTRONICALLY ON 03/02/2022

04/20/2022 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 04/19/2022

04/21/2022 Charge(s): 1
HEARING - ARRAIGNMENT HELD ON 04/21/2022
SARAH GILBERT , JUDGE
Attorney: MATTHEW MORGAN
Defendant Present in Court

DEFENDANT INFORMED OF CHARGES.

04/21/2022 Charge(s): 1
PLEA - NOT GUILTY ENTERED BY DEFENDANT ON 04/21/2022
SARAH GILBERT , JUDGE

04/21/2022 Charge(s): 1
HEARING - MOTION TO SUPPRESS SCHEDULED FOR 05/17/2022 at 08:30 a.m. in Room No. 1

NOTICE TO PARTIES/COUNSEL

04/21/2022 Charge(s): 1
HEARING - MOTION TO SUPPRESS NOTICE SENT ELECTRONICALLY ON 04/21/2022

05/10/2022 LETTER - FROM PARTY FILED ON 05/09/2022

REQUEST TO WITHDRAW MOTION TO SUPPRESS FILED BY ATTORNEY MORGAN

05/12/2022 Charge(s): 1
HEARING - MOTION TO SUPPRESS NOT HELD ON 05/11/2022

MOTION WITHDRAWN

05/19/2022 OTHER FILING - OTHER DOCUMENT FILED ON 05/18/2022

REQUEST FOR A SPEEDY TRIAL FILED BY DEF. COPY MAILED TO ATTY ON 5/19/22

06/07/2022 TRIAL - DOCKET CALL HELD ON 06/06/2022
WILLIAM STOKES , JUSTICE

06/07/2022 TRIAL - JURY TRIAL SCHEDULED FOR 07/07/2022 at 08:30 a.m. in Room No. 3

NOTICE TO PARTIES/COUNSEL

JURY SELECTION

06/07/2022 TRIAL - JURY TRIAL SCHEDULED FOR 07/08/2022 at 08:30 a.m. in Room No. 3

NOTICE TO PARTIES/COUNSEL

JURY SELECTION

06/12/2022 TRIAL - JURY TRIAL NOTICE SENT ON 06/12/2022

06/12/2022 TRIAL - JURY TRIAL NOTICE SENT ON 06/12/2022

06/17/2022 MOTION - MOTION IN LIMINE FILED BY STATE ON 06/17/2022

07/05/2022 TRIAL - JURY TRIAL CONTINUED ON 07/05/2022

CONT'D TO AUGUST JS LIST

07/05/2022 TRIAL - JURY TRIAL CONTINUED ON 07/05/2022

CONT'D TO AUGUST JS LIST

07/05/2022 TRIAL - JURY TRIAL SCHEDULED FOR 08/11/2022 at 08:30 a.m. in Room No. 3

NOTICE TO PARTIES/COUNSEL

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JS

07/05/2022 TRIAL - JURY TRIAL SCHEDULED FOR 08/12/2022 at 08:30 a.m. in Room No. 3

NOTICE TO PARTIES/COUNSEL

JS

07/08/2022 TRIAL - JURY TRIAL NOTICE SENT ON 07/08/2022

07/21/2022 MOTION - MOTION IN LIMINE FILED BY DEFENDANT ON 07/21/2022

Attorney: MATTHEW MORGAN

07/21/2022 OTHER FILING - OTHER DOCUMENT FILED ON 07/21/2022

Attorney: MATTHEW MORGAN

OPPOSITION TO STATE'S MOTION IN LIMINE PURSUANT TO M.R. EVID

07/21/2022 CASE STATUS - CASE FILE LOCATION ON 07/21/2022

W/SIDNEY

08/05/2022 HEARING - CONFERENCE SCHEDULED FOR 08/08/2022 at 03:00 p.m.

NOTICE TO PARTIES/COUNSEL

PHONE

CONFERENCE WITH ATTORNEYS

08/18/2022 MOTION - OTHER MOTION FILED BY DEFENDANT ON 08/17/2022

DEFENDANT'S MOTION TO DISMISS AND/OR RESET BAIL FOR VIOLATION OF SPEEDY TRIAL RIGHTS

08/18/2022 HEARING - CONFERENCE HELD ON 08/08/2022

DEBORAH CASHMAN , JUSTICE

08/26/2022 TRIAL - JURY TRIAL NOT HELD ON 08/12/2022

08/26/2022 TRIAL - JURY TRIAL SCHEDULED FOR 10/06/2022 at 08:30 a.m. in Room No. 3

JURY SELECTION

08/26/2022 TRIAL - JURY TRIAL NOTICE SENT ON 08/26/2022

09/12/2022 HEARING - OTHER MOTION SCHEDULED FOR 09/13/2022 at 08:30 a.m. in Room No. 1

MOTION TO DISMISS AND/OR RESET FOR BAIL FOR VIOLATION OF SPEEDY TRIAL RIGHTS

09/12/2022 HEARING - OTHER MOTION NOTICE SENT ELECTRONICALLY ON 09/12/2022

MOTION TO DISMISS AND/OR RESET FOR BAIL FOR VIOLATION OF SPEEDY TRIAL RIGHTS

09/14/2022 HEARING - OTHER MOTION HELD ON 09/13/2022

WILLIAM STOKES , JUSTICE

Defendant Present in Court

MOTION TO DISMISS AND/OR RESET FOR BAIL FOR VIOLATION OF SPEEDY TRIAL RIGHTS

09/14/2022 MOTION - OTHER MOTION DENIED ON 09/13/2022

WILLIAM STOKES , JUSTICE

DEFENDANT'S MOTION TO DISMISS AND/OR RESET BAIL FOR VIOLATION OF SPEEDY TRIAL RIGHTS

09/14/2022 MOTION - OTHER MOTION UNDER ADVISEMENT ON 09/14/2022

WILLIAM STOKES , JUSTICE

DEFENDANT'S MOTION TO DISMISS AND/OR RESET BAIL FOR VIOLATION OF SPEEDY TRIAL RIGHTS

MOTION TO RESET BAIL IS CURRENTLY UNDER

ADVISEMENT

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09/14/2022 MOTION - MOTION FOR DISCOVERY FILED BY DEFENDANT ON 09/13/2022

09/14/2022 TRIAL - JURY TRIAL CONTINUED ON 08/11/2022

Defendant Present in Court

WAS STILL PUT ON RECORD REGARDING SPEEDY TRIAL RIGHTS VIOLATED

09/16/2022 MOTION - MOTION FOR DISCOVERY GRANTED ON 09/16/2022

WILLIAM STOKES , JUSTICE

COPY TO PARTIES/COUNSEL

09/21/2022 BAIL BOND - \$50,000.00 CASH BAIL BOND OTHER ACTION NOTE ON 09/16/2022

WILLIAM STOKES , JUSTICE

AMENDED TO \$50,000; NO DIRECT/INDIRECT CONTACT WITH OHISHA HENDERSON (■■■■/75), PENNY EASTLAND (■■■■79), JASHAWN LIPSCOMBE (■■■■/99), ALEXIS KOUTSIKOS (■■■■94) CECILIA LOPEZ (■■■■02) AND SADIE DAVIS (■■■■88) NO ENTRY TO RESIDENCE/EMPLOYMENT/EDUCATION

10/26/2022 MOTION - MOTION IN LIMINE FILED BY DEFENDANT ON 10/25/2022

11/04/2022 MOTION - MOTION IN LIMINE FILED BY STATE ON 10/31/2022

CERTIFIED BUSINESS RECORDS

11/10/2022 MOTION - OTHER MOTION FILED BY DEFENDANT ON 11/04/2022

MOTION FOR VOIR DIRE OF JURORS

11/10/2022 HEARING - OTHER MOTION SCHEDULED FOR 11/16/2022 at 01:00 p.m. in Room No. 1

MOTION TO VOIR DIRE THE JURORS

11/10/2022 HEARING - SENTENCE HEARING SCHEDULED FOR 12/06/2022 at 01:00 p.m. in Room No. 1

11/23/2022 HEARING - OTHER MOTION SCHEDULED FOR 11/30/2022 at 08:30 a.m. in Room No. 3

MOTION FOR VOIR DIRE OF JURORS

11/23/2022 HEARING - OTHER MOTION NOT HELD ON 11/23/2022

MOTION TO VOIR DIRE THE JURORS

11/30/2022 HEARING - SENTENCE HEARING NOT HELD ON 11/30/2022

11/30/2022 HEARING - SENTENCE HEARING SCHEDULED FOR 01/12/2023 at 08:30 a.m. in Room No. 3

11/30/2022 HEARING - SENTENCE HEARING NOTICE SENT ELECTRONICALLY ON 11/30/2022

12/15/2022 HEARING - OTHER MOTION HELD ON 11/30/2022

MOTION FOR VOIR DIRE OF JURORS

12/15/2022 MOTION - OTHER MOTION FILED BY DEFENDANT ON 12/14/2022

MOTION FOR VOIR DIRE OF JURORS

01/11/2023 OTHER FILING - SENTENCING MEMORANDUM FILED BY DEFENDANT ON 01/11/2023

01/12/2023 MOTION - OTHER MOTION DENIED ON 01/12/2023

WILLIAM STOKES , JUSTICE

MOTION FOR VOIR DIRE OF JURORS

01/12/2023 HEARING - SENTENCE HEARING HELD ON 01/12/2023

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IN OPEN COURT

Printed on: 01/24/2023

WILLIAM STOKES , JUSTICE
01/12/2023 MOTION - MOTION IN LIMINE WITHDRAWN ON 08/29/2022
WILLIAM STOKES , JUSTICE
01/19/2023 CASE STATUS - CASE FILE RETURNED ON 01/19/2023
01/19/2023 TRIAL - JURY TRIAL HELD ON 10/06/2022

01/19/2023 MOTION - MOTION FOR DISCOVERY MOOT ON 01/12/2023
WILLIAM STOKES , JUSTICE
01/19/2023 MOTION - MOTION IN LIMINE GRANTED ON 10/04/2022
WILLIAM STOKES , JUSTICE
GRANTED IN PART AND DENIED IN PART FOR THE USE OF ALIAS
01/19/2023 MOTION - OTHER MOTION DENIED ON 01/12/2023
WILLIAM STOKES , JUSTICE
MOTION FOR VOIR DIRE OF JURORS

ORALLY DONE IN OPEN COURT

01/19/2023 TRIAL - JURY TRIAL SCHEDULED FOR 10/31/2022 at 08:30 a.m. in Room No. 3

NOTICE TO PARTIES/COUNSEL
01/19/2023 TRIAL - JURY TRIAL HELD ON 10/31/2022
WILLIAM STOKES , JUSTICE
Attorney: MATTHEW MORGAN
DA: CHRISTOPHER COLEMAN
Defendant Present in Court

01/19/2023 TRIAL - JURY TRIAL SCHEDULED FOR 11/01/2022 at 08:30 a.m. in Room No. 3

NOTICE TO PARTIES/COUNSEL
01/19/2023 TRIAL - JURY TRIAL HELD ON 11/01/2022
WILLIAM STOKES , JUSTICE
Attorney: MATTHEW MORGAN
DA: CHRISTOPHER COLEMAN
Defendant Present in Court

01/19/2023 Charge(s): 1
RULING - ORIGINAL ORDERED ON 01/12/2023
WILLIAM STOKES , JUSTICE
It is adjudged that the defendant is guilty of 1 HINDERING APPREHENSION OR PROSECUTION 17-A
753(1-B) (B) (1) Class B as charged and convicted.

The defendant is sentenced to the DEPARTMENT OF CORRECTIONS for a term of 5 year(s).

It is ordered that all but 3 year(s) of the sentence as it relates to confinement be suspended.

It is ordered that the defendant be placed on a period of probation for a term of 3 year(s) upon conditions attached hereto and incorporated by reference herein.

Said Probation to commence after completion of the unsuspended term of imprisonment.

\$ 35 VICTIMS COMPENSATION FUND
TOTAL DUE:\$ 35.00.

Special Conditions of Probation:

1. refrain from all criminal conduct and violation of federal, state and local laws.
2. report to the probation officer immediately and thereafter as directed and within 48 hours

- of your release from jail.
3. answer all questions by your probation officer and permit the officer to visit you at your home or elsewhere.
 4. obtain permission from your probation officer before changing your address or employment.
 5. not leave the State of Maine without written permission of your probation officer.
 6. maintain employment and devote yourself to an approved employment or education program.
 8. identify yourself as a probationer to any law enforcement officer if you are arrested, detained or questioned for any reason and notify your probation officer of that contact within 24 hours.
 9. waive extradition back to the State of Maine from any other place.
 10. not own, possess or use any firearm or dangerous weapon if you have ever been convicted of a crime in any jurisdiction with a potential penalty of one year or more or any crime involving domestic violence or the use of a firearm or dangerous weapon.
 - 12a. provide a DNA sample if convicted of applicable offense listed in 25 MRSA Section 1574.

submit to random search and testing for firearms at the direction of a law enforcement officer.
submit to random search and testing for dangerous weapons at the direction of a law enforcement officer.

Have no contact of any kind with DAVID WESTON and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with PENNY EASTLAND and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with JUSTIN CORNFORTH and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with PAUL SALLEY and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with JEWELL ARBO and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with JESSICA POULIN and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with DAN TRACY and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with CYNTHIA TRACY and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with OHISHA HENDERSON and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION
Have no contact of any kind with JASHAUN LIPSCOMBE and the family of said person.
NO ENTRY TO RESIDENCE, EMPLOYMENT, EDUCATION

01/19/2023 Charge(s): 1
RULING - ORIGINAL ISSUED ON 01/12/2023

DEFENDANT ACKNOWLEDGES RECEIPT

01/19/2023 Charge(s): 1
VERDICT - GUILTY RETURNED ON 11/01/2022

01/19/2023 Charge(s): 1
FINDING - GUILTY CONT FOR SENTENCING ON 11/01/2022

01/19/2023 OTHER FILING - FINE PAYMENT SCHEDULE ORDERED ON 01/19/2023

INSTALLMENT PYMTS: 0;DAILY: F;WEEKLY: F;BI-WEEKLY: F;MONTHLY: F;BI-MONTHLY: F;PYMT BEGIN:
AT 0;PYMT IN FULL: 20240601 AT 1600;THRU PPO: F;PYMT DUE AMT: 35;PMT DUE: 20240601 AT
1600;OTHER:

01/19/2023 Charge(s): 1

FINDING - GUILTY ENTERED BY COURT ON 11/01/2022
WILLIAM STOKES , JUSTICE

01/24/2023 APPEAL - NOTICE OF APPEAL FILED ON 01/17/2023

Attorney: MATTHEW MORGAN
W/ATTACHED LAW

01/24/2023 OTHER FILING - TRANSCRIPT FILED ON 01/17/2023

Attorney: MATTHEW MORGAN
SCANNED TO CATHERINE SMITH AND OFFICE OF TRANSCRIPT ON 1/24/23.

01/24/2023 MOTION - MOTION TO PREPARE TRANSCRIPT FILED BY DEFENDANT ON 01/17/2023

Attorney: MATTHEW MORGAN

01/24/2023 MOTION - MOTION TO PREPARE TRANSCRIPT GRANTED ON 01/17/2023

WILLIAM STOKES , JUSTICE

01/24/2023 MOTION - OTHER MOTION FILED BY DEFENDANT ON 01/17/2023

Attorney: MATTHEW MORGAN

APPLICATON TO PROCEED WITHOUT PAYMENT OF FEES FOR APPEAL FEE AND TRANSCRIPT FEE
W/AFFIDAVIT

01/24/2023 MOTION - OTHER MOTION GRANTED ON 01/17/2023

WILLIAM STOKES , JUSTICE

APPLICATON TO PROCEED WITHOUT PAYMENT OF FEES FOR APPEAL FEE AND TRANSCRIPT FEE

01/24/2023 MOTION - OTHER MOTION FILED BY DEFENDANT ON 01/17/2023

Attorney: MATTHEW MORGAN

MOTION FOR SUBSTITUTE COUNSEL

01/24/2023 MOTION - OTHER MOTION GRANTED ON 01/17/2023

WILLIAM STOKES , JUSTICE

MOTION FOR SUBSTITUTE COUNSEL

01/24/2023 Party(s): JARAE LIPSCOMBE

ATTORNEY - WITHDRAWN ORDERED ON 01/17/2023

Attorney: MATTHEW MORGAN

01/24/2023 Party(s): JARAE LIPSCOMBE

ATTORNEY - APPOINTED ORDERED ON 01/17/2023

Attorney: RORY MCNAMARA

01/24/2023 APPEAL - NOTICE OF APPEAL SENT TO REPORTER/ER ON 01/24/2023

01/24/2023 APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 01/24/2023

01/24/2023 MOTION - MOTION IN LIMINE MOOT ON 01/12/2023

01/24/2023 MOTION - MOTION IN LIMINE MOOT ON 01/12/2023

FINE PAYMENT SCHEDULE

Execution/payment stayed to pay in full by 06/01/2024 or warrant to issue.

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JARAE LIPSCOMBE
KENCDCR-2021-20533
DOCKET RECORD

A TRUE COPY

ATTEST: _____
Clerk

State Of Maine

UNIFIED CRIMINAL DOCKET

JUDGMENT AND COMMITMENT

Docket No. KENCD-CR-2021-20533

County/Location KENNEBEC

Male Female

Date: 1/12/23

DOB [redacted]/1996

State of Maine v. JARAE LIPSCOMBE

Residence: [redacted]

Offense(s) charged: HINDERING APPREHENSION OR PROSECUTION
Class: B DOV: 06/06/2020 Seq #: 9022 Title: 17-A / 753 / 1-B / B / 1

Charged by: indictment information complaint

Plea(s): Guilty Nolo Not Guilty

Date of Violation(s):

Offense(s) convicted: HINDERING APPREHENSION OR PROSECUTION
Class: B DOV: 06/06/2020 Seq #: 9022 Title: 17-A / 753 / 1-B / B / 1

Convicted on: plea jury verdict court finding

It is adjudged that the defendant is guilty of the offenses as shown above and convicted.

It is adjudged that the defendant be hereby committed to the sheriff of the within named county or his authorized representative who shall without needless delay remove the defendant to:
 The custody of the Commissioner of the Department of Corrections, at a facility designated by the Commissioner, to be punished by imprisonment for a term of 5 years

A County jail to be punished by imprisonment for a term of

This sentence to be served (consecutively to)(concurrently with)

Execution stayed to on or before: at (a.m.)(p.m.)

Notice to Defendant: Your sentence does not include any assurance about the location of the facility where you will be housed during your commitment.

It is ordered that all (but) 3 years of the sentence (as it relates to confinement)(as it relates to the) be suspended and the defendant be placed on a period of probation supervised release administrative release for a term of 3 years(months) upon conditions attached hereto and incorporated by reference herein.

said probation or supervised release to commence () (upon completion of the unsuspended term of imprisonment).
 said administrative release to commence immediately.
 The defendant shall serve the initial portion of the foregoing sentence at a County jail.

It is ordered that the defendant forfeit and pay the sum of \$ as a fine to the clerk of the court, plus applicable surcharges and assessments.
 All but \$ 35 suspended. The total amount due, including surcharges and assessments is \$ 35. This amount is payable immediately or in accordance with the Order on Payment of Fines incorporated by reference herein.

- It is ordered that the defendant forfeit and pay the sum of \$ _____ as restitution for the benefit of _____ (17-A M.R.S. § 1152-2-A).
- Restitution is joint and several pursuant to 17-A M.R.S. § 1326-E.
- Restitution is to be paid through the Office of the prosecuting attorney, except that during any period of commitment to the Department of Corrections and/or any period of probation imposed by this sentence, restitution is to be paid to the Department of Corrections.
- A separate order for income withholding has been entered pursuant to 17-A M.R.S. § 1326-B incorporated by reference herein.
- Execution/payment stayed to pay in full by _____
- Installment payments of _____ to be made (weekly) (biweekly) (monthly) or warrant to issue
- Restitution is to be paid to the Department of Corrections on a schedule to be determined by the Department.

It is ordered pursuant to applicable statutes, that the defendant's motor vehicle operator's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license and/or the defendant's right to register a motor vehicle is suspended in accordance with notice of suspension incorporated herein.

It is ordered that the defendant perform _____ hours of court-approved community service work within _____ (weeks) (months) for the benefit of _____.

- It is ordered that the defendant pay \$ _____ for each day served in the county jail, to the treasurer of the above named county. (up to \$80/Day) (17-A M.R.S. § 1341)
- Execution/payment stayed to pay in full by _____ or warrant to issue.

It is ordered that the defendant shall participate in alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the office of substance abuse. (29 M.R.S. § 1312-B (2)(D-1), 29-A M.R.S. § 2411 (5)(F))

It is ordered that the defendant forfeit to the state the firearm used by the defendant during the commission of the offense(s) shown above. (17-A M.R.S. § 1158)

It is ordered that the defendant is prohibited from owning, possessing or having under the defendant's control a firearm. (15 M.R.S. § 393)

Other: _____

It is ordered that the defendant be unconditionally discharged. (17-A M.R.S. § 1201)

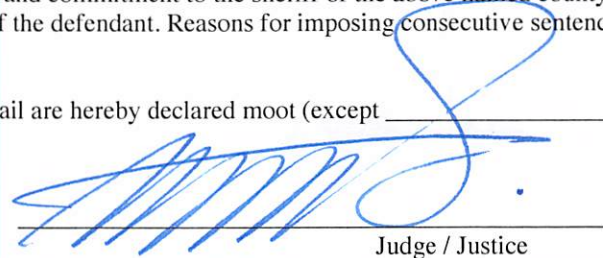
If the defendant has been convicted of an applicable offense listed in 25 M.R.S. § 1574, then the defendant shall submit to having a DNA sample drawn at any time following the commencement of any term of imprisonment or at any time following commencement of the probation period as directed by the probation officer.

WARNING: IT IS A VIOLATION OF STATE LAW, AND MAY BE A VIOLATION OF FEDERAL LAW, FOR THE DEFENDANT TO OWN, POSSESS OR HAVE UNDER THEIR CONTROL A FIREARM IF THAT PROHIBITION HAS BEEN ENTERED AS PART OF THIS JUDGMENT OR ANY OTHER COURT ORDER.

It is further ordered that the clerk deliver a certified copy of this judgment and commitment to the sheriff of the above named county or his authorized representative and that the copy serve as the commitment of the defendant. Reasons for imposing consecutive sentences are contained in the court record or in attachments hereto.

All pending motions, other than motions relating to payment of fees and bail are hereby declared moot (except _____.)

A TRUE COPY, ATTEST: _____
Clerk


Judge / Justice

I understand the sentence imposed herein and acknowledge receipt of a copy of this JUDGMENT AND COMMITMENT. I hereby acknowledge that the disclosure of my Social Security number on the Social Security Disclosure Form is mandatory under 36 M.R.S. § 5276-A. My Social Security number will be used to facilitate the collection of any fine that has been imposed upon me in this action if that fine remains unpaid as of the time I am due a State of Maine income tax refund. My Social Security number also may be used to facilitate the collection of money I may owe the State of Maine as a result of having had an attorney appointed to represent me. Collection of any fine or reimbursement of money, which I owe to the State of Maine, will be accomplished by offsetting money I owe to the State against my State of Maine income tax refund.

SS Number Disclosure Required on separate form.

Date: _____

Defendant _____

Address _____

STATE OF MAINE

UNIFIED CRIMINAL DOCKET

KENNEBEC

Docket No. KENCDCR202120533

STATE OF MAINE

v.

JARAE LIPSCOMBE

Defendant

ORDER ON PAYMENT OF FINES

14 M.R.S. § 3141(4), 3142
17-A M.R.S. § 1303(1), 1304(3)

You are ORDERED to pay your fine(s) and related surcharges as follows:

Total Amount Due: \$ 35 ; Due Today: \$ _____

You must make your additional payments as follows:

Your first payment of \$ _____ is due on _____ at _____ (a.m.)(p.m.)

You must then make additional payments in the same amount thereafter, until paid in full, as follows:

A. Weekly. Every Mon Tues Wed Thurs Fri

B. Bi-Weekly. Every other Mon Tues Wed Thurs Fri

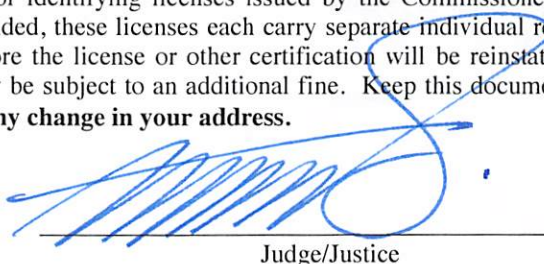
C. Monthly. On the _____ day of each month. If this date falls on a day when court is not open, payment is due on the next business day.

OR Payment of fine in full due on 6/1/24 at 4:00 (a.m.)(p.m.)

WARNING

If at any time you are unable to make a timely payment on the date it is due, you must come to Court on or before the date that payment is due to explain why you cannot make the payment and request an extension of time to make the payment. The Court may grant you an extension or you may be required to return on another day for another hearing. If you fail to make your payment(s) as ordered by the Court and you fail to obtain an extension from the Court, **an arrest warrant may be issued for your arrest, you may be defaulted, you may be held in contempt, and the court may suspend any license, certification, registration, permit, approval, or similar document issued to you by the State of Maine without further notice.** These include, but are not limited to, your driver's license, your vehicle registration, your license to hunt, fish, or trap, and your license to engage in a profession, occupation, business, or identifying licenses issued by the Commissioner of Marine Resources and Commissioner of Inland Fisheries and Wildlife. Once suspended, these licenses each carry separate individual reinstatement fees that will have to be paid in addition to the fine owed to the court before the license or other certification will be reinstated. Also, a separate additional late fee will be applied to each overdue fine and you may be subject to an additional fine. Keep this document in a safe place until your fine is paid in full. **You must keep the Court informed of any change in your address.**

Date: 1/12/23


Judge/Justice

SS Number Disclosure required on separate form

I acknowledge that disclosure of my Social Security Number is **mandatory** pursuant to 36 M.R.S. § 5276-A, and that my social security number can be used by the Court to collect any fine that remains unpaid by taking my State of Maine or Federal Income tax refund and applying it towards any outstanding fines.

I have read the above order, understand it, and acknowledge receipt of a copy.

Date: _____

Defendant's Signature _____

Physical Address _____

Mailing Address _____

Original to Court and One Copy to Defendant

LATE PAYMENT OF FINES NOTICE
EFFECTIVE 01/01/2004

All fines imposed as of 1/1/04 are subject to a late fee if the fine is not paid by the date it is due. If the payment is not paid on the due date, a late payment fee will be assessed, in addition to the amount due on each fine, as follows:

For original fines less than or equal to \$100.00, the late payment fee is \$ 25.00

For original fines greater than \$100.00 and less than or equal to \$500.00, the late payment fee is \$ 50.00

For original fines greater than \$500.00, the late payment fee is \$100.00

The amount due on any late payment fee shall be determined by the amount of the fine specified on the face of the judgment, without regard to increases from surcharges or decreases from partial payments. Where part of the fine is suspended, the amount due shall be determined based on the remaining, unsuspended portion of the fine.

WARNING

PAYMENT MUST BE RECEIVED AT THE COURT ON THE DATE THAT THE FINE PAYMENT IS DUE - PLEASE TAKE THIS INTO CONSIDERATION WHEN MAILING YOUR FINE PAYMENTS. BECAUSE THESE FEES ARE ASSESSED AUTOMATICALLY BY THE JUDICIAL BRANCH'S COMPUTER NETWORK, THERE WILL BE NO EXCEPTIONS TO THIS RULE.

SURCHARGES

Maine law requires that certain surcharges be added to the amount of every fine. Please contact the Clerk's Office if you have any questions about the surcharges.

PAYMENT OPTIONS

Payments to the Court may be made in any of the following ways:

1. By mail via check or money order in US funds made payable to Treasurer, State of Maine. Please include the docket number on your check or money order.
2. In person at the Court listed on this Order between 8:00 a.m. and 4:00 p.m. Monday through Friday. You may pay in person by cash, check, money order, or credit card (Master Card, Visa, or Discover).
3. By credit card (Master Card, Visa, or Discover). Payments may be made by calling toll free: 1-866-729-8499.
4. On line. Go to <http://www.maine.gov/courtfines>

DEFENDANT- JARAE LIPSCOMBE

D.O.B. 10/19/1996

SS Number Disclosure Required on Separate Form.

You have been convicted of Hindering Apprehension or protection which (is a)(are) Class B crime(s). You are placed on probation and committed to supervision by the Department of Corrections for the term of 3 months 3 years subject to the conditions listed below.

THE CONDITIONS OF YOUR PROBATION ARE AS FOLLOWS: YOU SHALL

1. refrain from all criminal conduct and violation of federal, state and local criminal laws.
2. report to the probation officer immediately and thereafter as directed and within 48 hours of your release from jail.
3. answer all questions by your probation officer and permit the officer to visit you at your home or elsewhere.
4. obtain permission from your probation officer before changing your address or employment.
5. not leave the State of Maine without written permission of your probation officer.
6. maintain employment and devote yourself to an approved employment or education program.
7. identify yourself as a probationer to any law enforcement officer if you are arrested, detained or questioned for any reason and notify your probation officer of that contact within 24 hours.
8. waive extradition back to the State of Maine from any other place.
9. not own, possess or use any firearm or dangerous weapon if you have ever been convicted of a crime in any jurisdiction with a potential penalty of one year or more or any crime involving domestic violence or the use of a firearm or dangerous weapon.
10. pay to the Department of Corrections a supervision fee of \$ _____ per month.
11. provide a DNA sample if convicted of applicable offense listed in 25 M.R.S. § 1574.
12. pay to the Department of Corrections an electronic monitoring fee substance testing fee of \$ _____ per month year.
13. not use possess OR excessively use or possess alcohol; and use possess OR excessively use or possess marijuana or marijuana products; and use or possess any illegal drugs or their derivatives; and use or possess any dangerous weapons or firearms.
14. submit to random search and testing for alcohol illegal drugs or their derivatives marijuana or marijuana products firearms dangerous weapons obscene/sexually explicit material _____ at the direction of a probation or law enforcement officer.
15. complete evaluation and counseling and treatment as an out-patient in-patient at or a similar facility as directed by your probation officer for substance abuse sexual offender psychological certified batterer's intervention anger management medical (_____) issues and sign any releases requested by your probation officer.
16. pay restitution in the [maximum] amount of \$ _____ through the Department of Corrections Office of District Attorney by _____ for the benefit of _____ joint and several with _____
Installment payment of \$ _____ to be made weekly biweekly monthly.
17. pay all fines, fees, surcharges and assessments in full and counsel fees as ordered to the clerk of this court not later than _____ (date), on a schedule set by the court or your probation officer.
18. not operate or attempt to operate any motor vehicle (including ATV, snowmobile, motorboat, powerboat or aircraft) until properly licensed by the Secretary of State.
19. not associate with any other person who is on probation or parole without written permission of your probation officer.
20. have no contact with male female children under the age of _____ direct or indirect.
21. have no direct or indirect contact with (name and dob) See Attached list _____ except as is necessary; for counseling; to pay child support; for child contact; by telephone; with written permission of your probation officer or the court; _____ and not enter any residence place of employment place of education of any such person(s).
22. not be present in an establishment that serves liquor for on-premises consumption after _____ AM/PM.
23. support your dependents and meet family responsibilities.
24. not view or possess any obscene/sexually explicit material.
25. not have any possessory interest in any bank account except as authorized in writing by your probation officer.
26. appear for periodic judicial review as directed by the court or your probation officer.
27. participate in an electronic monitoring program.
28. perform _____ hours of public service work within _____ months as directed by your probation officer.
29. Other: _____

If you violate or fail to fulfill any of the above conditions you may be arrested, your probation may be revoked and you may be required to serve the rest of your sentence in jail or prison.

ORDERED: All conditions of probation are incorporated into the judgment and docket by reference.

Date: 1/12/2023

Justice/Judge 

I acknowledge receipt of these conditions and accept them as written.

Witness: _____

Probationer _____

No Contact List for Jarae Lipscombe:

David Weston [REDACTED]/84

Penny Eastland [REDACTED]/79

Justin Cornforth [REDACTED]/78

Paul Salley [REDACTED]/76

Jewell Arbo [REDACTED]/84

Jessica Poulin [REDACTED]/82

Dan Tracy [REDACTED]/56

Cynthia Tracy [REDACTED]/60

Ohisha Henderson [REDACTED]/75

Jashaun Lipscombe [REDACTED]/99

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CRIMINAL ACTION
Docket No. CR-2021-20533

STATE OF MAINE

v.

ORDER ON MOTION FOR NEW TRIAL
(M.R.U. Crim. P. 33)

JARAE LIPSCOMBE,

Defendant

The matter before the court is the Defendant's Motion for New Trial pursuant to M.R.U. Crim. P. 33 based on "newly discovered evidence," filed on June 26, 2023. At the outset, the court wishes to apologize to the parties for the delay in addressing this motion. The undersigned justice first became aware of this motion on October 12, 2023, while at the Capital Judicial Center (CJC). It appears that the motion had been misdirected to another Superior Court Justice, who had not presided at this trial. The undersigned justice is no longer regularly assigned at the CJC, having gone on active retired status as of May 1, 2023.

Jarae Lipscombe was convicted of hindering the apprehension or prosecution of his brother, Jashaun Lipscombe, for the murder of Joe Tracy. 17-A M.R.S. § 753(1-B)(B)(1). At a later trial, before a different factfinder, Jashaun was acquitted of that murder. Jarae now argues that his brother's acquittal of the murder is "newly discovered evidence" that entitles him to a new trial.

The court disagrees and denies the Rule 33 motion.

Jarae was charged with violating 17-A M.R.S. § 753(1-B)(B)(1) which provides:

1-B. A person is guilty of hindering apprehension or prosecution if, with the intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another person for the commission of a crime, the person:

....

B. Provides or aids in providing a dangerous weapon, transportation, disguise or other means of avoiding discovery or apprehension and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime[.]

At common law, an accessory after the fact “could not be tried until after the principal was found guilty. This meant that the accessory was immune from prosecution if the principal had been acquitted or had not been prosecuted because of his death or escape. But most jurisdictions now only require that the fact of the completed felony be proved in the trial of the accessory after the fact.” W. Lafave, *Substantive Criminal Law*, § 13.6(a) (October 2022 update).

Here, Jarae is not asserting that he should be legally immune from conviction for hindering because of his brother’s acquittal of murder. Rather, he is claiming that the fact of his brother’s acquittal at a later trial, before a different factfinder, is newly discovered evidence that should be presented to a new jury and which, if so presented, “will probably change the result.”

In the court’s view, Jashaun’s acquittal at the subsequent trial is not newly discovered evidence within the meaning of Rule 33 because it is not relevant to what

the jury in Jarae's trial had to determine beyond a reasonable doubt. To find Jarae guilty of violating section 753(1-B)(B)(1), the jury had to find beyond a reasonable doubt that he acted with the intent to hinder, prevent, or delay the discovery or apprehension of his brother; that he provided some means or aided in providing some means to Jashaun of avoiding discovery or apprehension, and; at the time, Jarae "knew of the conduct of [Jashaun] that has in fact resulted in the charge of murder . . . or that has in fact rendered [Jashaun] liable to such a charge."

It is not an element of the crime that Jashaun be convicted. Nor is it a defense to the charge of hindering that Jashaun was found not guilty by a different factfinder at a separate trial. The gravamen of the offense of hindering is that the jury must find beyond a reasonable doubt that at the time he aided his brother in avoiding discovery or apprehension, and while acting with the intent to hinder, prevent, or delay Jashaun's apprehension, Jarae knew of Jashaun's conduct that resulted in the charge of murder or that rendered Jashaun liable to such a charge.

That another factfinder found Jashaun not guilty is not relevant to what the jury in Jarae's case had to decide. Two different factfinders, hearing the same or similar evidence, might reach different verdicts.

The entry is:

Defendant's motion for new trial is denied.

DATED: October 19, 2023

A handwritten signature in black ink, appearing to read 'William Stokes', written over a horizontal line.

William Stokes
Active Retired Justice
Superior Court

STATE OF MAINE
KENNEBEC, ss

UNIFIED CRIMINAL DOCKET
LOCATION: AUGUSTA
DOCKET NO: KENCD-CR-2021-20533

STATE OF MAINE

INDICTMENT

v.

JARAE LIPSCOMBE

DOB: [REDACTED]/1996

SIN: NY12940952

[REDACTED]
G: Male Ht: 5' 09" Wt: 180 H: Brown
E: Brown R: Black

**COUNT 1: HINDERING APPREHENSION OR
PROSECUTION**

THE GRAND JURY CHARGES:

COUNT 1:

**17-A M.R.S. §753(1-B)(B)(1)
Seq No: 9022
HINDERING APPREHENSION OR
PROSECUTION
CLASS B
ATNCTN 418746B001**

On or about June 06, 2020, in Waterville, Kennebec County, Maine, **JARAE LIPSCOMBE**, with the intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of Jashawn Lipscombe for the commission of a crime, **JARAE LIPSCOMBE** provided or aided in providing a dangerous weapon, transportation, disguise or other means of avoiding discovery or apprehension. **JARAE LIPSCOMBE** knew of the conduct of Jashawn Lipscombe that in fact resulted in the charge of murder or a Class A crime or that in fact rendered Jashawn Lipscombe liable to such a charge.

DATED: _____

2/24/2022

A TRUE BILL

Chad M. Maddux

FOREPERSON

OFFICER: Joshua Birmingham
DEPT: Maine State Police
PROS: Christopher J Coleman
JW#: 21-5048

STATE OF MAINE
KENNEBEC, ss

UNIFIED CRIMINAL DOCKET
LOCATION: AUGUSTA
DOCKET NO: CR-21-20533

STATE OF MAINE

COMPLAINT

WATERVILLE DIST CT
OCT 5 '21 PM 1:36

v.

JARAE LIPSCOMBE
DOB: [REDACTED]/1996
SIN: ME0336556

COUNT 1: HINDERING APPREHENSION OR
PROSECUTION



G: Male Ht: 5' 09" Wt: 180 H: Brown
E: Brown R: Black

The undersigned officer, being duly sworn, states upon information and belief that:

COUNT 1:

17-A M.R.S. §753(1-B)(B)(1)
Seq No: 9022
HINDERING APPREHENSION OR
PROSECUTION
CLASS B
ATNCTN 001

On or about June 06, 2020, in Waterville, Kennebec County, Maine, JARAE LIPSCOMBE, with the intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of Jashawn Lipscombe for the commission of a crime, JARAE LIPSCOMBE provided or aided in providing a dangerous weapon, transportation, disguise or other means of avoiding discovery or apprehension. JARAE LIPSCOMBE knew of the conduct of Jashawn Lipscombe that in fact resulted in the charge of murder or a Class A crime or that in fact rendered Jashawn Lipscombe liable to such a charge.

DATED: 10/5/2021

Det. Jasle Brown
COMPLAINANT

Sworn to before me, 10/5/2021

Christine Longley
Clerk/Justice of Peace/Judge/Justice

OFFICER: Joshua Birmingham
DEPT: Maine State Police
PROS: Christopher J Coleman
JW#: 21-5048
Jail Requested

State of Maine

v.

**MOTION FOR A NEW TRIAL
(M.R.U.CRIM.P. 33)**

Jarae Lipscombe

Defendant, through undersigned counsel, hereby moves for a new trial:

1. After a jury-trial, defendant was convicted of hindering the prosecution of his brother, Jashaun Lipscombe, for the murder of Joe Tracy. *See* 17-A M.R.S. § 753(1-B)(B)(1).
2. As this Court likely knows, Jashaun Lipscombe was subsequently acquitted of the alleged murder. *See Judgment* (Cashman, J.) of June 1, 2023 in KENCD-CR-2020-1227.

ANALYSIS

3. Despite the pendency of defendant's direct appeal, *see* Law Court Docket No. Ken-23-21, this Court has concurrent jurisdiction to entertain this motion. *See* M.R.App.P. 3(c)(1).
4. Likewise, the strictures of M.R.U.Crim.P. 33 pose no bar: Defendant presents this newly discovered evidence – evidence that Jashaun is not guilty of murder – well within the two-year time-limit.
5. To succeed on his motion, defendant must establish: “(1) the evidence is such as will probably change the result if a new trial is granted; (2) it has been discovered since the trial; (3) it could not have been discovered before the trial by the exercise of due diligence; (4) it is material to the issue; and (5) it is not merely cumulative or impeaching, unless it is clear that such impeachment

would have resulted in a different verdict.” *State v. Ardolino*, 1999 ME 14, ¶ 8, 723 A.2d 870.

6. Defendant does not anticipate pushback concerning the timeliness elements of the Law Court’s test for a motion for a new trial. Clearly, the fact of acquittal, which occurred just weeks ago, could not have been discovered before trial, absent clairvoyance.
7. Defendant therefore focuses on the materiality elements. Anticipating a potential misunderstanding, defendant hastens to clarify: He does *not* argue that Jashaun’s acquittal *requires* his own acquittal *as a matter of law*. Rather, he contends that evidence of Jashaun’s acquittal is probative evidence that supports the defense theory, such that it would have resulted in a different verdict in Jarae’s case. And it is admissible evidence. *See State v. Dobbins*, 2019 ME 116, ¶¶ 27-37, 215 A.3d 769 (guilty plea of codefendant is admissible pursuant to public-records exception).
8. At trial, the defense attacked the State’s proof that defendant “knew of the conduct,” *see* 17-A M.R.S. § 753(1-B)(B)(1), that led to Jashaun’s prosecution for murder. *See* Tr. 463 (Defense counsel: “[W]e ask you to focus then on Jarae Lipscombe’s knowledge that he knew of conduct that in fact resulted in the charge of murder.... The key part there is that he had knowledge of conduct that was murder.... They need to prove something about murder.”). The newly discovered evidence that Jashaun is not guilty of the murder is probative in this vein in two manners: (A) It tends to establish that defendant may not, in fact, have known that Jashaun committed “conduct” that made him liable for the charge of murder (If the State cannot prove that Jashaun committed murder, doesn’t that make it more plausible that Jarae did not know that Jashaun committed murder?); and (B) it tends to establish that someone else

may have killed Joe Tracy (Indeed, the fact-finder in Jashaun's case found such reasonable doubts.), which makes more plausible Jarae's description of an unknown suspect fleeing the scene. Similarly, evidence of Jashaun's acquittal would have undermined the State's evidence suggesting that Jashaun in fact committed conduct constituting murder.

9. The State, of course, was properly permitted to introduce evidence at trial that (A) Jashaun committed "conduct" rendering himself liable for the crime of murder, and (B) Jarae knew of this "conduct" and, intending to "hinder, prevent or delay" Jashaun's prosecution, he provided some aid in doing so. Defendant now has significant newly discovered evidence to rebut this evidence. Moreover, at trial, the prosecutor candidly admitted that the evidence of a murder by Jashaun was threadbare. *See* Tr. 416-17 ("I agree, we did not meet that burden as to murder..."). This Court seemingly barely refrained from granting a motion for judgment of acquittal due to the lack of such proof, identifying only inferential evidence that Jashaun had committed the requisite murder. *See* Tr. 417-18. In short, proof of the element "conduct" constituting murder was not strong. Evidence of an acquittal should have resulted in acquittal for Jarae.

WHEREFORE, this Court should grant a new trial so that defendant may introduce the newly discovered evidence that Jashaun is not guilty of murder.

Respectfully submitted,

June 22, 2023



Rory A. McNamara, #5609
DRAKE LAW LLC
P.O. Box 143
York, ME 03909

207-475-7810
RORY@DRAKELAWLLC.COM

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of this motion to be mailed to the Kennebec County District Attorney's Office.

ORDER

A new trial is hereby ordered, for the reasons noted in defendant's motion for a new trial.

Judge/Justice

Date

STATE OF MAINE

v.

OBJECT TO MOTION FOR A NEW TRIAL

JARAE LIPSCOMBE

NOW COMES the state and OBJECTS to the Defendant's Motion for a new Trial on the following basis:

1. On November 2, 2022, the Defendant was convicted in this Court after a jury trial that spanned the course of three day of Hindering the Apprehension or Prosecution in violation on 17-A M.R.S. §753(1-B)(B)(1), a class "B" felony. The Defendant was specifically convicted of hindering his brother, Jashaun Lipsombe, who at the time of trial was charged with Murder.
2. Jashaun was found not guilty by this Court in May of 2023. The Defendant asserts that the acquittal of Jashaun is "new evidence," thus entitling the Defendant to a new trial.
3. The acquittal of Jashaun is not "new evidence" as it is not relevant to the charge of Hindering that the Defendant was convicted of. Maine Rule of Evidence 401 states that "evidence is relevant if: (a) It has the tendency to make a fact more or less probable than it would be without the evidence; and (b) The fact is of consequence in determining the action." Proof that Jashaun actually murdered the named victim, Joe Tracy, is not an element of Hindering the Apprehension or Prosecution; Rather, the element is simply that the other person, here Jashaun, is charged with the crime of Murder. At the time of Trial, the evidence showed that Jashaun was in fact charged with Murder.
4. Despite the acquittal, the Defendant still hindered the police investigation. The jury found that the Defendant knew the following:
 - a. The police were looking for his brother as part of a murder investigation;
 - b. He knew his brother was fleeing the area;
 - c. He was overheard talking about the shooting and goading his brother into doing it;
 - d. He hid the gun;
 - e. He offered to pay a witness to retrieve the gun from where his brother had hidden it; and
 - f. He deceived law enforcement, with his statements.

The charge of hindering focuses on the mental state and conduct of the Defendant, not the objective fact of whether his brother committed the murder.

5. The Defendant was convicted because of his actions to thwart a police investigation into the murder of Joe Tracy, not as a result of whatever actions his brother did or did not take.

FOR ALL THE REASONS ABOVE the State and OBJECTS to the Defendant's Motion for a new Trial on the following basis and moves the court to deny the motion.

Dated: July 10, 2023



ATTORNEY FOR THE STATE
#4137

cc: Rory A. McNamara, Esq. (via e-mail)

State of Maine

v.

**RESPONSE TO STATE'S OBJECTION TO
MOTION FOR A NEW TRIAL**

Jarar Lipscombe

Defendant, through undersigned counsel, hereby replies to the State's objection to his motion for a new trial:

- (1) The State has raised only one argument in opposition: Evidence of Jashaun's acquittal is "not relevant" to hindering. *State's Obj.* ¶ 3. It asserts that "the element is simply that the other person, here Jashaun, is charged with the crime of [m]urder." *Ibid.* Before defendant responds to that contention, he notes that the State has waived or abandoned any other argument it might have raised in its pleading. *See State v. Cummings*, 2023 ME 35, ¶ 15 n. 6, ___ A.3d ___ (State waives legal argument made "without elaboration or developed argument").
- (2) Regarding the relevance of Jashaun's acquittal, respectfully, it is incorrect that "the element is simply that the other person ... is charged with the crime of [m]urder." *State's Obj.* ¶ 3. Rather, the State had to prove that defendant "knew of the conduct" that "rendered [Jashaun] liable" for a murder-charge. 17-A M.R.S. § 753(1-B)(B)(1). In other words, defendant's knowledge that Jashaun shot Joe Tracy is quite relevant. At trial, the defense attempted to undermine the State's proof of such knowledge by suggesting that an unknown assailant – *not* Jashaun – shot Mr. Tracy. (*See* Tr. 88-91, 183, 252, 463). The newly discovered evidence

of Jashaun's acquittal is highly supportive of this defense theory: If a judge presiding over a full-blown homicide trial could not make a finding that Jashaun killed Mr. Tracy, then defendant's statements that someone else did so is much more plausible. Put somewhat differently, if Jashaun is in fact not guilty of murder, why couldn't jurors harbor reasonable doubts that defendant knew that Jashaun shot Tracy?

WHEREFORE, this Court should grant a new trial so that defendant may introduce the newly discovered evidence that Jashaun is not guilty of murder.

Respectfully submitted,

July 18, 2023



Rory A. McNamara, #5609
DRAKE LAW LLC
P.O. Box 143
York, ME 03909
207-475-7810
RORY@DRAKELAWLLC.COM

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of this motion to be mailed to the Kennebec County District Attorney's Office.