STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

DOCKET NO. PEN-24-62

STATE OF MAINE

APPELLEE

v.

JOHN J. HANSEN

APPELLANT

ON APPEAL FROM THE PENOBSCOT COUNTY UNIFIED CRIMINAL DOCKET, BANGOR, ME

APPELLEE'S BRIEF

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Legislative Materials

Stephen L. Diamond of the December 28, 1977 meeting of the Criminal Law Advisory Commission Members and Consultants, digitized at CLRC 107-29. 14-15

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Other Sources

Jeffrey A. Parness, *Who Is A Parent? Intrastate and Interstate Differences*, 34 Journal of the American Academy of Matrimonial Lawyers 455, 456-57 (2022) 16

Merriam-Webster Dictionary, "child" https://www.merriam-webster.com/dicionary/child?src=search-dict-hed (last accessed July 19, 2024) 12

Wayne R. Lafave, Substantive Criminal Law, § 18.1(c) (2023 ed.) 8

STATEMENT OF THE FACTS

During August 2022, J.C. moved to Eddington, Maine with her mother, Jessica Hansen (hereinafter "Jessica) and Jessica's husband, appellant John Hansen (hereinafter "Hansen"). (I Tr. 19-20.) Hansen was not J.C.'s biological father, had never adopted her, and did not have guardianship of her. (II Tr. 110.) J.C. had just turned thirteen. (I Tr. 19-20, 25.) She and Jessica went out to celebrate on the evening of August 19, returned home, and J.C. went to bed. (I Tr. 25-27.) Hansen, who had been acting strangely in the previous days and weeks, stayed home. (I Tr. 26, 92, 154-56.)

At 11:00 pm Hansen went into J.C.'s room, woke her up, brought her outside, and had her drive him to the end of a dead-end road on a side-by-side all-terrain vehicle. (I Tr. 27.) There, he admonished her to contact her estranged biological father. *Id.* J.C. was concerned by the event and returned to the house to inform Jessica of this confusing conversation. *Id.* Jessica told J.C. to go back to sleep and lock her bedroom door. (I Tr. 27, 32.)

Around 2:00 am on August 20, Hansen unlocked J.C.'s door and woke J.C. again. (I Tr. 33.) He got her out of bed and told her they needed to go. (I Tr. 35.) Concerned, J.C. told Hansen she needed to use the bathroom. *Id*. There, she used her phone to share her location with Jessica and sent her a text message that if she was "not back in an hour . . . something's wrong." (I Tr. 36.) J.C.'s

fear-laden text messages went unanswered, as Jessica was asleep until roughly two hours later. (I Tr. 123.)

After exiting the bathroom, Hansen led J.C. outside by the wrist to his truck, where she entered the passenger's seat. (I Tr. 36, 98.) From there, Hansen led J.C. on a two-and-a-half hour-long harrowing journey that put her in fear for her safety. (I Tr. 36-82, 125-26.) With a gun on his hip, Hansen drove J.C. to multiple locations in the town of Eddington, stopping for reasons only he knew and periodically exiting the truck while telling J.C. that Jessica was not keeping her safe and that he was going to take her out of State. (I Tr. 36-82, 66, 68, 88.); *but see* (II Tr. 112.) (Hansen testified he did not have a gun.) J.C. was terrified and used her phone to message Jessica and 911 updates of her location along with pleas for help. (I Tr. 49-52, 56, 59.) Hansen was speeding and behaving erratically, and J.C. thought she was going to die. (I Tr. 64.)

After stopping at an area church and bike shop, Hansen drove to the Eddington Salmon Club, where he parked and exited the truck. (I Tr. 38-39, 70; II Tr. 78.) J.C. texted Jessica her location, and Jessica drove to the Salmon Club to retrieve her daughter. (I Tr. 126.) There, she located Hansen and shouted at him to "give [her] back [her] fucking child." (I Tr. 127.) Hansen knew that Jessica had arrived to retrieve J.C. and refused to return her, driving out of the

Salmon Club while yelling "nope, nope, nope" in response to her demand. (I Tr. 71, 127.)

Hansen next drove the truck to the Cold River Campground. (I Tr. 71.) There, he exited the truck and went inside a building on the property. (I Tr. 74.) Seeing an opportunity, J.C. grabbed her phone, a blanket, and a pair of keys, and ran, eventually hiding amongst a pile of trash. (I Tr. 75-77.) During this time she sent Jessica her location. (I Tr. 81, 83, 129.) While she was hiding, she heard Hansen start his truck and "peel[ ] out of the campground . . . ." (I Tr. 82.)

Before learning that J.C. was at the Cold River Campground, Jessica was parked at a local bakery awaiting news of her daughter's location. (I Tr. 131.) Jessica saw Hansen's vehicle and pulled onto Route 9 towards Eddington. Hansen followed, twice ramming Jessica's Jeep. *Id.* Jessica eventually arrived at the Cold River Campground, where she was reunited with her daughter shortly after 4:30 am. (I Tr. 136-38.) Deputy Peter Wentworth arrived shortly thereafter, and Hansen subsequently arrived on his motorcycle, at which time he was placed under arrest. (I Tr. 138-140, 173, 181.) When Hansen returned to the campground on his motorcycle, J.C. screamed in terror, and Jessica sank to the ground uttering, "no, no, no." (I Tr. 140, 179-80.)

Hansen was charged by complaint on August 22, 2022, with two counts of kidnapping (Class A) and various and sundry other charges.[1] (A. 3.) He was indicted on November 2, 2022, and waived jury trial on February 7, 2023.[2] (A. 5-6.) A bench trial (*Mallonee, J.*) was held on February 22 and February 28, 2023. (A. 6.) On March 2, 2023, Hansen was found guilty of count two of the State's indictment and not guilty of count one. (A. 7-8.)[3] After several post-trial motions, Hansen was sentenced on January 30, 2024, to twelve (12) years, with all but seven (7) years suspended, and six (6) years' probation. (A. 11.) Hansen timely appealed. (A. 14.)

[1] Only the count two kidnapping conviction is at issue on appeal.

[2] It does not appear Hansen ever formally pled not guilty on the indictment.

[3] The docket record erroneously states that the verdict was entered on February 28, 2023.

STATEMENT OF THE ISSUES PRESENTED

I. Whether there was sufficient evidence for the trial court to conclude that Hansen committed the crime of kidnapping, when he drove J.C. throughout Eddington at night, stopping at several locations in an effort to hide J.C. from her mother and others, and when he drove J.C. away from her mother in response to a direct order to give her back?

II. Whether Hansen, who is not J.C.'s biological, adoptive, or otherwise legally designated parent, can nonetheless avail himself of the statutory defense to kidnapping when an actor takes their child?

A. In the context of the kidnapping statute, the term "child" is unambiguous.

B. To the extent the term is ambiguous, the legislative history and case law support a determination that the term applies to biological or legally adjudicated children.

ARGUMENT

I. There was sufficient evidence for the trial court to conclude that Hansen committed the crime of kidnapping, when he drove J.C. throughout Eddington at night, stopping at several locations in an effort to hide J.C. from her mother and others, and when he drove J.C. away from her mother in response to a direct order to give her back.

To support a conviction for kidnapping, the State must prove beyond a reasonable doubt that Hansen "knowingly restrained [J.C.] [b]y secreting and holding [her] in a place where [she was] not likely to be found." 17-A M.R.S. § 301(1)(B)(2) (2022). When reviewing the sufficiency of evidence to support a conviction, this court "view[s] the evidence in the light most favorable to the State to determine whether the fact-finder could rationally find every element of the offense beyond a reasonable doubt." *State v. Haag*, 2012 ME 94, ¶ 17, 48 A.3d 207 (citation omitted). The verdict of the trial court will be reversed only where "no trier of fact rationally could find proof of guilt beyond a reasonable doubt." *State v. Brown*, 2000 ME 25, ¶ 7, 757 A.2d 768.

Hansen first argues that he cannot not have secreted or held J.C. in a place where she was "not likely to be found" because she had—and he knew she had—access to her phone throughout the ordeal. 17-A M.R.S. § 301(1)(B)(2). As the trial court put it, Hansen's contention is that his conduct in leaving the cellular phone with J.C. "undermined [his plan] so much that his conduct didn't

constitute a crime." (III Tr. 13.) Hansen argues that such conduct effects a *per se* exception to the crime of kidnapping. (Blue Br. 17.)

This Court should refrain from issuing a broad categorical exception to the crime of kidnapping and instead follow precedent, asking whether taken in the light most favorable to the State, the evidence *in this case* supports a finding of guilt. *See Haag*, 2012 ME 94, ¶ 17, 48 A.3d 207. Here, the evidence shows that Hansen removed J.C. from her house at 2:00 am, leading her by the wrist to his truck. (I Tr. 33, 36, 98.) In the dead of night while Jessica was sleeping, he drove J.C. to multiple locations, looking for places to hide her from Jessica and/or others he perceived were after his family. (I Tr. 36-82; I Tr. 71, 127; II Tr. 66-67, 71-74, 79, 80-82.) While J.C. was periodically texting and sharing her location with Jessica and with 911, she spent over two hours in a vehicle being driven over the speed limit to various locations, none of which Hansen remained at for any significant period of time. Importantly, during most of this time Jessica was asleep, and Hansen was unaware J.C. was using her phone to transmit her location and text for help. (I Tr. 123-24; II Tr. 111-112.)

When Jessica did wake up to sixty unread messages, she spent almost an hour driving around Eddington attempting to find J.C. (I Tr. 124.) While Jessica did at one point locate J.C., Hansen refused to return her and drove away from the location. (I Tr. 71, 127.) For her part, J.C. asked Hansen multiple times to

bring her home. (I Tr. 69.) Hansen said he could not because it was not safe. *Id.* Under these circumstances, the court did not err in finding Hansen guilty of kidnapping.

Hansen also contends that for J.C. to qualify as "not likely to be found," he must "have taken special steps to ensure the victim [could not] make contact with others." (Blue Br. 16.) (quoting Wayne R. Lafave, Substantive Criminal Law, § 18.1(c) (2023 ed.)). He argues that under the circumstances, his taking J.C.'s cell phone was a necessary step. (Blue Br. 16-17.) Assuming this court finds Lafave's comment instructive, Hansen's conduct in forcing J.C. into his truck at 2:00 am, driving her to multiple locations throughout Eddington, preventing J.C. from going home, and preventing Jessica from taking her back at the Salmon Club constituted such steps irrespective of his not taking her phone.

Hansen further contends that at the time of the creation of 17 M.R.S. § 301 that "[n]o one accustomed to those days [of the passing of § 301] could have fathomed being 'kidnapped' while in unencumbered possession of a device that could instantaneously communicate with almost anyone on earth and leave a traceable record of location." (Blue Br. 17.) Hansen reasons that affirming the judgment would "sweep up into § 301's ambit conduct that never would have been criminal in decades past." *Id.* The State contends that vacating the

judgment would exclude conduct that has traditionally been criminal and that still constitutes a substantive offense.[4] While technology has certainly changed the landscape of criminal law by making it more difficult to elude apprehension, this Court should not construe the presence of a cellular phone as preclusive of the crime of kidnapping. It is but one factor to consider in the totality of the evidence.

In *Haag*, the defendant left two children, ages twelve and nine, in a motel room alone after discovering that the girls' father was in Maine looking for them. *Haag*, 2012 ME 94, ¶¶ 11, 13, 48 A.3d 207. Haag challenged the sufficiency of the evidence, and this Court affirmed the conviction, reasoning in relevant part that the victims had been secreted and held in a place where they were not likely to be found because only Haag and the girls' mother knew where they were. *Id.* ¶ 22. Importantly, this Court did not consider that the motel room was presumably unlocked from the inside and was likely equipped with a phone which they were free to use. As with J.C.'s possession of a cellular phone, these are attendant circumstances relevant to analysis of whether the victims were secreted, but they do not in and of themselves render conviction impossible. In addition, while several courts in other jurisdictions have held

[4] Technology has rendered it possible to commit many crimes in new ways. That the original drafters of the criminal statute could not have foreseen the advent of such technology does not mean the conduct is not criminal in nature.

that proof of taking a cell phone is evidence that a victim was kidnapped, it does not follow that the converse necessarily negates the crime of kidnapping.

Hansen further argues that the State failed to prove that he *knowingly* "secret[ed] or [held]" J.C. in a place she was "not likely to be found" when he left her in possession of her cellular phone for the duration of the event. 17-A M.R.S. § 301(1)(B)(2). "A person acts knowingly with respect to a result of the person's conduct when the person is aware that it is practically certain that the person's conduct will cause such a result." 17-A M.R.S. § 35(2)(A) (2022). Here, there is sufficient evidence for a court to find that Hansen was driving J.C. throughout Eddington between two and four in the morning in an effort to keep her away from people he perceived to be dangerous and from Jessica, irrespective of his testimony to the contrary. (I Tr. 36-82, 125-26.)He repeatedly stopped in multiple locations presumably to find the right place in which to deposit her so that she would not be found, and he drove away from Jessica when confronted. (I Tr. 71, 127.) This conduct is sufficient to satisfy the requirement that he was practically certain his conduct would result in J.C. being secreted such that she was unlikely to be found.

As the trial court noted, there is no durational requirement to the kidnapping statute. (III Tr. 14.) The question is whether Hansen "knowingly restrained" J.C. "by secreting and holding" J.C. "in a location where she [was] not

likely to be found." 17-A M.R.S. § 301(1)(B)(2). On the facts of this case, his moving vehicle constituted that location, as did each locality where he stopped. The evidence supports that he knew and intended his conduct would result in an inability to locate J.C. A reasonable factfinder could find the crime proven beyond a reasonable doubt.

II. Hansen, who is not J.C.'s biological, adoptive, or otherwise legally designated parent, cannot avail himself of the statutory defense to kidnapping when an actor takes their child.

Hansen contends that he has a complete defense to prosecution based upon his relationship to J.C. (Blue Br. 20.) "It is a defense to a prosecution under [17-A M.R.S. § 301(2-B)] that the person restrained is the child of the actor." 17-A M.R.S. § 301(2-B) (2022). "[T]he State must disprove beyond a reasonable doubt any statutory defense 'in issue as a result of evidence admitted at the trial . . . sufficient to raise a reasonable doubt on the issue.'" *State v. Begin*, 652 A.2d 102, 106 (Me. 1995) (quoting 17-A M.R.S. § 101(1) (1983)). While the issue was not preserved for review, Hansen correctly points out that "[t]he State's obligation to disprove a defense . . . is the functional equivalent of the State's burden to prove all of the elements of the offense." *Begin*, 652 A.2d at 102 (citation omitted). On appeal from a bench trial, the issue of sufficiency of the evidence may be considered though not properly preserved below, and this Court must consider *de novo* whether 17-A M.R.S. § 301(2-B) applies in this case

to provide a complete defense to the crime of kidnapping. *See State v. Gatcomb*, 389 A.2d 22, 24 (Me. 1978); *see also State v. Tripp*, 2024 ME 12, ¶ 18, 314 A.3d 101 (quoting *Genujo Lok Beteiligungs GmbH v. Zorn*, 2008 ME 50, ¶ 25, 943 A.2d 573) (stating that statutory interpretation is conducted *de novo*).

A. In the context of the kidnapping statute, the term "child" is unambiguous.

Hansen's argument fails for multiple reasons. First, in this context the meaning of the term "child" is plain. *See State v. Lowden*, 2014 ME 29, ¶ 14, 87 A.3d 694 ("When interpreting a statute, we look first to the plain meaning in order to discern legislative intent, viewing the relevant provision in the context of the entire statutory scheme to generate a harmonious result."). Merriam-Webster defines the term as "a son or daughter of human parents" Merriam-Webster Dictionary, *Child* (July 19, 2024, 3:22 PM), https://www.merriam-webster.com/dictionary/child?src=search-dict-hed. Indeed, the State asserts that the plain and common meaning of the term "child" is one's adopted, biological, or legally adjudicated child, and clarification is often required when the status is otherwise, especially regarding inquiry as to *legal* status.

While Hansen, like millions of people across the United States, is married to a person with a child from a prior relationship, he is not *legally* a parent in the State of Maine. He may hold himself out to all the world to be her parent

and feel a parental bond, but he does not enjoy any commensurate legal status. In Maine, parental status by a non-biological parent must be adjudicated either through adoption or pursuant to the Maine Parentage Act. *See* 19-A M.R.S. §§ 1831-1939 (2022). A person in Hansen's position can, in certain situations, be adjudicated a de facto parent, but it requires affirmative action on his part. 19-A M.R.S. § 1891 (2022). There is no dispute in this case that this never happened.

Had the Legislature wanted to expand the defense to non-biological, non-adoptive, non-legally adjudicated parents, it knew how to do so. *See State v. Murphy*, 2016 ME 5, ¶ 7, 130 A.3d 401 ("When we interpret a statute, we look first to the plain meaning in order to discern legislative intent, viewing the relevant provision in the context of the entire statutory scheme to generate a harmonious result.") (citation omitted). At the time the provision was enacted, the Legislature had—in multiple other sections—used one's status as "[a] parent, foster parent, guardian or other similar person responsible for the long term care and welfare of a person . . ." as an element of certain affirmative defenses and crimes. *See* 17-A M.R.S. § 106 (1975) (enacted by P.L. 1975, ch. 499); 17-A M.R.S. § 554(2)(A) (enacted by P.L. 1975, ch. 499); 17-A M.R.S. § 302(1)(C)(3) (1975) (enacted by P.L. 1975, ch. 499) (defining criminal restraint in relevant part as removing a child from "the custody of his parent, guardian

or other lawful custodian."). Since that time, the Legislature has amended the gross sexual assault statute to add the language cited *supra*. *See* P.L. 1993, ch. 687, § 253. That it has not done so with respect to the kidnapping statute is instructive.

B. To the extent the term is ambiguous, the legislative history and case law support a determination that the term applies to biological or legally adjudicated children.

To the extent the statute is ambiguous, review of the legislative history and case law suggest that this Court should interpret the defense as applicable only to biological, adoptive, or otherwise legally adjudicated parents, as opposed to "stepparents." While Hansen cites a December 28, 1978 meeting of the Criminal Law Advisory Committee in arguing that this Court should reach the opposite conclusion in order to shield stepparents from "overblown prosecutions," the State reads the same passage as compelling a different conclusion. (Blue Br. 22.) In that meeting, the Committee determined that parents should be exempted from the kidnapping statute due to concerns of overbreadth. Report by consultant Stephen L. Diamond of the December 28, 1977 meeting of the Criminal Law Advisory Commission Members and Consultants, digitized at CLRC 107-29, pg. 8 of the Criminal Law Revision Commission Records (https://www.maine.gov/legis/lawlib/lldl/papers/crimlawrev.html). While

there are many people in Maine holding the same relationship to a child that Hansen previously enjoyed with J.C., it is necessarily a much smaller subset of the population, thus reducing concerns of overbreadth.[5] When balanced against the threat of exactly the conduct that occurred here, this Court can rest assured that the Committee's concerns were adequately addressed by language exempting biological and legal parents from criminal liability.

In addition, in discussing the crime of criminal restraint by a parent at the same meeting, Diamond noted that "a legislator wants to introduce a bill to make it a crime for the natural parent of a child to take a child from the adoptive parent." *Id.* The question of parentage was thus at the forefront of the Committee's collective mind in discussing these statutes, and this Court can be satisfied that the Legislature's eventual use of the word "child" was intended to apply to biological and legal children of the actor.

Hansen cites several cases from other jurisdictions as persuasive authority in support of his position that an individual acting *in loco parentis* should be afforded the complete defense outlined *supra*. In *United States v. Floyd*, the United States Court of Appeals for the Tenth Circuit held that a stepparent is immune from prosecution for kidnapping under 18 U.S.C. §

[5] The competing harms defense further reduces concerns of overbreadth in situations where the actor believed taking the child to be necessary to prevent some greater harm. 17-A M.R.S. § 103 (2022).

1201(a) when "stand[ing] in the place of a biological parent . . . ." 81 F.3d 1517, 1523 (10th Cir. 1996). In *Byrd v. United States*, the District of Columbia Court of Appeals relied on *Floyd* in holding that a "'parent' may include someone *in loco parentis*." 705 A.2d 629, 632 (D.C. 1997).[6]

This Court should find the above-cited authority unpersuasive because, while the fundamental right to parent as one sees fit is constitutional in nature, determinations regarding parental status and parental rights and responsibilities are largely left to individual states, and in Maine such determinations are subject to the Maine Parentage Act. *See* Jeffrey A. Parness, *Who Is A Parent? Intrastate and Interstate Differences*, 34 Journal of the American Academy of Matrimonial Lawyers 455, 456-57 (2022). The fact that the Tenth Circuit and the D.C. Courts of Appeals have held that their statutes afford individuals acting *in loco parentis* a defense to kidnapping is of little instructive value.

Finally, Hansen cites *Guilford v. Monson* as authority "closer to home" supporting a definition of "child" inclusive of stepchildren for the purposes of the kidnapping statute. 134 Me. 261, 264 (1936). There, in the context of a

[6] Importantly, the D.C. Court of Appeals noted that the *Floyd* opinion carried special significance because Congress, at the time of the addition of the parental exception to the D.C. criminal code, was working to conform the local law relating to kidnapping to its federal counterpart. *Byrd v. United States*, 705 A.2d 629, 632 n. 3, (D.C. 1997).

statute assigning settlement rights of children, this Court held that the term "stepchild" was to be defined as "the class who have lost their father by death, and whose place is filled by a stepfather . . . ." *Id*. at 520. First, this definition of "stepchild" at common law is not helpful to Hansen's argument irrespective of dicta regarding a man placing himself *in loco parentis*. *Id.* at 519. Indeed, the Court in that case was dubious of parental rights passing to anyone other than a biological parent absent death, stating only that the term "stepchildren" may "in a literal sense . . . be considered to have application to children of a living father where remarriage of the mother had taken place after divorce." It then immediately noted that such a construction could lead to absurd results. *Id.* at 520. What is clear from this case is that courts at the time were working with very different conceptions of the terms at issue than we have today, and any instructional value of the case is limited.

As argued *supra*, the rights of individuals holding themselves out as parents to children are now codified by statute. 19-A M.R.S. § 1831-1939 (2022). To illustrate the point, had Jessica died, he would have had no legal rights regarding J.C. absent his filing a petition adjudicating parentage pursuant to the above statute. It is not meant to diminish his relationship with J.C. or his role in her upbringing and care to say that absent some court determination he is a legal stranger. Thousands of well-meaning and loving people across Maine

stand in Hansen's shoes. Nonetheless, put in Hansen's shoes, they could not avail themselves of the parental defense to kidnapping. The Maine Parentage act is not dispositive to this Court's determination, but it is instructive, as it represents the Legislature's determination of how one can become a legal parent to a non-biological child in this State.

Finally, the State argues that its interpretation of the kidnapping statute makes common sense. There is no question that Hansen does not stand on equal footing to Jessica, J.C.'s biological mother, regarding parental rights and responsibilities. Should section 301(2-B) function to shield Hansen from criminal liability for removing J.C. from his custodial parent's care? Respectfully, the State asserts that this holding would work an absurd result.

CONCLUSION

There was sufficient evidence for the trial court to find Hansen guilty of kidnapping beyond a reasonable doubt, when Hansen forcibly removed J.C. from her home and drove her throughout the town of Eddington in the middle of the night, stopping at random locations and actively avoiding contact with J.C.'s mother. Though J.C. retained possession of her cellular telephone, this attendant circumstance does not provide a categorical defense to the charge of kidnapping, and the court properly considered that fact before rendering a verdict supported by all of the evidence. Further, the trial court did not err in

finding that J.C. was not Hansen's child within the meaning of the statute. The verdict of the trial court should be affirmed.

Respectfully Submitted,

Dated: 7/30/24

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CERTIFICATE OF SERVICE

I certify that I have this 30th day of July, 2024, caused two copies of the State's brief to be mailed by U.S. mail, postage prepaid, to Rory A. McNamara, Esq., attorney for the appellant, at P.O. Box 143, York, ME 03909.

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