Maine Supreme Judicial Court
Sitting as the Law Court

Docket No. Cum-24-421

State of Maine,

Appellee,

v.

Townsend Thorndike,

Appellant.

On Appeal from the
Unified Criminal Docket, Cumberland County

Appellant's Brief

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Statement of the Case

Townsend Thorndike was found guilty of unlawful sexual contact (17-A M.R.S. § 255-A(1)(F-1) (Class A) (Count 1) and visual sexual aggression of a child (17-A M.R.S. § 256(1)(B) (Class C) (Count 3) after a jury trial. (A. 21) On Count 1, the trial court sentenced Thorndike to 14 years' incarceration, with all but 8 years suspended, and 6 years of probation. (A. 21.) On Counts 3, the trial court sentenced Thorndike to 5 years' incarceration concurrent to Count 1. (A. 21.)

Thorndike was indicted on November 4, 2021. (A. 35) Two years later, on December 28, 2023, the State filed a motion in limine to admit a recording of the alleged victim's interview at the child advocacy center in lieu of her direct testimony under 16 M.R.S. § 358. (A. 36.) Meanwhile, the trial court scheduled the trial to begin on March 25, 2024. (A. 11.) The trial court granted the State's motion in limine on March 12, 2024, but on March 21, 2024, sua sponte reconsidered and vacated the March 12, 2024 order. (A. 29-33.) The trial court reasoned that section 358 does not operate retroactively to actions that were pending when section 358 was enacted, as here. (A. 29-30.) *See* 1 M.R.S. § 302 (stating that actions pending at the time of law's passage are not affected thereby); *State v. Beeler*, 2022 ME 47, ¶ 1 n.1, 281 A.3d 637 (stating that legislation does not affect pending proceedings,

unless the legislation expressly cites section 302 or explicitly states an intent to apply to pending proceedings).

The next day, the State filed an emergency motion to continue because "this late development will severely affect the Victim's emotional state in preparing for this trial and the State must take the time to prepare the family for this change in course." (A. 69.) Within weeks, the Legislature considered an amendment to section 358 undoing the trial court's order. On April 9, 2024 Maine State Representation Mathew Moonen of Portland sponsored An Act to Correct Inconsistencies, Conflicts, and Errors in the Laws of Maine as emergency legislation. L.D. 2290 ("An Act to Correct Inconsistencies, Conflicts, and Errors in the Laws of Maine") (131st Legis. 2024).[1] The next day, Senator Anne Carney of Cumberland moved for the bill to be referred to the Committee on Judiciary. Maine House Paper No. 1478 (131st Legis. 2024). There, Senator Carney proposed an amendment to LD 2290, which would (1) add language to the bill's emergency preamble about inconsistent application of section 358, and (2) add a section to section 358 making it applicable to pending actions, like Thorndike's. Comm. Amend. to LD 2290, No. H982 (131st Legis. 2024).[2]

[1] *See* https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1478&item=1&snum=131. *See also* https://www.mainelegislature.org/legis/bills/display_ps.asp?ld=2290&PID=1456&snum=131.

[2] *See* https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1478&item=2&snum=131

The Maine Prosecutor's Association submitted written testimony in support of LD 2290. An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine: Hearing on L.D. 2290 Before the J. Standing Comm. On Judiciary, 131st Legis. (2024) (testimony of Maeghan Maloney).[3] This testimony referred to the trial court's order in *this case*, and was printed on letterhead including the names of the district attorneys of all eight of Maine's prosecutorial districts, including Cumberland County District Attorney Jacqueline Sartoris. *Id.* In relevant part, the Maine Prosecutor's Association testified:

> However, on March 21, 2024, a Judge in Cumberland County and a Justice in York County both ordered in two separate cases that the new law could not be utilized pursuant to 1 M.R.S. § 302 because the law did not explicitly state the intent was to apply to pending cases. The two Courts relied on *Stare v. Beeler* that a statute can't be utilized for pending actions unless expressly stated. *Beeler* also infers that pending actions start at the time the crime was committed. After reading the two Orders and the authority cited by the Judges, we are in agreement that the law needs to be amended to be utilized now or even in the near future.
>
> . . .
>
> For all these reasons, the Maine Prosecutors Association supports LD 2290 as amended.

Id. (internal footnote omitted).

[3] *See* https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=182866.

Others associated with the case also submitted written testimony in support of LD 2290. The alleged victim's mother and father, Christina L[redacted] and Benjamin S[redacted], were each named as a potential trial witnesses and likewise testified in support of LD 2290. (A. 45-47.) Both referred to the alleged victim's experience with the criminal justice system and the trial court's decision to not admit the CAC video in lieu of direct testimony. (A. 45-47.) An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine: Hearing on L.D. 2290 Before the J. Standing Comm. On Judiciary, 131st Legis. (2024) (testimony of Christina L[redacted] of Windham, Maine);[4] *Id.* (testimony of Benjamin S[redacted] of Limerick, Maine).[5] For her part, Ms. L[redacted] testified that her daughter is on the "precipice of testifying" at trial:

> A little over a month ago we let our daughter know she'd be testifying. The judge in the case heard from both the defense and the prosecution about the application of LD 765, and he granted it. My girl was brave yet again – going to the courtroom to see what it would be like, and hearing from the state's attorneys how the questioning from both sides would occur.
>
> She was prepared to testify, and took a lot of solace in knowing the video would be played and she wouldn't have to say many of the words out loud – wouldn't have to go through her abuse detail by detail. Then, just four days before she was supposed to testify, the judge changed his mind. As the law wasn't explicit in including pending cases, he couldn't include the video. Disheartening is not an adequate word for what we all felt – knowing that

[4] *See* https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=182867.

[5] *See* https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=182865.

> forensic interviews should be used, and yet the help we needed was just out of reach.
>
> What we are asking is that you extend that care to the children most immediately impacted by this change. There are children involved in pending cases, *my daughter included*, who also need that care and protection. Who have already participated in forensic interviews with trained interviewers, and deserve to not have to share in more of their trauma than needed. We have a wonderful tool - please help it be shared.

Id. (testimony of Christina L[redacted] of Windham, Maine (emphasis added)). Another potential trial witness, Sonja Jade, testified that "[t]here is a child I know that is impacted by [L.D. 2290], and it would mean a tremendous difference in their court experience to have this amendment passed." (A. 45-47.) *Id.* (testimony of Sonja Jade of Old Orchard Beach, Maine).[6]

At the committee hearing, a member asked Senator Carney, "I would like to know are there cases are there cases that were pending that are now in process that are being affected because this language isn't in there and if so, how can we get this to be in effect immediately so we can help those people out[,]" and Senator Carney responded that the committee will be hearing from some of those people. An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine: Hearing on L.D. 2290 Before the J. Standing Comm. On Judiciary, 131st Legis. (2024) (oral

[6] *See* https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=10031263.

testimony of Senator Carney at 2:32:40-2:33:14).[7] Shortly thereafter, Ms. L[redacted] explained in response to a question from a committee member that her daughter's trial had been continued, and was indeed still pending. *Id.* (oral testimony of Christina L[redacted] at 3:00:25-3:01:30).

L.D. 2290 was passed as emergency legislation and became effective on April 22, 2024 as "An Act to Correct Inconsistencies, Conflicts and Errors in the Laws of Maine." P.L. 2024, ch. 646 (emergency, effective Apr. 22, 2024) ("the Act").[8] The Act's preamble reads:

> **Emergency preamble. Whereas**, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
>
> **Whereas**, acts of this and previous Legislatures have resulted in certain technical inconsistencies, conflicts and errors in the laws of Maine; and
>
> **Whereas**, these inconsistencies, conflicts and errors create uncertainties and confusion in interpreting legislative intent; and
>
> **Whereas**, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and
>
> **Whereas**, Public Law 2023, chapter 193, An Act to Establish an Exception to the Hearsay Rule for Forensic Interviews of a Protected Person, established an exception to the hearsay rule for the recordings of forensic interviews of

[7] See https://legislature.maine.gov/audio/#438?event=91420&startDate=2024-04-10T13:00:00-04:00.

[8] See https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1478&item=3&snum=131.

minors and of certain adults with disabilities conducted at child advocacy centers, as long as specific due process protections are diligently followed; and

Whereas, trial courts across the State have reached disparate decisions regarding whether the Maine Revised Statutes, Title 1, section 302 affects whether Public Law 2023, chapter 193 applied to pending proceedings; and

Whereas, citizens of the State rely on the Legislature to enact statutes that will be interpreted consistently; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore. . .

Id. Section D-1 of the Act enacted 16 M.R.S. § 358(5), such that § 358 would now apply pending cases like Thorndike's:

5. Applicability. Notwithstanding Title 1, section 302, this section applies to:

A. Cases pending on June 16, 2023; and

B. Cases initiated after June 16, 2023, regardless of the date on which conduct described in the forensic interview allegedly occurred.

P.L. 2024, ch. 646, ¶ D-1.

The very next day, the State moved for moved for reconsideration of the trial court's March 21, 2024 order. (A. 41.) The trial court granted the State's motion, without waiting for an opposition from the defense. (A. 28.) The defense filed a detailed and thoroughly researched motion for reconsideration, which the trial

court summarily denied. (A. 27, 42-68.) The trial court held a jury trial on June 25-26, 2024, after which Thorndike was found guilty on all counts. (A. 15.) During the trial, the State played the CAC video in lieu of presenting direct testimony about the occurrences for which Thorndike was charged. (Jun. 24, 2024 Tr. 60:6-64:18.) The trial court sentenced Thorndike on August 28, 2024, and Thorndike timely appealed on September 4, 2024. (A. 17, 19.)

Questions Presented

In March 2024, the trial court ordered that the State could not admit a video of forensic interview of the alleged victim at Thorndike's trial under 16 M.R.S. § 358, because Thorndike's case was pending when section 358 became law, and section 358 did not provide that it applied to pending proceedings. *See State v. Beeler*, 2022 ME 47, ¶ 1 n.1, 281 A.3d 637. The State obtained a continuance based on the impact of the ruling on the alleged victim's emotional state and, within weeks, the Legislature passed emergency legislation enacting 16 M.R.S. § 358(5). Section 358(5) provides that section 358 applies to cases pending at the time of its passage, overruling the trial court's decision. The video of the forensic video was admitted at trial, and Thorndike was convicted. The questions presented are:

1. Whether 16 M.R.S. § 358(5) was unconstitutionally enacted as emergency legislation in violation of the Maine Constitution's requirements for passing emergency legislation, and if so, what remedy is appropriate, and

2. Whether 16 M.R.S. § 358(5), as applied to Thorndike, violates the separation of powers doctrine.

Argument

I. The trial court erred by admitting the CAC video as evidence under 16 M.R.S. § 358 because it was unconstitutionally enacted as emergency legislation.

A. Thorndike preserved his argument to the trial court.

Thorndike preserved his constitutional challenges to the trial court's application of 16 M.R.S. § 358(5), arguing that the statute violated article IV, pt. 3, § 16 of the Maine Constitution. (A. 41.) This Court reviews questions of constitutional interpretation de novo. *Bouchard v. Dep't of Pub. Safety*, 2015 ME 50, ¶ 8, 115 A.3d 92.

B. Enacting 16 M.R.S. § 358(5) as emergency legislation taking immediate effect violated article IV, section 16 of the Maine Constitution.

Article IV, pt. 3, §16 of the Maine Constitution provides that no act of the Legislature "shall take effect until 90 days after the recess of the session of the Legislature in which it was passed[,]" unless passed as emergency legislation. Me. Const. art. IV, pt. 3, § 16. Emergency legislation "shall include only such measures as are immediately necessary for the preservation of the public peace, health or safety[.]" *Id.* When an act is passed as emergency legislation, "the facts constituting the emergency shall be expressed in the preamble of the act[.]" *Id.* This provision "creates a limitation upon legislative power and that without

conforming to it no act can be made an emergency act and as such be given immediate effect." *Payne v. Graham*, 107 A. 709, 710 (Me. 1919).[9]

Reviewing the sufficiency of a preamble under section 16, "whether [] Legislature has *expressed* (to wit, made an allegation of) *a fact or facts* is a question of law." *Verrill v. Sec'y of State*, 1997 ME 82, ¶ 5, 693 A.2d 336 (quoting *Morris v. Goss.* 147 Me. 89, 98-99, 83 A.2d 556, 561 (Me. 1951)). Likewise, whether such facts "*can constitute an emergency* within the meaning of the Constitution is [] a question of law." *Id.* Conversely, whether a fact expressed in the preamble as existing does exist, and whether that fact that can constitute an emergency does constitute an emergency, are unreviewable. *Id.* An emergency preamble need not recite all the facts constituting the emergency and may instead express the ultimate fact or facts on which the emergency is based. *Id.* (citing *Morris.* 83 A.2d at 562).

For instance, this Court has held that emergency preambles are sufficient when premised on fiscal problems created by "certain obligations and expenses incident to the operation of state departments and institutions [becoming] due and

[9] Article IV, § 16 was added to Maine's constitution in 1909 as part of an amendment creating the people's veto process. Res. 1907, c. 121 (1909). By requiring that legislation ordinarily take effect ninety-days after recess of the Legislature, the Constitution ensures that the people will have the opportunity to consider whether an act should become law before the act's effective date. It is only where the State faces an emergency—a situation where "such measures as are immediately necessary for the preservation of the public peace, health or safety"—that the Legislature can declare that an Act shall take immediate effect. Me. Const. art. IV, § 16.

payable immediately," *Verrill*, 1997 ME 82, ¶¶ 1, n.2, 7, the loss of electricity to an island resulting from scallop fishing in a prohibited area, *State v. Eaton*, 577 A.2d 1162, 1165 (Me. 1990), challenges in maintaining safe and adequate school facilities, *In re Opinion of the Justices,* 153 Me. 469, 474-75, 145 A.2d 250, 253 (Me. 1958), and the state revenue being "insufficient to carry out the *essential* needs of the Government of the State of Maine[,]" *Morris*, 83 A.2d at 562 (emphasis in original). These are all emergencies because they cite specific, factual circumstances existing at the time of legislation threatening "the public peace, health or safety[.]" Me. Const. art. IV, Sec. 16.

In contrast, in *Op. of the Justices of the Supreme Judicial Court*, this Court opined that the pendency of a citizen's initiative with competing measures did not constitute an emergency justifying emergency legislation. 680 A.2d 444, 449 (Me. 1996). In other words, the normal operation of government did not constitute an "emergency" for purposes of article IV, section 16. And in *Payne*, this Court held that a preamble "contain[ing] an assumption that there is 'a necessity of preserving the public health in general' and a conclusion that 'the enactment of more stringent laws . . . . is an emergency measure'" was inadequate to support emergency legislation making more stringent the laws for prevention and punishment of certain sexual crimes. 107 A. 709, 710 (Me. 1919). *Payne* teaches that, to support

emergency legislation, a preamble must do more than state mere aspirational goals of government.

Taken together, these authorities show that (1) the circumstances to be addressed by the legislation affect the public peace, health or safety of the State, characterized as the "essential" needs of the State in *Morris*, and (2) an exigency requiring immediate action.

The circumstances described in the Act's preamble meet neither requirement and are more akin to those in *Payne* and *Op. of the Justices of the Supreme Judicial Court* than to cases in which emergency legislation was upheld. The Act's preamble states no facts suggesting that legislation is "immediately necessary for the preservation of the public peace, health or safety." ME. CONST. art. IV, Sec. 16. As it pertains to section 358 (referred to as P.L. 2023, ch. 193 in the preamble), the preamble merely asserts that trial courts have reached disparate decisions about whether 1 M.R.S. § 302 affects 16 M.R.S. § 358, and that citizens rely on that statutes will be interpreted consistently. But trial courts routinely decide questions of law independent of one another and are subject to appellate review by the Supreme Judicial Court, sitting as the Law Court. Me. Const. art. VI, § 1 ("[t]he judicial power of this State shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish"); 4

M.R.S. § 57 (stating the jurisdiction of the Law Court, including considering appeals from trial court decisions). The fact that trial judges occasionally disagree about the meaning of a statute does not, by itself, threaten the public peace, safety or welfare, such that immediate action is needed.

Moreover, Moreover, any alleged uncertainty about whether section 358 applied to pending actions was illusory. In *Beeler*, the Court explained:

> In pending actions, the legislatively created rule of construction set forth in 1 M.R.S. § 302 (2022) applies. Section 302 provides: "Actions and proceedings pending at the time of the passage, amendment or repeal of an Act or ordinance are not affected thereby." This general rule may be overcome, however, if the new legislation expressly cites section 302 or explicitly states an intent to apply to pending proceedings. *MacImage of Me., LLC v. Androscoggin Cnty.*, 2012 ME 44, ¶ 22, 40 A.3d 975.

2022 ME 47, ¶ 1 n.1. A straightforward application of this holding forecloses any suggestion that, prior to the Act's effective date, section 358 did not apply to proceedings pending as of the date on which section 358 was passed. The alleged uncertainty about the interplay between 1 M.R.S. § 302 and section 358 is hardly an emergency considering that case law provides the obvious answer. Indeed, the president of the Maine Prosecutor's Association observed at the committee hearing that, without legislative action, it is "likely based on the language in *Beeler*" that the Law Court will eventually rule that section 358 does not apply to pending proceedings. An Act to Correct Inconsistencies, Conflicts and Errors in the Laws

of Maine: Hearing on L.D. 2290 Before the J. Standing Comm. On Judiciary, 131st Legis. (2024) (oral testimony of Meghan Maloney at 2:46:30-47:05). Any trial courts holding otherwise likely either missed the issue, or committed obvious error.

Construing the Act's preamble to support emergency legislation would also enable Legislature to enact emergency legislation for all sorts of non-emergency reasons. Judges, lawyers, and others disagree about the meaning of laws all the time. Accepting the preamble's logic, any disagreement between Maine's 72 trial judges[10] could empower the Legislature to bypass the constitutional requirement that acts generally take effect 90 days after the Legislature's adjournment. Affirming here would also effectively overrule *Payne* by empowering the Legislature to refer to aspirational language about the functions of government. 107 A. at 710. If saying that the people rely on the Legislature to pass laws that will be consistently interpreted is enough to trigger emergency legislation, then certainly saying that the people rely on the Legislature to enact laws calculated to maintain the public order by enhancing the penalties criminal activity would be too. *Id.* at 710. Blessing the Act's preamble will send the message that article IV, section 16's

[10] According to the judicial branch website, there are 49 district court judges and 23 superior court justices, when including those judges and justices who are active retired.

90-day requirement can be easily avoided by citing vague, aspirational goals of government.

C. This Court should restore the status quo that would have existed but for the trial court's error.

As a remedy, this Court should vacate and remand for a new trial with the instruction that the CAC video is not admissible under 16 M.R.S. § 358 based on considerations of fundamental fairness. Thorndike was approaching the eve of trial when the State requested a continuance, stating to the Court that the trial court's March 21, 2024 order "will severely affect the Victim's emotional state in preparing for this trial and the State must take the time to prepare the family for this change in course." (A. 69.) Based on that statement, Thorndike took no position on the motion and the trial court granted the continuance. Meanwhile, the Maine Prosecutor's Association and people involved with this trial were advocating before the Legislature to encroach into the trial proceedings and change the law, citing *this case* as an example, and the Legislature unlawfully enacted the Act as emergency legislation. And after the Act's effective date, the State moved for reconsideration of the trial court's order almost immediately.

This process was fundamentally unfair, and Thorndike suffered actual prejudice by the trial court's error. Thorndike preserved his argument below. But for the trial court's erroneous denial of Thorndike's motion to reconsider,

Thorndike would not have been disadvantaged at trial by 16 M.R.S. § 358. This Court should provide Thorndike with a fair remedy curing the prejudicial effect of the trial court's error by vacating his convictions and remanding for a new trial at which the State may not offer the CAC video under 16 M.R.S. § 358.

II. 16 M.R.S. § 358(5) violates separation of powers as applied to Thorndike.

"In Article III, our framers expressly provided that the powers of government are divided into three distinct departments and kept separate." *Dupuis v. Roman Catholic Bishop of Portland*, 2025 ME 6, ¶ 22, -- A.3d --. *See* Me. Const. art. III, § 1 (dividing the power of Maine's government into three departments); *id.* § 2 ("[n]o person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted"). The separation of powers doctrine under the Maine constitution is "much more rigorous" than under its federal counterpart. *Dupuis*, 2025 ME 6, ¶ 22 (quoting *Burr v. Dep't of Corr.*, 2020 ME 130, ¶ 20, 240 A.3d 371). "The limitation in Article III that no person belonging to any one branch of government shall exercise the powers of any other branch of government necessarily requires that a constitutional grant of power to one branch of government effectively forbids the exercise of that power by any other of the three branches of government." *In re Dunleavy*, 2003 ME 124, ¶ 6, 838 A.2d 338.

Applying these principles, this Court has held that one branch cannot interfere with the affairs of another. Examples of actions and proposed actions found to violate separation of powers include entering an injunction requiring an agency to establish a specific policy, *Burr*, 2020 ME 130, ¶ 26, enacting a statute conflicting with the code of judicial conduct, *In re Dunleavy*, 2003 ME 124, ¶¶ 18-20, ordering an agency to conduct an investigation, *New England Outdoor Ctr. v. Comm'r of Inland Fisheries & Wildlife*, 2000 ME 66, ¶ 12, 748 A.2d 1009, and a court imposing supervisory conditions on the circumstances of the Department of Corrections' commitment of several defendants based on the court's concerns about the defendants' mental status and vulnerability, *Dep't of Corr. v. Superior Court*, 622 A.2d 1131, 1133-35 (Me. 1993).

"Our Constitution commits the judicial power of the State to the 'Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish.'" *In re Ross*, 428 A.2d 858, 868 (Me. 1981) (quoting Me. Const. art. VI, § 1). In contrast, "[o]ur constitutional text provides that the Legislature's role is to make 'laws and regulations.'" *Dupuis*, 2025 ME 6, ¶ 22 (quoting Me. Const. art. IV, pt. 3, § 1). This power has been long understood to entail passing generally applicable laws, rather than special laws calculated to benefit discrete individual disputes. *Lewis v. Webb*, 3 Me. 326, 336 (1825). *See also Dupuis*, 2025 ME 6 ¶ 27

(explaining that *Lewis* highlights repugnancy to retroactive legislation as well as special legislation). Such special laws are beyond the Legislature's authority, and encroach on the judiciary's role in adjudicating individual disputes.

Under the unique circumstances here, 16 M.R.S. § 358(5) constitutes prohibited interference with judicial functions. Following an adversarial process, the trial court below ordered that the CAC video would not be admitted under 16 M.R.S. § 358, reversing its earlier decision granting the State's motion in limine to admit the CAC video. (A. 29-30.) The trial court thus made a pretrial ruling on evidence as permitted by M.R.U. Crim. P. 12(c) and continued the trial for the specific emergency reason of the alleged victim's emotional state in testifying. (A. 69.) These are judicial acts within the scope of article IV, section 1, over which the Legislature had no authority or right to interfere. The legislative record and emergency preamble to L.D. 2290, however, demonstrate that 16 M.R.S. § 358(5) was intended at least in part to override the result *in this case*. Indeed, three members of the alleged victim's family testified in support of L.D. 2290 and requested the Legislature's intervention; the Maine Prosecutors' Association's testified and specifically cited the trial court's May 21, 2024 order; the status of this case was questioned at the committee hearing; and the preamble references "disparate" application of section 358 to pending cases.

This is not to say that 16 M.R.S. § 358(5) is unlawful as to all cases pending as of April 22, 2024. The trial court here had already issued a written decision ordering that the CAC video was not admissible under 16 M.R.S. § 358(5), and there is evidence that the legislative effort was driven at least in part by a desire to influence Thorndike's prosecution. Another unique fact is that the trial itself was continued for the limited, specific purpose of accommodating the alleged victim's emotional needs and the continuance and status of the case were discussed in the committee hearing. A ruling in Thorndike's favor, specific to these facts, will not affect other cases where a CAC video was admitted before 90 days after the 131st legislature adjourned.

Conclusion

The Court should vacate Thorndike's convictions, and remand for a new trial at which the CAC video will not be admissible under 16 M.R.S. § 358.

Respectfully submitted,

Dated: January 29, 2025

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Certificate of Service

I hereby certify that on the date stated below I caused an electronic copy of this document to be served on the following counsel via email. In addition, upon acceptance of this brief by the Court, two paper copies of this brief will be served on the following counsel.

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