

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

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LAW COURT DOCKET NUMBER Cum-24-574

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STATE OF MAINE

Appellee

v.

THOMAS G. COFFILL III

Appellant

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ON APPEAL FROM THE CUMBERLAND COUNTY UNIFIED  
CRIMINAL DOCKET

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BREIF OF APPELLEE,  
STATE OF MAINE

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### Statement of Procedural History

A Cumberland County Grand Jury returned a nine-count Indictment alleging the location of the offense in all counts as Brunswick, Cumberland County, Maine. Before trial, the State moved to amend the Indictment in counts III, IV, V, VI, VIII and IX to allege Brunswick, Cumberland County, Maine and/or Topsham, Sagadahoc County, Maine because this course of conduct began in Brunswick and ended in Topsham, with continuing conduct occurring along the border of Cumberland and Sagadahoc counties. The Defendant objected to the amendment and after hearing, the Court allowed the amendment.

The Defendant was convicted after jury trial of Obstructing the Report of a Crime (Count II), Eluding an Officer (Count IV), Reckless Conduct with a Dangerous Weapon (Count V), Driving to Endanger (Count VI), Theft by Unauthorized Use of Property (Count VII), and Refusing to Submit to Arrest or Detention (Count IX). Appendix ("A\_\_") 3-4. Defendant was convicted of Count VIII, Violation of Conditions of Release, by Justice Cashman after hearing the evidence presented at trial. (A. 3). The jury found the Defendant not guilty of Domestic Violence Assault (Count II) and Aggravated

Criminal Mischief (Count III). (A. 78). Justice Cashman sentenced the Defendant on Counts IV and V, Eluding an Officer and Reckless Conduct with a Dangerous Weapon, respectively, to four years imprisonment, all but two years suspended, with two years of probation. (A. 16-20). On counts II, VI, VII, and IX, the Court sentenced the Defendant to 364 days imprisonment and on count VIII the Court sentenced the Defendant to 6 months imprisonment.<sup>1</sup> (A. 16-20). Sentences on all counts were to be served concurrently to each other but consecutively to a Sagadahoc probation matter in docket SAGCD-CR-2022-00010. (A. 16-20). Defendant timely appealed.

### Statement of Facts

On December 4th, 2023, officers of the Brunswick Police Department were notified of a possible domestic altercation between the Defendant and ██████ F█████. (1Tr. 91). Ms. F█████ testified that the Defendant had taken a set of her car keys and her cell phone and placed them underneath himself while he was laying on

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<sup>1</sup> The Judgment and Commitment found in the Appendix records the sentence on those counts as 365 days imprisonment. This is a scrivener's error which can be addressed with the trial court once this Court decides the issues raised in this appeal.



the bed in their bedroom. (1Tr. 52-53). Ms. F[REDACTED] also testified that she pulled on the Defendant's hair – which was styled in a ponytail – in an attempt to get her things back. (1Tr. 56). She reached for the items, and when she did, the Defendant swiftly moved his clenched fist hitting her in the nose. (1Tr. 58). She stated there was no bleeding, but her nose was sore for a few days after that occurred. (1Tr. 58). On cross examination, Ms. F[REDACTED] demonstrated for the jury the way the Defendant's fist struck her face. Ms. F[REDACTED] testified that she believed the Defendant struck her by accident (1Tr. 74).

Ms. F[REDACTED] further testified that a few hours later, her sister arrived at the home and the Defendant fled in Ms. F[REDACTED]'s motor vehicle, which he did not have permission to use, using the set of car keys that he had taken from her earlier in the day. (1Tr. 65, 69). Brunswick Police officers located the car in West Bath, with the Defendant operating at 55 MPH in a school zone with a speed limit of 30 MPH. (1Tr. 130). Officers attempted a traffic stop, but the Defendant did not stop the vehicle and continued driving back into Brunswick. (1Tr. 130-131). Officer Day testified that in the early part of the chase while on residential streets, the Defendant

attempted to strike Officer Day's cruiser as the Defendant attempted to enter Route 1 using the on ramp. (1Tr. 131-133). A pursuit ensued along Route 1 in Brunswick. (1Tr. 134). Several marked police vehicles from Brunswick Police Department, Topsham Police Department, and the Sagadahoc County Sheriff's Office participated in the attempt to stop the Defendant with lights and sirens engaged, as did an unmarked Maine Drug Enforcement Agency vehicle. (1Tr. 138, 142). As the pursuit continued – intermittently at high speeds and through heavy traffic – the Defendant entered I-295. (1Tr. 140). While on I-295 in Brunswick, the Defendant used a crossover for authorized emergency vehicles to reverse directions, and continued eluding officers down I-295 in Brunswick and ultimately into Topsham. (Id.) As shown on the Watchguard video introduced as an exhibit at trial, the Defendant drove through that emergency crossover, did not reduce his speed as he pulled into oncoming traffic, and forced one of the oncoming cars to swerve out of the way to avoid a collision. (1Tr. 149). Finally, Deputy Camarda testified that the Defendant almost struck his cruiser as he attempted to intercept him in Topsham. (1Tr. 180). Watchguard video from the various cruisers also showed that the

Defendant maneuvered through several lanes of stopped traffic, ran a red light, nearly hit the Deputy's vehicle, and continued driving. (Tr. 149, 181, 227). At one point during the pursuit, an officer set up a spike strip on the road which deflated the front passenger tire of the Defendant's car. (1Tr. 207-208). The Defendant continued to drive on his deflated tires and ultimately drove into a gas station with a connected Circle K convenience store that was open and full of patrons. (1Tr. 208-209).

Several officers testified that the Defendant drove around the building – the wrong way in a drive-through – before reversing directions and driving head-on into a Brunswick Police cruiser, making no attempt to avoid the vehicle, at speeds that did not set off airbags, but caused the officer to experience a concussion and caused damage to the vehicle that officers testified cost thousands of dollars to repair. (Tr. 209, 153, 225). Another police vehicle pulled in behind the Defendant, effectively boxing him in, but the Defendant's tires continued to spin before coming to a complete stop, causing further damage to another police vehicle. (1Tr. 209).

Nearly a dozen officers from the several police departments were on scene, commanding the Defendant to show his hands and

exit the vehicle. (1Tr. 209). He refused to comply, reached around the vehicle, and even wielded a soda bottle and a hairbrush, pointing them at officers. (1Tr. 154, 172). The Defendant stated several times that he would shoot them if they did not shoot him. (1Tr. 172). This went on for several minutes before officers broke the vehicle's windows and deployed both tasers and OC spray. (Tr. 173). The Defendant had to be physically removed from the vehicle and the Defendant used force to prevent Officers from gaining control of his hands and feet. (1Tr. 173). Given the number of officers on scene, they were able to take control of his arms and effectuate an arrest. (1Tr. 146).

The Watchguard videos from various officers capturing the entirety of the pursuit were admitted into evidence as exhibits and published to the jury during trial. (1Tr. 149, 181, 227).

### Statement of Issues Presented for Review

- I. Whether in the light most favorable to the State, competent evidence that the Defendant used his car as a dangerous weapon supported the conviction for Count V, Reckless Conduct with a Dangerous Weapon.
- II. Whether the Grand Jury had authority to indict the Defendant for a continuous criminal episode that occurred in both Cumberland and Sagadahoc counties and, if it lacked authority, whether the appropriate remedy is amendment or dismissal of the Indictment.

### Summary of the Argument

First, Defendant argues that the State was required to prove beyond a reasonable doubt that the Defendant intentionally used his motor vehicle as a dangerous weapon to sustain a conviction for Reckless Conduct with a Dangerous Weapon. However, the trial court properly instructed the jury as to the elements of Reckless Conduct with a Dangerous Weapon, including the definition of dangerous weapon, and competent evidence supported a finding that the Defendant used his car as a dangerous weapon.

Second, Defendant asserts that the trial court did not have jurisdiction to conduct the trial because the Grand Jury did not have territorial authority over some counts of the Indictment. However, the Grand Jury did not exceed its territorial authority in returning the Indictment for the Defendant's continuing crimes as part of his course of criminal conduct occurring partly in Cumberland County and partly in Sagadahoc County. Furthermore, even if the Grand Jury exceeded its territorial authority as to some counts, the proper remedy is amendment of the Indictment, not dismissal, and amending the Indictment here was not an abuse of discretion.

## Argument

- I. The State presented sufficient evidence of the Defendant's use of his motor vehicle to support the jury's conclusion that he used it as a dangerous weapon, supporting his conviction on Count V, Reckless Conduct with a Dangerous Weapon.

Defendant asserts that there was insufficient evidence to support the guilty finding as to Count V, Reckless Conduct with a Dangerous Weapon, arguing the State was required to prove beyond a reasonable doubt that the Defendant intentionally used his motor vehicle as a dangerous weapon.

This court reviews an "entry of judgment of acquittal following trial and a jury's finding of guilt to determine whether, viewing the evidence as a whole in a light most favorable to the State, a jury could rationally find beyond a reasonable doubt every element of the offense charged." *State v. Brackett*, 2023 ME 51, ¶ 9, 300 A.3d 827, quoting *State v. Barnard*, 2001 ME 80, ¶ 10, 772 A.2d 852. "Further, the fact-finder may 'draw all reasonable inferences from the evidence.'" *State v. Bouchard*, 2005 ME 106, ¶ 10, 881 A.2d 1130, 1134, quoting *State v. Michaud*, 1998 ME 251, ¶ 11, 724 A.2d 1222, 1228. This Court gives "great deference to the findings of a properly instructed jury acting on competent evidence." *State v.*

*Spooner*, 666 A.2d 863, 865 (Me. 1995) citing *State v. Harrington*, 440 A.2d 1078, 1079 (Me. 1982). Moreover, this Court will not substitute its own judgment for that of the jury as to determinations of the weight and credibility of the evidence. *Spooner*, at 865, citing *State v. Tait*, 483 A.2d 745, 746 (Me. 1984).

As to Count V, the State was required to prove beyond a reasonable doubt that the Defendant recklessly created a substantial risk of bodily injury to the public with the use of a dangerous weapon. 17-A M.R.S. § 211(1); 17-A M.R.S. § 1604 (5)(A). There is no doubt that a motor vehicle can be used as a dangerous weapon. *State v. Jones*, 405 A.2d 149, 150-151 (Me. 1979) citing *State v. Thurlow*, 387 A.2d 22 (1978).

The Defendant raised the issue of the quantum of proof for the felony enhancement of “use of a dangerous weapon” at the conference with the trial court to review the jury instructions. As a result of that conference, the court specifically instructed the jury that they must find that the Defendant “recklessly created a substantial risk of serious bodily injury, as we have previously defined that term, to the public while using a firearm or other weapon, device, instrument, material or substance, whether



animate or inanimate, which, *in the manner it is used* or threatened to be used, is capable of producing death or serious bodily injury.” Tr. 2. p. 63-64 (emphasis supplied). Contrary to Defendant’s argument, *Jones* and its progeny explicitly do not require the State to prove specific intent as to the use of the dangerous weapon. *State v. Seymour*, 461 A.2d 1060, 1061 (Me. 1983); *State v. York*, 2006 ME 65, ¶ 8, 899 A.2d 780. The State must prove only that the Defendant recklessly creates the risk of serious bodily injury in the manner in which the Defendant used the dangerous weapon.<sup>2</sup> The jury was properly instructed that to find the Defendant guilty of Count V, it must find that the Defendant used his car in a manner in which he could have caused serious bodily injury. Based on the precedents of this Court, the jury was properly instructed as to the *mens rea* they were required to find in order to convict the defendant on that count.

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<sup>2</sup> Indeed, as the *Seymour* court pointed out, “one cannot intend to act recklessly.” *Seymour*, 461 A.2d at 1061. Insofar as the Defendant relies on caselaw from the State of Arizona to bolster his argument that specific intent is required, this Court should ignore his invitation to change the law in the State of Maine. The issue of the *mens rea* requirement of Reckless Conduct with a Dangerous Weapon is settled in Maine and the State urges this court to adhere to its precedents.

Having been properly instructed, the jury was well within its authority to determine that the State had met its burden of proof as to all elements of the offense beyond a reasonable doubt. The jury observed the Watchguard video of the entire pursuit, and heard testimony from the officers who described how the Defendant crashed into police cruisers and forced a vehicle onto the shoulder of the highway as he crossed from one side of the divided highway to the other using the restricted access emergency crossover. The video showed the Defendant weaving through traffic and stop lights in rush hour traffic, narrowly missing a collision with a police cruiser in the process, and then witnessed him ramming a police cruiser in his continued attempts to evade police.<sup>3</sup>

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<sup>3</sup> While the State is not required to prove that the Defendant intended to use his car as a dangerous weapon, the State asserts here that it could have met that burden based on the Defendant's conduct in ramming several police cruisers during the pursuit in this case. Further, the jury also heard argument from trial counsel that the evidence did not show that he ever used his car in a dangerous way, merely that he drove recklessly, the same argument he raises in this appeal. The jury rejected that argument and found the Defendant guilty based on the competent evidence they observed during trial. Further, the Defendant made the same argument in his Motion for Judgment of Acquittal on this count, which was rejected by the court relying on the precedents of this Court. (A. 31-33, 68) The Defendant thoroughly litigated this issue before the jury and in post-conviction motion practice. The jury and the Court determined that the evidence was sufficient to find that the Defendant used his car in a manner capable of causing serious bodily injury and therefore convicted him of that count. This Court should not disturb that sound judgment.

Properly instructed, the jury found not merely that the Defendant drove recklessly, but that the way he used his motor vehicle while driving recklessly created a substantial risk of death or serious bodily injury. Competent evidence supported those findings. This Court should affirm the jury's verdict of guilt as to Count V.

- II. The Grand Jury had authority to indict the Defendant for a continuous criminal episode that occurred in both Cumberland and Sagadahoc counties and, even if it lacked authority, the appropriate remedy is amendment of the Indictment.

The Defendant asserts that the Grand Jury lacked territorial authority to indict and, therefore, the convictions must be vacated and the Indictment dismissed. The Defendant does not challenge the Court's rulings on the motion to amend the Indictment and motions to sever and transfer. Instead, the Defendant argues that because certain counts of the Indictment are based on conduct that occurred outside of Cumberland County, the entire Indictment is void because the Cumberland County Grand Jury acted outside of its territorial authority. Contrary to Defendant's assertions, the Indictment properly charged several offenses as a course of criminal conduct that occurred in two counties. Further, even if the

Indictment was defective, dismissal is not the appropriate remedy, and the trial court did not abuse its discretion in allowing the State to amend the Indictment or in its determination that Cumberland County was the proper venue for trial.

A. The Grand Jury had territorial authority over these continuing crimes and properly returned the Indictment.

The Grand Jury had territorial authority over the conduct in this case as a continuing course of conduct. “Grand jury territorial authority . . . must be exercised by the grand jury serving the county where the crime was committed [except] as otherwise provided by law.” 15 M.R.S. § 1255-A (2)(B).<sup>4</sup> Caselaw provides that one of those exceptions is when the conduct at issue is a continuing crime. *State v. Moulton*, 481 A.2d. 155, 158-159 (1984); *United States v. Rodriguez-Moreno* 526 U.S. 275, 281-282 (1999). In that instance, the State can elect in which county to prosecute the Defendant. *Moulton*, at 158-159.

Here, the conduct of this criminal episode, especially as it relates to Counts IV and V, was a continuing crime. During the

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<sup>4</sup> The other statutory exception is for multi-county judicial regions. 15 M.R.S. § 1255-A (2)(A).

entire pursuit, traveling back and forth between Sagadahoc and Cumberland Counties, the Defendant possessed the continuing intent to elude police and drove recklessly with the use of a dangerous weapon. Police began the pursuit of the Defendant with their lights and sirens activated in West Bath, Sagadahoc County, where the Defendant led police officers on a high-speed chase in a school zone, crossed into Cumberland County, and continued the high-speed chase while on Route 1 in Brunswick. As the Defendant continued to elude the police, he attempted to ram into a police cruiser near the on-ramp to Route 1, forced a vehicle onto the shoulder on Route 1 in Brunswick and continued to use his motor vehicle as a dangerous weapon weaving through traffic, attempting to ram into a police cruiser at a four-way intersection, and then ramming into a different police cruiser in Topsham, Sagadahoc County. There was ample evidence presented to the jury that the Defendant continuously possessed the requisite *mens rea* for both crimes, Eluding and Reckless Conduct with a Dangerous Weapon, during this entire criminal episode occurring in both Cumberland and Sagadahoc counties. Indeed, given that those crimes occurred continuously between Cumberland and Sagadahoc counties, the

State could have indicted in both, but would have been required to choose in which county to prosecute or run afoul of this Court's double jeopardy jurisprudence. *State v. Gessner*, 2021 ME 41, 255 A.3d 1041. Here, the Cumberland County Grand Jury properly exercised its territorial authority in returning the Indictment for these continuing crimes.

B. Even if the Grand Jury exceeded its territorial authority to indict, the appropriate remedy is amendment of the Indictment.

While the statute describing the Grand Jury's territorial authority is clear, there is no direct precedent addressing the proper remedy for any alleged defect.<sup>5</sup> See generally, *State v. True*, 330 A.3d 787. (Me. 1975) (holding that the grand jury did have territorial authority over the conduct in that case so did not reach the issue of remedy). Instead, we must look to the other court rules to determine the appropriate remedy. The State contends that any defect in the Indictment arising from an error in Grand Jury territorial jurisdiction can be cured by amendment of the

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<sup>5</sup> All cases cited by the Defendant are inapposite as they address territorial jurisdiction of the Superior Court to hear a case in the first instance, which is not at issue here.

Indictment and therefore, the decision to do so should be reviewed for an abuse of discretion. *State v. Thornton*, 2015 ME 15, ¶ 6, 111 A. 3d 31.

The Superior Court derives its authority to act only *in part* based on the territorial authority of the Grand Jury. *True*, 330 A.3d at 791. The Superior Court, and indeed the Unified Criminal Docket, has state-wide jurisdiction over conduct occurring within the State's borders. 17-A M.R.S. § 7(1)(A); *State v. Baldwin*, 305 A.2d 555 (Me. 1973). The place in which the court exercises that power is governed in part by court rules regarding venue. M. R. Crim. P. 21. However, the court has wide latitude to transfer cases between counties if such transfer is in furtherance of the sound administration of justice, particularly when there are allegations of criminal conduct in two or more counties. M. R. Crim. P. 21(b)(2)-(4). In *True*, this Court held that challenges to the territorial authority of the Grand Jury should be raised by filing a motion to dismiss, and are analyzed using the factors employed when deciding challenges to proper venue for trial. *True*, 330 A.3d at

790.<sup>6</sup> Importantly, this Court held that venue is not an element of an offense. *Id.* at 791. Further, this Court observed that “we are aware of no case since the 1930 creation of a single, state-wide Superior Court which has held that a variance in proof of venue as opposed to jurisdiction is fatal.” *Moulton*, 481 A.2d at 159 n.2<sup>7</sup>; *State v. Brown*, 2000 ME 25 ¶ 10, 757 A.2d 768, 771 (holding that improper venue is not a fatal jurisdictional defect unless it is prejudicial to the defendant); see generally *Garland v. State of Washington*, 232 U.S. 642, 645-646 (1914) (holding that failure to conduct formal arraignment did not deprive the defendant of any substantial right). Reading this Court’s precedents and the Rules of Criminal Procedure together, it is clear that the Court contemplated that purported defects in venue arising from Grand Jury territorial authority can be addressed and cured in the Superior Court with

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<sup>6</sup> As in this case, the question in *True* “did not involve the State’s rights to try the Defendant in the Superior Court but only the question of in which county the trial should take place.” *True*, 330 A.2d at 791-792.

<sup>7</sup> As in *True*, the *Moulton* court did not address the issue of remedy after finding that venue was proper in Waldo County because the intent required to commit the crime was continuing or continuous and therefore the crime could be prosecuted in either county. However, the Court suggests, as the *True* court did, that the remedy is not dismissal of the Indictment.



motion practice in accordance with the Rules of Criminal Procedure, as occurred here.

The Maine Rules of Criminal Procedure tell us that motions to amend an Indictment are proper when the “amendment does not charge a different or an additional offense and does not prejudice a substantial right of the defendant.” M.R. Crim. P. 7(e). Venue is not an element of an offense and on questions of venue, the Court views the impact on a defendant’s rights and the effect on the judicial process to be less substantial than questions of jurisdiction. *True*, 330 A. 2d at 791. Further, defects in the institution of the prosecution or in the charging document that are *not* jurisdictional in nature include, among others, venue and jurisdiction over the person of the defendant. 1 Cluchey & Seitzinger, *Maine Criminal Practice* § 12.3 – 12.4 at IV-59-61(rev. ed. 1994). Therefore, some nominally “jurisdictional” questions are instead of an administrative nature. As such, allowing the State to amend the Indictment comports with this Court’s precedent and the Rules of Criminal

Procedure. Defendant's argument to the contrary elevates form over substance.<sup>8</sup>

C. This Court did not abuse its discretion in allowing the State to amend the Indictment and in determining venue was proper in Cumberland County.

This Court reviews the trial court's decision to allow amendment to an Indictment and challenges to proper venue for abuse of discretion. *State v. Thornton*, 2015 ME 15, ¶ 6, 111 A. 3d 31; *True*, 330 A.2d at 791.; *See also*, *State v. Dyer*, 2007 ME 118, ¶ 14, 930 A.2d 1040. The trial court did not abuse its discretion in first determining that amendment did not prejudice the defendant and then in determining that venue was appropriately in Cumberland County.<sup>9</sup>

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<sup>8</sup> To accept the Defendant's argument that any defect in the Indictment as to the allegation of the location of the offense could not be cured by amendment, and in fact is so foundational as to require dismissal, flies in the face of the state-wide jurisdiction of the Superior Court and the Rules of Criminal Procedure. Even if the State proceeded to trial without having moved to amend the Indictment, any variance as to location likely would have been deemed immaterial. *See State v. Vachon*, 482 A.2d 864 (Me. 1984); *State v. Wing*, 426 A.2d 1375 (Me. 1981). Further, given the facts of this case, had the State indicted the various counts separately in Cumberland and Sagadahoc counties, the State's motion for joinder and to consolidate in one venue for trial would have been granted as a matter of right under the Rules of Criminal Procedure and to avoid a double jeopardy defense. M. R. Crim. P. 21; M. R. Crim. P. 8; *Ayotte v. State*, 2015 ME 158, 129 A.3d. 285; *Gessner*, 2021 ME 41.

<sup>9</sup> While the Defendant did not file a motion to dismiss the Indictment based on a lack of territorial jurisdiction of the Grand Jury, the issue of jurisdiction and

First, by the Defendant's own admission, the location of these offenses was never in dispute because the alleged criminal conduct occurred in both Cumberland and Sagadahoc counties. The Court therefore properly found that the amendment did not change the substantive crimes alleged or the factual basis for the allegations. The court specifically found that there was no surprise by this amendment, a fact conceded by the Defendant, and it was the type of amendment contemplated by the Rules. Therefore, the trial court did not abuse its discretion in allowing the State to amend the Indictment.

Second, the Court did not abuse its discretion in finding that venue was proper in Cumberland County. Given the continuing nature of the offenses, the Defendant's conduct in traveling from Cumberland County to Sagadahoc County then back into Cumberland County and finally ending his spree in Sagadahoc County, the court was well within its discretion to determine that Cumberland County was certainly in the vicinity of any conduct alleged in Sagadahoc County, being just over the border. Further,

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venue were thoroughly litigated at hearing on the State's motion to amend the Indictment and the Defendant's motions to sever and transfer.

allowing the trial to proceed as one Indictment in Cumberland County certainly satisfied the principles of judicial economy and sound judicial administration. *State v. Chasse*, 2002 ME 90, ¶ 7, 797 A.2d. 1262, 1264. Proceeding with two separate trials in this matter would make no sense because the evidence produced at one trial would inevitably need to be produced in the second trial, requiring the same exhibits, the same witnesses, and the same arguments. The Court did not abuse its discretion in finding that severing any of these counts would lead to duplicate trials in two separate counties and that Cumberland County was the proper venue for a single trial.

### Conclusion

For the foregoing reasons, the State of Maine respectfully requests this Honorable Court to affirm the judgment.

May 15, 2025

Respectfully submitted,

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Certificate of Service

I, Kristen M. Hughes, Assistant District Attorney for Cumberland County, certify that on this date I caused a true copy of the foregoing brief to be served upon counsel for Appellant by email addressed to rory@drakelawllc.com and wommack@wescustagolaw.com, and that upon approval of the brief by the Clerk of the Law Court I shall serve two printed copies by first class United States mail addressed to Rory A. McNamara, Drake Law, LLC, P.O. Box 143, York, ME 03909, and Sanders Wommack, 603 Bayview Street, Yarmouth, ME 04096.

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